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Promoting Innovation.

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**ANALYSIS:
EC PROPOSAL FOR THE RULES FOR PARTICIPATION
AND DISSEMINATION**

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On 7 June 2018, the European Commission published proposals for various legal texts and factsheets for the next Framework Programme “Horizon Europe”, including a proposal for the Rules for Participation and Dissemination.

This analysis compares the Rules for Participation and Dissemination in Horizon 2020 with those proposed for Horizon Europe on the level of individual articles and, where relevant, provides an analysis based on the legal text of this proposal. Furthermore it takes into consideration all references of the Rules for Participation and Dissemination in Horizon Europe to the newly introduced EU Financial Regulation, published July 18, 2018.

Further related articles of the Financial Regulation, as well as references to the Common Provisions on the Structural Funds, published May 29, 2018, and the Common Agricultural Policy, published June 1, 2018, can be found in Annex I and Annex II of this document.

Executive Summary

- **Structure and Content of Horizon Europe**

Horizon Europe maintains the three-pillar-structure of Horizon 2020 and sets the budget of the Programme in its Rules for Participation. The European Innovation Council (EIC) is introduced as a new support scheme to the pillar “open innovation”.

- **Missions and European Partnerships**

The newly introduced Missions are mentioned as a portfolio of actions aimed to achieve a measurable goal with impact for science and technology and/or society and citizens, which could otherwise not be achieved through individual actions.

The Rules for Participation contain few rules about the Missions, and reference is made to the Specific Programme. A more detailed analysis can be found in the comments to Article 7.

The landscape of “European Partnerships” is consequently structured and the partnerships are reduced to three types with a clear focus (co-programmed, co-funded and institutionalized partnerships). This new approach leads to increased visibility and includes activities close-to-market.

- **Synergies**

While the approach to get funding from different Union programmes was already supported in Horizon 2020, now actions awarded a Seal of Excellence are explicitly mentioned in the Rules for Participation Horizon Europe and funding will be possible from a wider range of funding programmes. The possibility for a Member State to allocate parts of Structural Funds to the European Commission, in order to let the Commission launch calls for this Member State, is newly introduced to Horizon Europe.

- **International Cooperation**

The opportunity to associate non-EU countries to Horizon Europe under certain conditions is added to the Rules for Participation.

- **Ethics and Security**

The ethics as well as the security provisions are better elaborated in Horizon Europe and, with their (broader) introduction to the Rules for Participation, concretized on a higher legal level. Nevertheless, these new rules mainly reflect the usual implementation practice in Horizon 2020.

- **Participation Criteria**

Although the participation criteria of Horizon 2020 are continued, Horizon Europe foresees at least one beneficiary of a consortium to be established in a Union Member State. Other than in Horizon 2020, a consortium of e.g. three associated countries will not fulfil the minimum participation requirements anymore.

- **Costs**

It can be highlighted that only few rules in regard of direct eligible personnel costs are laid down in the Rules for Participation Horizon Europe as well as in the EU Financial Regulation. Consequently, most of the details will be set in the Model Grant Agreement.

- **Evaluation and Experts**

In general, there is no explicit ranking-obligation for proposals anymore and they may be selected according to other criteria, especially taking into consideration their relevance for Missions.

Future proposal evaluations shall be carried out by an evaluation committee that may be composed of external experts, as well as other persons.

The selection of experts may be conducted without a call.

- **Suspension, Amendment and Termination of Actions**

Actions in Horizon Europe may be suspended, amended or terminated if milestones, set in the Grant Agreement, are not met. Furthermore, the option of project termination due to lost relevance of the expected project results due to scientific, technological or economic reasons, as well as to Missions, is added. An involvement of independent external experts and the programme committee in the decision making process should be assured.

- **Intellectual Property Rights**

Project results are now defined as any “effect” of an action, instead of “output”, which might be questioned.

The protection of project results is not limited to commercially exploitable results, as the weighing of interests has to address all relevant considerations for all project results. This leads to a higher level of effort for the beneficiaries.

Concerning exploitation and dissemination of project results, there is a strong focus on the Union and the plan for exploitation and dissemination has to be constantly adapted during the project duration as well as continued after the end of the action.

The open access obligation is widened in Horizon Europe, as it now applies to all research outputs, including scientific publication and all research data, and therefore has a broader field of application than in Horizon 2020.

- **Prizes**

Union prizes may be launched together with other Union bodies, as well as third countries, international organisations or non-profit oriented legal entities.

- **Guarantee Fund**

Apart from the renaming of the current Horizon 2020 “Participant Guarantee Fund” to “Mutual Insurance Mechanism” in Horizon Europe, the general beneficiaries’ contribution remains 5% of the Union funding. In special cases, this contribution may be reduced or increased up to 8%. Furthermore, its field of application may be extended by the Union in order to grant access for other programmes.

- **Audits**

Concerning audit rules, there might be a significant simplification as the concept of trust and control in Horizon 2020 is further developed. In the future framework programme, actions that receive joint funding from different Union programmes may be only audited once and there is further opportunity for combined systems reviews at beneficiary level. Consequently, fewer audits can be expected and therefore the administrative burden will be reduced.

- **InvestEU**

The InvestEU Programme is newly introduced to the next Multiannual Financial Framework (MFF) as funding Programme independent from Horizon Europe.

Content

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Missions:	Margit Noll (Chair of the Management Board JPI Urban Europe)

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Explanations and Glossary

Blue text: parts in the RfP Horizon 2020, which do not appear or have been reformulated in the proposal of the European Commission for the RfP Horizon Europe

Red text: parts in the proposal of the European Commission for the RfP Horizon Europe, which have been added or reformulated compared to the RfP Horizon 2020

Black text: no changes between the RfP Horizon 2020 and the proposal of the European Commission for the RfP Horizon Europe

Please consider: The references to the EU Financial Regulation are to the revised version (2018/1046), which entered into force on July 18, 2018.

- CoMUC = Certificate on the Methodology for direct personnel costs calculated on the basis of unit costs and according to the usual cost accounting practices
- CPR = Common Provisions Regulation
- EC = European Commission
- EIC = European Innovation Council
- FP7 = Seventh Framework Programme (= Framework Programme previous to Horizon 2020)
- FR = Financial Regulation 2018/1046
- GA = Grant Agreement
- IA = Innovation Action
- MFF = Multiannual Financial Framework
- MGA = Model Grant Agreement
- NCP = National Contact Point
- RfP = Rules for Participation
- SP = Specific Programme

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
Subject matter and Definitions					
1 (1)	<p>Subject matter and scope</p> <p>This Regulation lays down specific rules for participation in indirect actions undertaken under Regulation (EU) No 1291/2013, including participation in indirect actions funded by funding bodies in accordance with Article 9(2) of that Regulation.</p> <p>This Regulation also lays down the rules governing the exploitation and dissemination of results.</p>	1	<p>Subject matter</p> <p>1. This Regulation establishes Horizon Europe - the Framework Programme for Research and Innovation ('the Programme') and the rules for participation and dissemination in indirect actions under the Programme.</p> <p>2. It lays down the objectives of the Programme, the budget for the period 2021 – 2027, the forms of Union funding and the rules for providing such funding.</p> <p>3. The Programme shall be implemented through: (a) the specific programme established by Decision .../.../EU25, which includes a financial contribution to the EIT; (b) the specific programme on defence research established by Regulation .../.../EU.</p>	<p>change in wording and meaning</p> <p>This regulation establishes Horizon Europe as new Framework Programme for Research and Innovation as well as its objectives, its budget for 2021-2027 and its rules for funding.</p> <p>NEW: Horizon Europe is implemented through the SP that includes a financial contribution to the EIT and the newly mentioned SP on defence research.</p>	

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
			4. The terms 'Horizon Europe', 'the Programme' and 'specific programme' used in this Regulation address matters relevant only to the specific programme described in paragraph 3(a), unless otherwise explicitly stated.		
2	Definitions 1. For the purposes of this Regulation, the following definitions apply:	2	Definitions	{see Annex II “Types of actions” of the RfP in Horizon Europe} {see Article 2 of the FR, Annex II}	
		2 (1)	'research infrastructures' mean facilities that provide resources and services for the research communities to conduct research and foster innovation in their fields. This definition includes the associated human resources, and it covers major equipment or sets of instruments; knowledge-related facilities such as collections, archives or scientific data infrastructures; computing systems, communication networks, and any other infrastructure, of a unique nature and open to external users, essential to achieve excellence in research and innovation. Where relevant, they may be used beyond research, for example for education or public services and they may be 'single sited', 'virtual' or 'distributed';	new The RfP Horizon Europe include basically the same definition as previous framework programmes (where the definition was given on the Work Programme level) with the addition of introducing “innovation” to the research and innovation context. This was expected and is a natural development in order to reflect the shift of framework programmes towards innovation-oriented activities. No major changes of the target groups are to be expected here, as this shift was already introduced at the end of FP7 and continued in Horizon 2020 (e.g. introduction of topic for a research and innovation network of industry liaison offices; obligation to have innovation work packages in research and innovation projects).	
		2 (2)	'smart specialisation strategy' has the same meaning as smart specialisation strategy as defined in Regulation (EU) No 1303/2013 of the European Parliament and of the Council and fulfilling the enabling conditions set out in Regulation (EU) XX [Common Provisions Regulation];	new The “smart specialization strategy” is explicitly mentioned in the RfP Horizon Europe.	
		2 (3)	'European Partnership' means an initiative where the Union, together with private and/or public partners (such as industry, research organisations, bodies with a public service mission at local,	new In Horizon Europe, there is a new approach for partnerships under the common brand name	

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			regional, national or international level or civil society organisations including foundations), commit to jointly support the development and implementation of a programme of research and innovation activities, including those related to market, regulatory or policy uptake;	<p>“European Partnerships”. This leads to increased visibility and includes activities close-to-market.</p> <p>[see also: Article 8]</p>	
		2 (4)	'open access' means the practice of providing online access to research outputs resulting from actions funded under the Programme, in particular scientific publications and research data, free of charge to the end-user;	<p>new</p> <p>The definition of “open access” is newly introduced on the RfP Horizon Europe level.</p> <p>NEW: Remarkable is that the definition focuses on “research outputs” beyond research publications and data. A definition would be useful.</p> <p>Furthermore, the term “open access” now refers to all “scientific publications”, instead of only “peer-reviewed scientific publications ...” which may have a broader meaning.</p> <p>“Open access” in Horizon 2020 was laid down in Article 29.2 and 29.3 MGA: “peer-reviewed scientific publications related to results” as well as “research data generated in the action”.</p> <p>[see also: Article 10, Article 35(3)]</p>	
		2 (5)	'mission' means a portfolio of actions intended to achieve a measurable goal within a set timeframe, and impact for science and technology and/or society and citizens that could not be achieved through individual actions;	<p>new</p> <p>This definition is necessary due to the newly introduced Missions in Horizon Europe.</p>	
2 (17)	'pre-commercial procurement' means the procurement of research and development services involving risk-benefit sharing under market conditions, and competitive development in phases, where there is a clear separation of the research and development services procured from the deployment of commercial volumes of end-products;	2 (6)	'pre-commercial procurement' means the procurement of research and development services involving risk-benefit sharing under market conditions, and competitive development in phases, where there is a clear separation of the research and development services procured from the deployment of commercial volumes of end-products;	no change in wording or meaning	

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
2 (18)	'public procurement of innovative solutions' means procurement where contracting authorities act as a launch customer for innovative goods or services which are not yet available on a large-scale commercial basis, and may include conformity testing;	2 (7)	'public procurement of innovative solutions' means procurement where contracting authorities act as a launch customer for innovative goods or services which are not yet available on a large-scale commercial basis, and may include conformity testing.	no change in wording or meaning	
2 (1)	'access rights' means rights to use results or background under the terms and conditions laid down in accordance with this Regulation ;	2 (8)	"access rights" means rights to use results or background;	change in wording, but not in meaning	
2 (4) 45	'background' means any data, know-how or information whatever its form or nature, tangible or intangible, including any rights such as intellectual property rights, which is : (i) held by participants prior to their accession to the action; (ii) needed for carrying out the action or for exploiting the results of the action; and (iii) identified by the participants in accordance with Article 45 ; Background Participants shall identify the background for their action in any manner in a written agreement.	2 (9)	"background" means any data, know-how or information whatever its form or nature, tangible or intangible, including any rights such as intellectual property rights, that is : (i) held by beneficiaries prior to their accession to the action; (ii) identified by the beneficiaries in writing in any manner as needed for implementing the action or for exploiting its results;	change in wording and meaning No written agreement is needed for the identification of background for an action in Horizon Europe anymore. It only has to be identified by the beneficiaries in writing.	
2 (8)	'dissemination' means the public disclosure of the results by any appropriate means (other than resulting from protecting or exploiting the results), including by scientific publications in any medium;	2 (10)	"dissemination" means the public disclosure of the results by appropriate means (other than resulting from protecting or exploiting the results), including by scientific publications in any medium;	change in wording, but not in meaning	
2 (9)	'exploitation' means the use of results in further research activities other than those covered by the action concerned, or in developing, creating and marketing a product or process, or in creating and providing a service, or in standardisation activities;	2 (11)	"exploitation" means the use of results in further research and innovation activities other than those covered by the action concerned, or in developing, creating, manufacturing and marketing a product or process, or in creating and providing a service, or in standardisation activities;	change in wording and meaning In the RfP Horizon Europe, the definition of "exploitation" applies additionally to innovation activities, and manufacturing of products or processes. This leads to a wider scope for exploitation.	
2 (10)	'fair and reasonable conditions' means appropriate conditions, including possible financial terms or royalty- free conditions,	2 (12)	"fair and reasonable conditions" means appropriate conditions, including possible financial terms or royalty-free conditions, taking	no change in wording or meaning	

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
	taking into account the specific circumstances of the request for access, for example the actual or potential value of the results or background to which access is requested and/or the scope, duration or other characteristics of the exploitation envisaged;		into account the specific circumstances of the request for access, for example the actual or potential value of the results or background to which access is requested and/or the scope, duration or other characteristics of the exploitation envisaged;		
2 (11)	'funding body' means a body or authority , other than the Commission, as referred to in point (c) of Article 58(1) of Regulation (EU, Euratom) No 966/2012 , to which the Commission has entrusted budget implementation tasks in accordance with Article 9(2) of Regulation (EU) No 1291/2013 ;	2 (13)	"funding body" means a body or organisation , other than the Commission, as referred to in point (c) of Article 62(1) of the Financial Regulation , to which the Commission has entrusted budget implementation tasks under the Programme ;	change in wording and meaning The definition of "funding body" seems to be wider, as in Horizon Europe it applies to "organisations" instead of "authorities".	62(1)(c) Methods of budget implementation 1. The Commission shall implement the budget in any of the following ways: [...] (c) indirectly ('indirect management') as set out in Articles 125 to 149 and 154 to 159, where this is provided for in the basic act or in the cases referred to in points (a) to (d) of Article 58(2), by entrusting budget implementation tasks to: (i) third countries or the bodies they have designated; (ii) international organisations or their agencies, within the meaning of Article 156; (iii) the European Investment Bank ('the EIB') or the European Investment Fund ('the EIF') or both of them acting as a group ('the EIB group'); (iv) Union bodies referred to in Articles 70 and 71; (v) public law bodies, including Member State organisations; (vi) bodies governed by private law with a public service mission, including Member State organisations, to the extent that they are provided with adequate financial guarantees; (vii) bodies governed by the private law of a Member State that are entrusted with the implementation of a public- private partnership and that are provided with adequate financial guarantees;

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					<p>(viii) bodies or persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.</p> <p>With regard to point (c)(vi) of the first subparagraph, the amount of the financial guarantees required may be set out in the relevant basic act and may be limited to the maximum amount of the Union contribution to the body concerned. In the case of multiple guarantors, the repartition of the amount of the total liability to be covered by the guarantees shall be specified in the contribution agreement, which may provide for the liability of each guarantor to be proportionate to the share of their respective contribution to the body.</p> <p>[...]</p> <p>{see Article 6(1) and 9(8) and 13(1) RfP below}</p>
2 (12)	'international European interest organisation' means an international organisation, the majority of whose members are Member States or associated countries, and whose principal objective is to promote scientific and technological cooperation in Europe;	2 (14)	"international European research organisation" means an international organisation, the majority of whose members are Member States or associated countries, and whose principal objective is to promote scientific and technological cooperation in Europe;	change in wording, but not in meaning	
2 (13)	'legal entity' means any natural person , or any legal person created and recognised as such under national law, Union law or international law, which has legal personality and which may, acting in its own name, exercise rights and be subject to obligations;	2 (15)	'legal entity' means any natural or legal person created and recognised as such under national law, Union law or international law, which has legal personality and which may, acting in its own name, exercise rights and be subject to obligations, or an entity without a legal personality in accordance with Article 197(2)(c) of the Financial Regulation;	change in wording and meaning The distinction between "legal entity and entity", which is mentioned throughout the RfP Horizon Europe, remains unclear (e.g. Article 18(1) "any legal entity..." versus Article 18(2) "entities shall ...").	197(2)(c) Eligibility criteria [...] 2. Any of the following applicants shall be eligible for participating in a call for proposals: [...] (c) entities which do not have legal personality under the applicable national law, provided that their representatives have the capacity to undertake legal obligations on behalf of the entities and that the entities offer guarantees

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					for the protection of the financial interests of the Union equivalent to those offered by legal persons. In particular the applicant shall have a financial and operational capacity equivalent to that of a legal person. The representatives of the applicant shall prove that those conditions are satisfied. [...] {see Article 32(1) RfP below}
2 (14)	'non-profit legal entity' means a legal entity which by its legal form is non-profit-making or which has a legal or statutory obligation not to distribute profits to its shareholders or individual members;	2 (16)	"non-profit legal entity" means a legal entity which by its legal form is non-profit-making or which has a legal or statutory obligation not to distribute profits to its shareholders or individual members;	no change in wording or meaning	
		2 (17)	"mid-cap" means a company that is not a micro-, small- and medium-sized enterprise ('SME') as defined in Commission Recommendation 2003/361/EC, and that has a number of employees of up to 3000 where the staff headcount is calculated in accordance with Articles 3, 4, 5 and 6 of Title I of the Annex of that Recommendation;	new The "mid-cap" definition is necessary, as they are allowed to participate in the EIC's Accelerator instrument. It can be considered useful to set a lower range for the number of employees, i.e. up to 500-1.000.	
2 (19)	'results' means any tangible or intangible output of the action, such as data, knowledge or information, that is generated in the action, whatever its form or nature, whether or not it can be protected, as well as any rights attached to it, including intellectual property rights;	2 (18)	"results" means any tangible or intangible effect of the action, such as data, know-how or information, whatever its form or nature, whether or not it can be protected, as well as any rights attached to it, including intellectual property rights;	change in wording and meaning In Horizon Europe, "results" refer only to the effects of an action instead of all "outputs [...] generated in the action", as in Horizon 2020. In this context, the wording "effect" needs to be questioned. The reference to "effect of the action" e.g. to "data" in this definition, as well as in other articles (e.g. Article 34) seems not appropriate. Besides that, it appears to be more difficult to define/measure the "effects" of an action, compared to "outputs", as in Horizon 2020.	

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		2 (19)	“seal of excellence” means a certified label which shows that a proposal submitted to a call for proposals exceeded all of the thresholds set out in the work programme, but could not be funded due to lack of budget available to that call in the work programme;	new The “seal of excellence” is explicitly mentioned in the RfP Horizon Europe.	
2 (21)	'work programme' means the document adopted by the Commission for the implementation of the specific programme in accordance with Article 5 of Council Decision 2013/743/EU of 3 December 2013;	2 (20)	“work programme” means the document adopted by the Commission for the implementation of the specific programme in accordance with its Article 12 or the equivalent document in content and structure adopted by a funding body.	change in wording and meaning This definition also applies to the “equivalent document adopted by a funding body”.	
		2 (21)	"reimbursable advance" means the part of a Horizon Europe or EIC blended finance corresponding to a loan under Title X of the Financial Regulation, but that is directly awarded by the Union on a non-profit basis to cover the costs of activities corresponding to an innovation action, and to be reimbursed by the beneficiary to the Union under the conditions provided for in the contract;	new It can be considered as useful to include a reference that the “reimbursable advance” can be converted to equity capital on demand of the grantee (e.g. EIC part of Horizon Europe).	Title X Financial Instruments, Budgetary Guarantees and Financial Assistance Article 208 – 220 {see Article 41 RfP below}
		2 (22)	“contract” means the agreement concluded between the Commission or a funding body with a legal entity implementing an innovation and market deployment action and supported by a Horizon Europe or EIC blended finance;	new There should be a definition of who can be a “funding body” (EIB, EIF, Fund of Funds). Furthermore the term “market deployment action” should be described (This is the period between the prototype and the market launch.).	
		2 (23)	“classified information” means EU classified information ad defined in Article 3 of Commission Decision (EU, Euratom) 2015/444 as well as classified information of Member States, classified information of third countries with which the Union has a security agreement and classified information of international organisation with which the Union has a security agreement;	new It is possible that results need to be classified, or that classified backgrounds are required. However, it should be pointed out that proposals should not contain any classified information. The term “ ad ” should be corrected to “ as ”.	
		2 (24)	'blending operation' means actions supported by the EU budget, including within blending facilities	new	2(6)

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			pursuant to Article 2(6) of the Financial Regulation, combining non-repayable forms of support and/or financial instruments from the EU budget with repayable forms of support from development or other public finance institutions, as well as from commercial finance institutions and investors.	A definition/explanation of the terms “non-repayable forms of support”, “repayable forms of support” and “development” would be welcomed.	Definitions [...] (6) ‘blending facility or platform’ means a cooperation framework established between the Commission and development or other public finance institutions with a view to combining non-repayable forms of support and/or financial instruments and/or budgetary guarantees from the budget and repayable forms of support from development or other public finance institutions, as well as from private-sector finance institutions and private-sector investors; [...]
		2 (25)	"Horizon Europe or EIC blended finance" means a single financial support to an innovation and market deployment action, consisting in a specific combination of a grant or a reimbursable advance with an investment in equity.	new	
2 (2) 2 (3) 2 (5) 2 (6) 2 (7) 2 (15) 2 (16) 2 (20) 2 (22)	"affiliated entity" "associated country" "basic act" "innovation action" "coordination and support action" "participant" "programme co-fund action" "SME" "work plan"			removed These definitions have been removed from the RfP Horizon Europe and some of them are now found in other articles, the Annexes to the RfP Horizon Europe or the FR. The term “affiliated entity” is defined in Article 187 of the FR (“Affiliated entities and sole beneficiary”), without giving reference to the necessity of mutual control (see: Article 8(2) RfP Horizon 2020).	
Programme Objectives and Structure					
		3	Programme objectives 1. The Programme’s general objective is to deliver scientific, economic and societal impact from the Union’s investments in research and innovation so as to strengthen the scientific and technological	new The RfP clearly state the objectives of Horizon Europe, such as strengthening the scientific and technological bases of the Union, its competitiveness, to help tackling global	

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			<p>bases of the Union and foster its competitiveness, including in its industry, deliver on the Union strategic priorities, and contribute to tackling global challenges, including the Sustainable Development Goals.</p> <p>2. The Programme has the following specific objectives:</p> <p>(a) to support the creation and diffusion of high quality new knowledge, skills, technologies and solutions to global challenges;</p> <p>(b) to strengthen the impact of research and innovation in developing, supporting and implementing Union policies, and support the uptake of innovative solutions in industry and society to address global challenges;</p> <p>(c) to foster all forms of innovation, including breakthrough innovation, and strengthen market deployment of innovative solutions;</p> <p>(d) to optimise the Programme's delivery for increased impact within a strengthened European Research Area.</p>	<p>challenges and strengthening the impact of research and innovation.</p>	
3	<p>Confidentiality</p> <p>Subject to the conditions established in the implementing agreements, decisions or contracts, any data, knowledge and information communicated as confidential in the framework of an action shall be kept confidential, taking due account of Union law regarding the protection of and access to classified information.</p>			<p>removed</p> <p>This Article has been removed from the RfP Horizon Europe. A new definition about “classified information” can be found in the RfP Horizon Europe [see: Article 2(23)].</p>	
		4	<p>Programme structure</p> <p>1. The Programme is structured in the following parts contributing to the general and specific objectives set out in Article 3:</p> <p>(1) Pillar I 'Open Science', pursuing the specific objective set out in Article 3(2)(a) and also supporting specific objectives set out in</p>	<p>new</p> <p>Horizon Europe maintains the three-pillar-structure of Horizon 2020 as followed:</p> <ul style="list-style-type: none"> - Pillar I: Open Science - Pillar II: Global Challenges and Industrial Competitiveness - Pillar III: Open Innovation 	

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			<p>Article 3(2)(b) and (c), with the following components:</p> <ul style="list-style-type: none"> (a) European Research Council (ERC); (b) Marie Skłodowska-Curie Actions (MSCA); (c) research infrastructures. <p>(2) Pillar II 'Global Challenges and Industrial Competitiveness', pursuing the specific objective set out in Article 3(2)(b) and also supporting the specific objectives set out in Article 3(2)(a) and (c), with the following components:</p> <ul style="list-style-type: none"> (a) cluster 'Health'; (b) cluster 'Inclusive and Secure Society'; (c) cluster 'Digital and Industry'; (d) cluster 'Climate, Energy and Mobility'; (e) cluster 'Food and Natural Resources'; (f) Non-nuclear direct actions of the Joint Research Centre (JRC). <p>(3) Pillar III 'Open Innovation', pursuing the specific objective set out in Article 3(2)(c) and also supporting the specific objectives set out in Article 3(2)(a) and (b), with the following components:</p> <ul style="list-style-type: none"> (a) the European Innovation Council (EIC); (b) European innovation ecosystems; (c) the European Institute of Innovation and Technology (EIT). <p>(4) Part 'Strengthening the European Research Area', pursuing the specific objective set out in Article 3(2)(d) and also supporting the specific objectives set out in Article 3(2)(a), (b) and (c), with the following components:</p>	<p>(2) Annex I to the RfP Horizon Europe contains the activities within these pillars.</p>	

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
			(a) sharing excellence; (b) reforming and enhancing the European R&I System. 2. The broad lines of activities are set out in Annex I.		
		5	Defence research 1. Activities to be carried out under the specific programme referred to in Article 1(3)(b) and which are laid down in Regulation establishing the European Defence Fund, shall be research with an exclusive focus on defence applications, with the objective to foster the competitiveness, efficiency and innovation of defence industry. 2. This Regulation does not apply to the specific programme referred to in Article 1(3)(b), with the exception of this Article, Article 1(1) and (3) and Article 9(1).	new (1) The term “defence industry” should be replaced by “defence community”, as this article may concern also other organisations beyond the industry.	
5	Guidance and information for potential participants In accordance with Regulation (EU, Euratom) No 966/2012 and Regulation (EU) No 1268/2012, the Commission or the relevant funding body shall ensure that sufficient guidance and information is made available to all potential participants at the time of publication of the call for proposals, in particular the applicable model grant agreement.			removed This Article has been removed from the RfP Horizon Europe.	
Forms of Funding					
6	Forms of funding In accordance with Article 10 of Regulation (EU) No 1291/2013, funding may take one or several of the forms provided for by Regulation (EU, Euratom) No 966/2012, in particular	6	Implementation and forms of EU funding 1. The Programme shall be implemented in direct management in accordance with the Financial Regulation or in indirect management with funding bodies referred to in Article 62(1)(c) of the Financial Regulation.	change in wording and meaning (1) Horizon Europe will be implemented in direct management or indirect management with funding bodies [see: Article 2(13)].	62(1)(c) Methods of budget implementation 1. The Commission shall implement the budget in any of the following ways: [...]

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
1	<p>grants, prizes, procurement or financial instruments.</p> <p>2. Subject to the specific rules laid down in this Regulation, the relevant rules of Regulation (EU, Euratom) No 966/2012 and Regulation (EU) No 1268/2012 shall apply.</p> <p>3. Regulation (EC) No 294/2008 or any basic act which entrusts budget implementation tasks to a funding body under Article 185 TFEU may establish rules which depart from those laid down in this Regulation. In order to take into account their specific operating needs and subject to the rules established in the relevant basic act, the Commission shall be empowered to adopt delegated acts in accordance with Article 56, with regard to funding bodies set up under Article 187 TFEU concerning:</p> <p>(a) the conditions for participation in calls for proposals issued by funding bodies established in the area of aeronautics with a view to reducing the minimum number of participants set out in Article 9(1);</p> <p>(b) the eligibility for funding as set out in Article 10, allowing funding bodies established in the area of bio-based industries and of innovative medicines to limit the eligibility for funding to specific types of participants;</p> <p>(c) the rules governing exploitation and dissemination of results, allowing funding bodies established in the area of innovative medicines to:</p> <p>(i) extend the possibilities of transfer and licensing of results and background for affiliated entities, purchasers and any successor entity, in accordance with the grant</p>		<p>2. The Programme may provide funding to indirect actions in any of the forms laid down in the Financial Regulation, in particular grants (including operating grants), prizes and procurements. It may also provide financing in the form of financial instruments within blending operations.</p> <p>3. The rules for participation and dissemination laid down in this Regulation shall apply to indirect actions.</p> <p>4. The main types of action to be used under the Programme are set out and defined in Annex II. All forms of funding shall be used in a flexible manner across all objectives of the Programme with their use being determined on the basis of the needs and the characteristics of the particular objectives.</p> <p>5. The Programme shall also support direct actions undertaken by the JRC. Where these actions contribute to initiatives established under Article 185 or Article 187 TFEU, this contribution shall not be considered as part of the financial contribution allocated to those initiatives.</p> <p>6. The implementation of the specific programme shall be based on a transparent and strategic multiannual planning of research and innovation activities, in particular for the pillar 'Global Challenges and Industrial Competitiveness', following consultations with stakeholders about priorities and the suitable types of action and forms of implementation to use. This shall ensure alignment with other relevant Union programmes.</p> <p>7. Horizon Europe activities shall be primarily delivered through calls for proposals, some of which organised as parts of missions and European Partnerships.</p>	<p>(4) Annex II states the main action types, which can be used across all Programme objectives.</p> <p>(5) The RfP Horizon Europe do not apply to JRC direct actions (like in Horizon 2020), but foresee their support.</p> <p>(7) In Horizon Europe, calls for proposals will be the main implementation procedure, taking into consideration the new "Missions" and "European Partnerships".</p>	<p>(c) indirectly ('indirect management') as set out in Articles 125 to 149 and 154 to 159, where this is provided for in the basic act or in the cases referred to in points (a) to (d) of Article 58(2), by entrusting budget implementation tasks to:</p> <p>(i) third countries or the bodies they have designated;</p> <p>(ii) international organisations or their agencies, within the meaning of Article 156;</p> <p>(iii) the European Investment Bank ('the EIB') or the European Investment Fund ('the EIF') or both of them acting as a group ('the EIB group');</p> <p>(iv) Union bodies referred to in Articles 70 and 71;</p> <p>(v) public law bodies, including Member State organisations;</p> <p>(vi) bodies governed by private law with a public service mission, including Member State organisations, to the extent that they are provided with adequate financial guarantees;</p> <p>(vii) bodies governed by the private law of a Member State that are entrusted with the implementation of a public- private partnership and that are provided with adequate financial guarantees;</p> <p>(viii) bodies or persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.</p> <p>With regard to point (c)(vi) of the first subparagraph, the amount of the financial guarantees required may be set out in the relevant basic act and may be limited to the maximum amount of the Union contribution to the body concerned. In the case of multiple guarantors, the repartition of the amount of the total liability to be covered by the guarantees shall be specified in the</p>

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
	<p>agreement and without the consent of other participants referred to in Article 44(1) and (2);</p> <p>(ii) allow for specific agreements for access rights to background for developing results for commercialisation or commercialising results themselves (direct exploitation) referred to in Article 48(2) to (4);</p> <p>(iii) complement the rules by introducing provisions on ownership and access to data, knowledge and information which are outside of the objectives of an action and which are not needed for implementing and exploiting the action (sideground) referred to in Article 41(2) and Articles 45 to 48;</p> <p>(iv) extend rules on exploitation to other purposes than implementing the action (research use) or developing results for commercialisation or commercialising results themselves (direct exploitation) referred to in Article 48;</p> <p>(v) set out specific criteria for allowing sub-licensing from one participant to another participant in the same action referred to in Article 46(2);</p> <p>(vi) extend, under the conditions defined in the consortium agreement referred to in Article 24(2), the access rights of participants, their affiliated entities and third parties as licensees to results or background for purposes other than implementing the action (research use) under appropriate conditions including financial terms, or developing results for commercialisation or commercialising results themselves (direct exploitation), as referred to in Articles 46 to 48;</p>		<p>8. Research and innovation activities carried out under Horizon Europe shall have a focus on civil applications.</p>		<p>contribution agreement, which may provide for the liability of each guarantor to be proportionate to the share of their respective contribution to the body. [...]</p> <p>{see Article 2(13) RfP above and 9(8) and 13(1) RfP below}</p>

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
13	<p>(vii) make access rights for direct exploitation conditional upon the agreement of the participants concerned, as referred to in Article 48;</p> <p>(viii) render optional the dissemination through scientific publication in the form of open access, as referred to in Article 43(2);</p> <p>(d) the funding of the actions, allowing funding bodies in the area of electronic components and systems to apply reimbursement rates different to those set out in Article 28(3) in cases where one or more Member States co-fund a participant or an action.</p> <p>A funding body entrusted with budget implementation tasks under points (i) or (ii) of point (c) of Article 58(1) of Regulation (EU, Euratom) No 966/2012, may apply rules which depart from those laid down in this Regulation, subject to the consent of the Commission, if its specific operating needs so require. The Commission shall give its consent in such cases only if those rules are in compliance with the general principles established in this Regulation.</p> <p>4. This Regulation shall not apply to direct actions carried out by the Joint Research Centre (JRC).</p> <p>Proposals</p> <p>4. Where relevant and specified in the work programme or the work plan, proposals shall explain how and to what extent gender analysis is relevant to the content of the intended project.</p>		<p>9. The Programme shall ensure the effective promotion of gender equality and the gender dimension in research and innovation content. Particular attention shall be paid to ensuring gender balance, subject to the situation in the field of research and innovation concerned, in</p>	<p>(9) The gender issue applies to Horizon Europe as a whole, instead of mentioning it in specific articles as in the RfP Horizon 2020.</p> <p>[Exercise of delegated acts: see also Article 50]</p>	

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			evaluation panels and in bodies such as expert groups.	{see Article 196 of the FR, Annex II} [see also: Article 15 and 35(6)]	
Missions and European Partnerships					
		7	<p>Missions</p> <p>1. Missions shall be programmed within the pillar ‘Global Challenges and Industrial Competitiveness’, but may also benefit from actions carried out within other parts of the Programme.</p> <p>2. The missions shall be implemented in accordance with Article 5 of the Specific Programme. Evaluation shall be carried out in accordance with Article 26.</p> <p>3. Missions shall:</p> <ul style="list-style-type: none"> a) have a clear EU-added value and contribute to reaching Union priorities; b) be bold and inspirational, and hence have wide societal or economic relevance; c) indicate a clear direction and be targeted, measurable and time-bound; d) be centered on ambitious but realistic research and innovation activities; e) spark activity across disciplines, sectors and actors; f) be open to multiple, bottom-up solutions. 	<p>new</p> <p>This new article contains the main aims of Missions, which are implemented in accordance with Article 5 of the SP. The latter contains regulations about the mission board, as well as their advice areas:</p> <ul style="list-style-type: none"> - content of work programmes and their revision, - adjustment actions, or termination if appropriate, - selection and briefing of expert evaluators and evaluation criteria, including their weighting, - framework conditions helping to achieve the Mission’s objectives, and - communication. <p>Compared to the concept on mission-oriented R&I from Marianna Mazzucato the article provides limited information on how the missions will be implemented in a wider sense, e.g. regarding the selection of the members of the mission boards, the management of the missions on a day-2-day basis (also in support of the mission boards), alignment of EC and MS/AC actions.</p> <p>As some of the mission's aspects - e.g. the governance and the mission board - remain unclear it has to be decided which of those subjects should be clarified on which legal level.</p>	

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
				[adjustment and termination of Mission projects: see also Article 29(3)]	
		8	<p>European Partnerships</p> <p>1. Parts of Horizon Europe may be implemented through European Partnerships. The involvement of the Union in European Partnerships may take any of the following forms:</p> <ul style="list-style-type: none"> a) participation in partnerships set up on the basis of memoranda of understanding and/or contractual arrangements between the Commission and the partners referred to in Article 2(3), specifying the objectives of the partnership, related commitments for financial and/or in-kind contributions of the partners, key performance and impact indicators, and outputs to be delivered. They include the identification of complementary research and innovation activities that are implemented by the partners and by the Programme (Co-programmed European Partnerships); b) participation in and financial contribution to a programme of research and innovation activities, based on the commitment of the partners for financial and in-kind contributions and integration of their relevant activities using a Programme co-fund action (Co-funded European Partnerships); c) participation in and financial contribution to research and innovation programmes undertaken by several Member States in accordance with Article 185 TFEU, or by bodies established pursuant to Article 187 TFEU, such as Joint Undertakings, or by the EIT Knowledge and Innovation Communities in 	<p>new</p> <p>In Horizon Europe, the partnerships have been reduced to three types with a clear focus.</p> <p>Simplification takes place through the reduced number of involved instruments. Existing partnerships need to prove their impact to get further funding in the future. The landscape will be harmonized, which makes it easier for stakeholders to identify targeted partnerships.</p> <p>In the case of establishing Art. 185 initiatives, the participation of at least 50% of the Member States is mandatory.</p> <p>[see also: Annex III of the RfP Horizon Europe]</p>	

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			<p>compliance with the [EIT Regulation] (Institutionalised European Partnerships), to be implemented only where other forms of European Partnerships would not achieve the objectives or would not generate the necessary expected impacts, and if justified by a long-term perspective and high degree of integration including central management of all financial contributions.</p> <p>2. European Partnerships shall:</p> <ul style="list-style-type: none"> a) Be established in cases where they will more effectively achieve objectives of Horizon Europe than the Union alone; b) Adhere to the principles of the Union added value, transparency, openness, impact, leverage effect, long-term financial commitment of all the involved parties, flexibility, coherence and complementarity with Union, local, regional national and international initiatives; c) be time limited and include conditions for phasing-out the Programme funding. <p>Provisions and criteria for their selection, implementation, monitoring, evaluation and phasing-out are set out in Annex III.</p>		
Independence					
8	<p>Independence</p> <p>1. Two legal entities shall be regarded as independent of each other where neither is under the direct or indirect control of the other or under the same direct or indirect control as the other.</p> <p>2. For the purposes of paragraph 1, control may, in particular, take either of the following forms:</p>			<p>removed</p> <p>This Article has been removed from the RfP Horizon Europe. It defined whether two legal entities are independent of each other.</p> <p>The FR contains a definition of “affiliated entities”, but makes no reference anymore to the necessity of (mutual) control. It might be considered to give further details in the MGA.</p>	

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
	<p>(a) the direct or indirect holding of more than 50 % of the nominal value of the issued share capital in the legal entity concerned, or of a majority of the voting rights of the shareholders or associates of that entity;</p> <p>(b) the direct or indirect holding, in fact or in law, of decision-making powers in the legal entity concerned.</p> <p>3. For the purposes of paragraph 1, the following relationships between legal entities shall not in themselves be deemed to constitute controlling relationships:</p> <p>(a) the same public investment corporation, institutional investor or venture-capital company has a direct or indirect holding of more than 50 % of the nominal value of the issued share capital or a majority of voting rights of the shareholders or associates;</p> <p>(b) the legal entities concerned are owned or supervised by the same public body.</p>				
Budget					
		9	<p>Budget</p> <p>1. The financial envelope for the implementation of the Framework Programme for the period 2021 – 2027 shall be EUR 94 100 000 000 in current prices for the specific programme referred to in Article 1(3)(a) and, in addition, the amount for the specific programme referred to in Article 1(3)(b), as laid down in Regulation.... Establishing the European Defence Fund.</p> <p>2. The indicative distribution of the amount referred to in paragraph 1, first half sentence, shall be:</p> <p style="padding-left: 40px;">(a) EUR 25 800 000 000 for Pillar I ‘Open Science’ for the period 2021-2027, of which</p>	<p>new</p> <p>Horizon Europe has the highest financial budget of all other Framework Programmes so far. The lion share is dedicated to Pillar II “Global Challenges and Industrial Competitiveness”, which is also the focus of Horizon Europe.</p> <p>(3) Due to changed needs or unforeseen situations, the budget may deviate from the allocation mentioned in paragraph 2 up to 10%.</p> <p>(8) Resources that have been allocated to Member States due to shared management can be transferred to the Programme, if requested by the Member States concerned. If</p>	<p>62(1)(a) and (c)</p> <p>Methods of budget implementation</p> <p>1. The Commission shall implement the budget in any of the following ways:</p> <p>(a) directly (‘direct management’) as set out in Articles 125 to 153, by its departments, including its staff in the Union delegations under the authority of their respective Head of delegation, in accordance with Article 60(2), or through executive agencies as referred to in Article 69;</p> <p>[...]</p> <p>(c) indirectly (‘indirect management’) as set out in Articles 125 to 149 and 154 to 159, where this is provided for in the basic act or in the cases referred to in points (a) to (d) of</p>

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
			<p>(1) EUR 16 600 000 000 for the European Research Council;</p> <p>(2) EUR 6 800 000 000 for Marie Skłodowska-Curie Actions;</p> <p>(3) EUR 2 400 000 000 for research infrastructures;</p> <p>(b) EUR 52 700 000 000 for Pillar II ‘Global Challenges and Industrial Competitiveness’ for the period 2021-2027, of which</p> <p>(1) EUR 7 700 000 000 for cluster ‘Health’;</p> <p>(2) EUR 2 800 000 000 for cluster ‘Inclusive and Secure Society’;</p> <p>(3) EUR 15 000 000 000 for cluster ‘Digital and Industry’;</p> <p>(4) EUR 15 000 000 000 for cluster ‘Climate, Energy and Mobility’;</p> <p>(5) EUR 10 000 000 000 for cluster ‘Food and Natural Resources’;</p> <p>(6) EUR 2 200 000 000 for the non-nuclear direct actions of the Joint Research Centre (JRC);</p> <p>(c) EUR 13 500 000 000 for Pillar III ‘Open Innovation’ for the period 2021-2027, of which</p> <p>(1) EUR 10 500 000 000 for the European Innovation Council, including up to EUR 500 000 000 for European Innovation Ecosystems;</p> <p>(2) EUR 3 000 000 000 for the European Institute of Innovation and Technology (EIT);</p> <p>(d) EUR 2 100 000 000 for Part ‘Strengthening the European Research Area’ for the period 2021-2017, of which</p> <p>(1) EUR 1 700 000 000 for ‘sharing excellence’;</p>	<p>possible, these resources should be then used for the benefit of the respective Member State.</p> <p>This will be a possibility to allocate structural funds from the Member States to e.g. Horizon Europe.</p> <p>[see Articles 18(7) and 19(1)]</p> <p>(9) Annex IV contains an exemplary list of possible Programmes operated in synergy with Horizon Europe.</p> <p>{see Article 2(13) and 6(1) RfP above and 13(1) RfP below}</p> <p>{see Article 21 of the CPR, Annex I}</p>	<p>Article 58(2), by entrusting budget implementation tasks to:</p> <p>(i) third countries or the bodies they have designated;</p> <p>(ii) international organisations or their agencies, within the meaning of Article 156;</p> <p>(iii) the European Investment Bank (‘the EIB’) or the European Investment Fund (‘the EIF’) or both of them acting as a group (‘the EIB group’);</p> <p>(iv) Union bodies referred to in Articles 70 and 71;</p> <p>(v) public law bodies, including Member State organisations;</p> <p>(vi) bodies governed by private law with a public service mission, including Member State organisations, to the extent that they are provided with adequate financial guarantees;</p> <p>(vii) bodies governed by the private law of a Member State that are entrusted with the implementation of a public- private partnership and that are provided with adequate financial guarantees;</p> <p>(viii) bodies or persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.</p> <p>With regard to point (c)(vi) of the first subparagraph, the amount of the financial guarantees required may be set out in the relevant basic act and may be limited to the maximum amount of the Union contribution to the body concerned. In the case of multiple guarantors, the repartition of the amount of the total liability to be covered by the guarantees shall be specified in the contribution agreement, which may provide for the liability of each guarantor to be proportionate to the share of their respective contribution to the body.</p>

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
			<p>(2) EUR 400 000 000 for 'reforming and enhancing the European R&I System'.</p> <p>3. In order to respond to unforeseen situations or to new developments and needs, the Commission may, within the annual budgetary procedure, deviate from the amounts referred to in paragraph 2 up to a maximum of 10%. No such deviation shall be allowed in respect of the amounts referred to in points (b) (6) of paragraph 2 of this Article and the total amount set out for Part 'Strengthening the European Research Area' of paragraph 2 of this Article.</p> <p>4. The amount referred to in paragraph 1, first half sentence, may also cover expenses for preparation, monitoring, control, audit, evaluation and other activities and expenditures necessary for managing and implementing the Programme, including all administrative expenditure, as well as evaluating the achievement of its objectives. It may moreover cover expenses relating to the studies, meetings of experts, information and communication actions, in so far as they are related to the objectives of the Programme, as well as expenses linked to information technology networks focusing on information processing and exchange, including corporate information technology tools and other technical and administrative assistance needed in connection with the management of the Programme.</p> <p>5. If necessary, appropriations may be entered in the budget beyond 2027 to cover the expenses provided for in paragraph 4, to enable the management of actions not completed by 31 December 2027.</p>		[...]

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
			<p>6. Budgetary commitments for actions extending over more than one financial year may be broken down over several years into annual instalments.</p> <p>7. Without prejudice to the Financial Regulation, expenditure for actions resulting from projects included in the first work programme may be eligible as from 1 January 2021.</p> <p>8. Resources allocated to Member States under shared management and transferrable in accordance with Article 21 of Regulation (EU) XX [...Common Provisions Regulation] may, at their request, be transferred to the Programme. The Commission shall implement those resources directly in accordance with point (a) of Article 62(1) of the Financial Regulation or indirectly in accordance with point (c) of that Article. Where possible, those resources shall be used for the benefit of the Member State concerned.</p> <p>9. Horizon Europe is designed to be implemented in synergy with other Union funding programmes. A non-exhaustive list of synergies with other Union funding programmes is included in Annex IV.</p>		
Open Access and Open Data (also: Article 35 "Exploitation and dissemination")					
		10	<p>Open access and open data</p> <p>1. Open access to scientific publications resulting from research funded under the Programme shall be ensured in accordance with Article 35(3). Open access to research data shall be ensured in line with the principle 'as open as possible, as closed as necessary'. Open access to other research outputs shall be encouraged.</p> <p>2. Responsible management of research data shall be ensured in line with the principles 'Findability',</p>	<p>new</p> <p>(1) Horizon 2020 included open access to "peer-reviewed scientific publications" and the "deposited underlying research data". In Horizon Europe, open access to publications is the general rule, but now refers to all research data. [Exceptions regarding research data: see Article 35(3)]. Furthermore, there is a new emphasis on open access to all other research outputs.</p>	

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			<p>'Accessibility', 'Interoperability' and 'Reusability' (FAIR).</p> <p>3. Open science practices beyond open access to research outputs and responsible management of research data shall be promoted.</p>	(3) There will be also an emphasis on open science practices.	
Complementary and Combined Funding					
		11	<p>Complementary and combined funding</p> <p>Actions awarded a Seal of Excellence certification, or which comply with the following cumulative, comparative, conditions:</p> <p>(a) they have been assessed in a call for proposals under the Programme;</p> <p>(b) they comply with the minimum quality requirements of that call for proposals;</p> <p>(c) they may not be financed under that call for proposals due to budgetary constraints, may receive support from the European Regional Development Fund, the Cohesion Fund, the European Social Fund+ or the European Agricultural Fund for Rural Development, in accordance with paragraph 5 of Article [67] of Regulation (EU) XX [Common Provisions Regulation] and Article [8] or Regulation (EU) XX [Financing, management and monitoring of the Common Agricultural Policy], provided that such actions are consistent with the objectives of the programme concerned. The rules of the Fund providing support shall apply.</p>	<p>new</p> <p>It is not clearly described that concerning "seal of excellence" actions both, national funds and structural funds, can be granted even beyond the funding frame under certain conditions. Projects for which a Seal of Excellence has been awarded or fulfil the three cumulative criteria, may receive funding from certain Structural Funds and the Agricultural Fund, for which the rules of the respective fund apply.</p> <p>The term "or" should be corrected to "of".</p> <p>{see Article 67(5) CPR and Article 8 of the Common Agricultural Policy, Annex I}</p>	
Associated Third Countries					
		12	<p>Third countries associated to the Programme</p> <p>1. The Programme shall be open to association of the following third countries:</p> <p>(a) European Free Trade Association (EFTA) members which are members of the European Economic Area (EEA), in accordance with the conditions laid down in the EEA agreement;</p>	<p>new</p> <p>(1) The RfP Horizon Europe list the possible third countries that may associate to the Programme.</p> <p>It can be highlighted that in general third countries (e.g. Great Britain) fulfilling the</p>	<p>21(5)</p> <p>Assigned revenue</p> <p>[...]</p> <p>5. A basic act may assign the revenue for which it provides to specific items of expenditure. Unless otherwise specified in the basic act,</p>

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
			<p>(b) acceding countries, candidate countries and potential candidates, in accordance with the general principles and general terms and conditions for the participation of those countries in Union programmes established in the respective framework agreements and Association Council decisions, or similar agreements, and in accordance with the specific conditions laid down in agreements between the Union and those countries;</p> <p>(c) countries covered by the European Neighbourhood Policy, in accordance with the general principles and general terms and conditions for the participation of those countries in Union programmes established in the respective framework agreements and Association Council decisions, or similar agreements, and in accordance with the specific conditions laid down in agreements between the Union and those countries;</p> <p>(d) third countries and territories that fulfil all of the following criteria:</p> <ul style="list-style-type: none"> i. a good capacity in science, technology and innovation; ii. commitment to a rules-based open market economy, including fair and equitable dealing with intellectual property rights, backed by democratic institutions; iii. active promotion of policies to improve the economic and social wellbeing of citizens. <p>Association to the Programme of each of the third countries under point (d) shall be in accordance with the conditions laid down in a specific agreement covering the participation of the third country to any Union programme, provided that the agreement:</p> <ul style="list-style-type: none"> – ensures a fair balance as regards the contributions and benefits of the third country participating in the Union programmes; 	<p>conditions of Article 12(1)(d) could be associated to Horizon Europe.</p> <p>(4) In case of significant imbalance between a third country's contribution to Horizon Europe and the received funding amounts out of it, there will be conditions for automatic correction.</p>	<p>such revenue shall constitute internal assigned revenue. [...]</p> <p>{see Article 33(6) and 42(4) RfP below}</p>

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
			<p>– lays down the conditions of participation in the programmes, including the calculation of financial contributions to individual programmes and their administrative costs. These contributions shall constitute assigned revenues in accordance with Article 21(5) of the Financial Regulation;</p> <p>– does not confer to the third country a decisional power on the programme;</p> <p>– guarantees the rights of the Union to ensure sound financial management and to protect its financial interests.</p> <p>2. The scope of association of each third country to the Programme shall take into account the objective of driving economic growth in the Union through innovation.</p> <p>Accordingly, with the exception of EEA members, acceding countries, candidate countries and potential candidates, parts of the Programme may be excluded from an association agreement for a specific country.</p> <p>3. The association agreement shall, where appropriate, provide for the participation of legal entities established in the Union in equivalent programmes of associated countries in accordance with the conditions laid down therein.</p> <p>4. The conditions determining the level of financial contribution shall ensure an automatic correction of any significant imbalance compared to the amount that entities established in the associated country receive through participation in the Programme, taking into account the costs in the management, execution and operation of the Programme.</p>		
Funding Bodies and JRC					
1 (3) (4)	Subject matter and scope	13	Funding bodies and direct actions of JRC	change in wording, but not in meaning	62(1)(c)(ii), (iii) and (v) Methods of budget implementation

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
	<p>3. Regulation (EC) No 294/2008 or any basic act which entrusts budget implementation tasks to a funding body under Article 185 TFEU may establish rules which depart from those laid down in this Regulation. In order to take into account their specific operating needs and subject to the rules established in the relevant basic act, the Commission shall be empowered to adopt delegated acts in accordance with Article 56, with regard to funding bodies set up under Article 187 TFEU concerning: [...]</p> <p>4. This Regulation shall not apply to direct actions carried out by the Joint Research Centre (JRC).</p>		<p>1. Funding bodies may depart from the rules set out in this Title only if this is provided for in the basic act setting up the funding body or entrusting budget implementation tasks to it or, for funding bodies under Article 62(1)(c)(ii), (iii) or (v) of the Financial Regulation, if it is provided for in the contribution agreement and their specific operating needs or the nature of the action so require.</p> <p>2. The rules set out in this Title shall not apply to direct actions undertaken by the JRC.</p>		<p>1. The Commission shall implement the budget in any of the following ways: [...] (c) indirectly ('indirect management') as set out in Articles 125 to 149 and 154 to 159, where this is provided for in the basic act or in the cases referred to in points (a) to (d) of Article 58(2), by entrusting budget implementation tasks to: [...] (ii) international organisations or their agencies, within the meaning of Article 156; (iii) the European Investment Bank ('the EIB') or the European Investment Fund ('the EIF') or both of them acting as a group ('the EIB group'); [...] (v) public law bodies, including Member State organisations; [...] With regard to point (c)(vi) of the first subparagraph, the amount of the financial guarantees required may be set out in the relevant basic act and may be limited to the maximum amount of the Union contribution to the body concerned. In the case of multiple guarantors, the repartition of the amount of the total liability to be covered by the guarantees shall be specified in the contribution agreement, which may provide for the liability of each guarantor to be proportionate to the share of their respective contribution to the body. [...]</p> <p>{see Article 2(13) and 6(1) and 9(8) RfP above}</p>
Eligible Actions, Ethics and Security					
13	Proposals	14	Eligible actions	new	

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
	<p>2. Any proposal for research on human embryonic stem cells shall include, as appropriate, details of licensing and control measures that will be taken by the competent authorities of the Member States concerned as well as details of the ethical approvals that will be provided. As regards the derivation of human embryonic stem cells, institutions, organisations and researchers shall be subject to strict licensing and control in accordance with the legal framework of the Member States concerned.</p> <p>3. A proposal which contravenes ethical principles or any applicable legislation, or which does not fulfil the conditions set out in Decision No 2013/743/EU, in the work programme, in the work plan or in the call for proposals may be excluded from the evaluation, selection and award procedures at any time.</p>		<p>1. Without prejudice to paragraphs 2 to 3 of this Article, only actions implementing the objectives referred to in Article 3 shall be eligible for funding. The following fields of research shall not be financed:</p> <p>(a) activities aiming at human cloning for reproductive purposes;</p> <p>(b) activities intended to modify the genetic heritage of human beings which could make such changes heritable;</p> <p>(c) activities intended to create human embryos solely for the purpose of research or for the purpose of stem cell procurement, including by means of somatic cell nuclear transfer.</p> <p>2. Research on human stem cells, both adult and embryonic, may be financed, depending both on the contents of the scientific proposal and the legal framework of the Member States involved. No funding shall be granted for research activities that are prohibited in all the Member States. No activity shall be funded in a Member State where such activity is forbidden.</p> <p>3. The fields of research set out in paragraph 1 may be reviewed within the context of the interim evaluation referred to in Article 47(2) in the light of scientific advances.</p>	<p>(1) (3) In Horizon Europe, three fields of research are explicitly excluded from funding [see Article 1(a) (b) (c)]. All those fields may be reviewed within the context of the interim evaluation in the light of scientific advances.</p> <p>(2) While in Horizon 2020 only human embryonic stem cell research proposals had to describe details on licensing and control measures according to the legislation of the Member States, this now applies to embryonic and adult human stem cells.</p> <p>[see also: Article 15]</p>	
14	<p>Ethics review</p> <p>1. The Commission shall systematically carry out ethics reviews for proposals raising ethical issues. That review shall verify the respect of ethical principles and legislation and, in the case of research carried out outside the Union, that the same research would have been allowed in a Member State.</p>	15	<p>Ethics</p> <p>1. Actions carried out under the Programme shall comply with ethical principles and relevant national, Union and international legislation, including the Charter of Fundamental Rights of the European Union and the European Convention on Human Rights and its Supplementary Protocols. Particular attention shall be paid to the principle of proportionality, the right to privacy, the right to the protection of personal data, the right to the</p>	<p>new</p> <p>The ethic section is better elaborated than in the RfP Horizon 2020. However, the described procedures are already usual practice in Horizon 2020.</p> <p>The reference to the “The European Code of Conduct for Research Integrity” is new and will help researchers to carry out their research according to “good research practices”.</p>	

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
	<p>2. The Commission shall make the process of the ethics review as transparent as possible and ensure that it is carried out in a timely manner avoiding, where possible, the resubmission of documents.</p>		<p>physical and mental integrity of a person, the right to non-discrimination and the need to ensure high levels of human health protection.</p> <p>2. Entities participating in the action shall provide: (a) an ethics self-assessment identifying and detailing all the foreseeable ethics issues related to the objective, implementation and likely impact of the activities to be funded, including a confirmation of compliance with paragraph 1, and a description of how it will be ensured; (b) a confirmation that the activities will comply with the European Code of Conduct for Research Integrity published by All European Academies and that no activities excluded from funding will be conducted; (c) for activities carried out outside the Union, a confirmation that the same activities would have been allowed in a Member State; and (d) for activities making use of human embryonic stem cells, as appropriate, details of licensing and control measures that shall be taken by the competent authorities of the Member States concerned as well as details of the ethics approvals that shall be obtained before the activities concerned start.</p> <p>3. Proposals shall be systematically screened to identify those actions raising complex or serious ethics issues and submit them to an ethics assessment. The ethics assessment shall be carried out by the Commission unless it is delegated to the funding body. For actions involving the use of human embryonic stem cells or human embryos, an ethics assessment shall be mandatory. Ethics screenings and assessments shall be carried out with the support of ethics experts. The Commission and the funding bodies shall ensure the transparency of the ethics procedures as much as possible.</p>	<p>[see also: Article 14]</p> <p>{see Article 196 and 187 and 204 and 205 of the FR, Annex II}</p> <p>[see also: Article 6(9) and 35(6)]</p> <p>[see also: Article 19(3) and 22 and 24(4) and 29 and 32(2)]</p>	

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
			<p>4. Entities participating in the action shall obtain all approvals or other mandatory documents from the relevant national, local ethics committees or other bodies such as data protection authorities before the start of the relevant activities. Those documents shall be kept on file and provided to the Commission or funding body upon request.</p> <p>5. If appropriate, ethics checks shall be carried out by the Commission or funding body. For serious or complex ethics issues, the checks shall be carried out by the Commission unless it is delegated to the funding body. Ethics checks shall be carried out with the support of ethics experts.</p> <p>6. Actions which are not ethically acceptable may be rejected or terminated at any time.</p>		
		16	<p>Security</p> <p>1. Actions carried out under the Programme shall comply with the applicable security rules and in particular rules on protection of classified information against unauthorised disclosure, including compliance with any relevant national and Union law. In case of research carried out outside the Union using and/or generating classified information, it is necessary that, in addition to the compliance with those requirements, a security agreement shall have to be concluded between the Union and the third country in which the research is conducted.</p> <p>2. Where appropriate, proposals shall include a security self-assessment identifying any security issues and detailing how these issues will be addressed in order to meet the relevant national and Union law.</p>	<p>new</p> <p>The Security section is better elaborated than in the RfP Horizon 2020. However, the described procedures are already usual practice in Horizon 2020.</p> <p>[see also: Article 18]</p>	

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
			<p>3. Where appropriate, the Commission or funding body shall carry out a security scrutiny for proposals raising security issues.</p> <p>4. Where appropriate, the actions shall comply with Decision (EU, Euratom) 2015/444, and its implementing rules.</p> <p>5. Entities participating in the action shall ensure the protection against unauthorised disclosure of classified information used and/or generated by the action. They shall provide proof of personal and/or facility security clearance from the relevant national security authorities, prior to the start of the activities concerned.</p> <p>6. If external experts have to deal with classified information, the appropriate security clearance shall be required before those experts are appointed.</p> <p>7. Where appropriate, the Commission or funding body may carry out security checks.</p> <p>8. Actions which do not comply with security rules may be rejected or terminated at any time.</p>		
Grants, Enquiries and Complaints					
25	<p>Forms of grants</p> <p>Grants may take any of the forms provided for in Article 123 of Regulation (EU, Euratom) No 966/2012, taking into account the objectives of the action.</p>	17	<p>Grants</p> <p>Grants under the Programme shall be awarded and managed in accordance with Title VIII of the Financial Regulation, unless otherwise specified in this Chapter.</p>	<p>change in wording and meaning</p> <p>{see Article 125 of the FR, Annex II}</p>	<p>Title VIII</p> <p>Grants</p> <p>Article 180 – 205</p>
17	<p>Enquiries and complaints</p> <p>1. The Commission shall ensure the existence of a procedure for participants to make enquiries or complaints about their involvement in Horizon 2020.</p>			<p>removed</p> <p>This Paragraph has been removed from the RfP Horizon Europe and consequently there is no enquiry procedure foreseen anymore. Concerning complaints there is only the evaluation review procedure remaining.</p>	

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
	<p>2. The Commission shall ensure that information on how to register concerns, enquiries or complaints is made available to all participants and is published on-line.</p>			<p>The Research Enquiry Service is not mentioned anymore [see Article 16(1) RfP Horizon 2020], but has been very helpful and often demanded in practice.</p> <p>[see also: Article 27]</p>	
Entities Eligible for Participation, Grant Agreement, Entities Eligible for Funding					
7	<p>Legal entities that may participate in actions</p> <p>1. Any legal entity, regardless of its place of establishment, or international organisation may participate in an action provided that the conditions laid down in this Regulation have been met, together with any conditions laid down in the relevant work programme or work plan.</p> <p>2. The relevant work programme may restrict the participation in Horizon 2020 or parts thereof of legal entities established in third countries where conditions for the participation of legal entities from Member States, or of their affiliated entities established in a third country, in the third country's research and innovation programmes are considered to be prejudicial to the Union's interests.</p> <p>3. The relevant work programme or work plan may exclude entities unable to provide satisfactory security guarantees, including as regards personnel security clearance if justified by security reasons.</p> <p>4. The JRC may participate in actions with the same rights and obligations as a legal entity established in a Member State.</p>	18	<p>Entities eligible for participation</p> <p>1. Any legal entity, regardless of its place of establishment, or international organisation may participate in actions under the Programme, provided that the conditions laid down in this Regulation have been met together with any conditions laid down in the work programme or call.</p>	<p>change in wording and meaning</p> <p>(1) Additional conditions for participation may be laid down not only in the work programme, but also in the call.</p> <p>The possibility to restrict third country organisations' participation due to contradictory Union interests or exclude entities without satisfactory security guarantees is not mentioned anymore in the RfP Horizon Europe.</p> <p>[see also: Article 16]</p>	

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
9	<p>Conditions for participation</p> <p>1. The following minimum conditions shall apply: (a) at least three legal entities shall participate in an action; (b) three legal entities shall each be established in a different Member State or associated country; and (c) the three legal entities referred to in point (b) shall be independent of each other within the meaning of Article 8.</p> <p>2. For the purposes of paragraph 1, where one of the participants is the JRC, or an international European interest organisation or an entity created under Union law, it shall be deemed to be established in a Member State or associated country other than any Member State or associated country in which another participant in the same action is established.</p> <p>3. By way of derogation from paragraph 1, the minimum condition shall be the participation of one legal entity established in a Member State or associated country, in the case of: (a) European Research Council (ERC) frontier research actions; (b) the SME instrument, where the action has a clear European added value; (c) programme co-fund actions; and (d) justified cases provided for in the work programme or work plan.</p> <p>4. By way of derogation from paragraph 1, in the case of coordination and support actions and training and mobility actions, the minimum condition shall be the participation of one legal entity.</p>		<p>2. Entities shall be part of a consortium that shall include at least three independent legal entities each established in a different Member State or associated country and with at least one of them established in a Member State, unless: (a) the work programme provides otherwise, if justified; (b) the action is one referred to in paragraphs 3 or 4.</p> <p>3. European Research Council (ERC) frontier research actions, European Innovation Council (EIC) actions, training and mobility actions or programme co-fund actions may be implemented by one or more legal entities, one of which must be established in a Member State or associated country.</p> <p>4. Coordination and support actions may be implemented by one or more legal entities, which may be established in a Member State, associated country or in another third country.</p> <p>5. For actions related to Union strategic assets, interests, autonomy or security, the work programme may provide that the participation can be limited to those legal entities established in Member States only, or to those legal entities established in specified associated or other third countries in addition to Member States.</p> <p>6. The work programme may provide for eligibility criteria in addition to those set out in paragraphs 2, 3, 4, and 5 according to specific policy requirements or to the nature and objectives of the action, including the number of legal entities, the type of legal entity and the place of establishment.</p>	<p>(2) The general conditions of participation (at least three independent legal entities established in different Member States or associated countries) remains the same for Horizon Europe.</p> <p>NEW: In Horizon Europe, at least one of those entities must be established in a Member State. Other than in Horizon 2020, in general a consortium of at least three associated countries will not fulfil the minimum participation criteria anymore.</p> <p>(3) (4) There are exceptions for ERC, EIC, training and mobility, coordination and support as well as co-fund actions and if foreseen in the work programme.</p> <p>(5) For specific reasons, the participation can be limited to Member States only or specified associated or third countries in addition to Member States.</p> <p>(7) Concerning Union shared-management programmes according to Article 9(8), in general there must be a limitation in participation. [see also: Articles 9(8) and 19(1)]</p> <p>{see Article 197 of the FR, Annex II}</p>	

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
	<p>5. Where appropriate and duly justified, work programmes or work plans may provide for additional conditions according to specific policy requirements or to the nature and objectives of the action, including <i>inter alia</i> conditions regarding the number of participants, the type of participant and the place of establishment.</p>		<p>7. For actions benefiting from amounts under Article 9(8), the participation shall be limited to a single legal entity established in the jurisdiction of the delegating Managing Authority, except if otherwise agreed with the Managing Authority and provided for in the work programme.</p> <p>8. Where indicated in the work programme, the Joint Research Centre may participate in actions.</p> <p>9. The Joint Research Centre, international European research organisations and legal entities created under Union law shall be deemed to be established in a Member State other than the ones in which other legal entities participating in the action are established.</p> <p>10. For European Research Council (ERC) frontier research actions and training and mobility actions, international organisations with headquarters in a Member State or associated country shall be deemed to be established in this Member State or associated country.</p>		
18	<p>Grant agreement</p> <p>1. The Commission shall, in close cooperation with the Member States, draw up model grant agreements between the Commission or the relevant funding body and the participants in accordance with this Regulation. If a significant modification of a model grant agreement is required, the Commission shall, in close cooperation with the Member States, revise it as appropriate.</p> <p>2. The Commission or the relevant funding body shall enter into a grant agreement with the participants. The removal or substitution of an entity before signature of the grant agreement shall be duly justified.</p>			<p>removed</p> <p>This Article has been removed from the RfP Horizon Europe.</p> <p>(1) A close cooperation between the Commission and the Member States concerning the drawing up of MGAs as well as their modification should be further mentioned in the RfP Horizon Europe.</p> <p>(5) The European Charter for Research and the Code of Conduct for the Recruitment of Researchers should be considered by the GA where appropriate and possible. This is missing in the RfP Horizon Europe.</p>	

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
	<p>3. The grant agreement shall establish the rights and obligations of the participants and of either the Commission or the relevant funding body in compliance with this Regulation. It shall also establish the rights and obligations of legal entities which become participants during the implementation of the action, as well as the role and tasks of a consortium coordinator.</p> <p>4. On the basis of a requirement in a work programme or work plan, the grant agreement may establish rights and obligations of the participants with regard to access rights, exploitation and dissemination, in addition to those laid down in this Regulation.</p> <p>5. The grant agreement shall, where appropriate and to the extent possible, reflect the general principles laid down in the Commission Recommendation on the European Charter for Researchers and the Code of Conduct for the Recruitment of Researchers, principles of research integrity, the Commission Recommendation on the management of intellectual property in knowledge transfer activities, the Code of Practice for universities and other public research institutions as well as the gender equality principle laid down in Article 16 of Regulation (EU) No 1291/2013.</p> <p>6. The grant agreement shall, where appropriate, contain provisions ensuring the respect of ethical principles, including the establishment of an independent ethics board and the right of the Commission to carry out an ethics audit by independent experts.</p>			<p>What would this mean for the future of the current Article 32 MGA in Horizon 2020?</p> <p>If this rule will be further included in the MGA Horizon Europe, it seems advisable that the provision on the implementation of Charter and Code by all beneficiaries remains a “best-effort” obligation.</p> <p>{see Article 201 of the FR, Annex II}</p>	

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
	7. In duly justified cases, specific grants for actions may form part of a framework partnership in accordance with Regulation (EU, Euratom) No 966/2012 and Regulation (EU) No 1268/2012.				
10	<p>Eligibility for funding</p> <p>1. The following participants are eligible for funding from the Union:</p> <p>(a) any legal entity established in a Member State or associated country, or created under Union law;</p> <p>(b) any international European interest organisation;</p> <p>(c) any legal entity established in a third country identified in the work programme.</p> <p>2. In the case of a participating international organisation or in the case of a participating legal entity established in a third country, neither of which are eligible for funding according to paragraph 1, funding from the Union may be granted provided that at least one of the following conditions is fulfilled:</p> <p>(a) the participation is deemed essential for carrying out the action by the Commission or the relevant funding body;</p> <p>(b) such funding is provided for under a bilateral scientific and technological agreement or any other arrangement between the Union and the international organisation or, for entities established in third countries, the country in which the legal entity is established.</p>	19	<p>Entities eligible for funding</p> <p>1. Entities are eligible for funding if they are established in a Member State or associated country. For actions benefiting from amounts under Article 9(8), only entities established in the jurisdiction of the delegating Managing Authority shall be eligible for funding out of these amounts.</p> <p>2. Entities established in a non-associated third country should in principle bear the cost of their participation. However, for low to middle income countries and exceptionally for other non-associated third countries they could be eligible for funding in an action if:</p> <p>(a) the third country is identified in the work programme adopted by the Commission; or</p> <p>(b) the Commission or funding body consider that its participation is essential for implementing the action;</p> <p>3. Affiliated entities are eligible for funding in an action if they are established in a Member State, Associated country, or in a third country identified in the work programme adopted by the Commission.</p>	<p>change in wording and meaning</p> <p>(1) Concerning Union shared-management programmes according to Article 9(8), only entities in the jurisdiction of the delegating Managing Authority shall be eligible for funding thereunder. [see also: Articles 9(8) and 18(7)]</p> <p>(2) Low to middle income countries are now explicitly mentioned in the RfP Horizon Europe, but legally, in our view, there is no change in meaning.</p> <p>Compared to Horizon 2020, only two alternative conditions for funding of non-associated third countries are required (mentioning in the work programme or essential for implementing the action). A bilateral or other arrangement between the Union and the international organization/relevant country is no basis for funding anymore, which has already had no practical relevance in Horizon 2020.</p> <p>(3) As in Horizon 2020, affiliated entities still are eligible for funding.</p> <p>{see Article 187 and Article 204 and Article 205 of the FR, Annex II}</p> <p>[see also: Article 15 and 22 and 24(4) and 29 and 32(2)]</p>	
19	Grant decisions			removed	

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
	Where appropriate, and in duly justified cases, the Commission, in accordance with Article 121(1) of Regulation (EU, Euratom) No 966/2012, or the relevant funding body, may notify grant decisions instead of entering into grant agreements. The provisions of this Regulation referring to grant agreements shall apply mutatis mutandis.			This Article has been removed from the RfP Horizon Europe, but already had no practical relevance in Horizon 2020. {see Article 279(1) of the FR, Annex II}	
Calls for Proposals					
11	<p>Calls for proposals</p> <p>1. Calls for proposals shall be issued in accordance with Regulation (EU, Euratom) No 966/2012 and Regulation (EU) No 1268/12, taking account in particular of the need for transparency and non-discrimination, and for flexibility appropriate to the diverse nature of the research and innovation sectors.</p> <p>2. As an exception and without prejudice to the other cases provided for in Regulation (EU, Euratom) No 966/2012 and Regulation (EU) No 1268/2012, calls for proposals shall not be issued for coordination and support actions and programme co-fund actions to be carried out by legal entities identified in the work programmes or work plans provided that the action does not fall within the scope of a call for proposals.</p> <p>3. In accordance with the relevant rules of Regulation (EU, Euratom) No 966/2012 and Regulation (EU) No 1268/2012, sufficient time periods for preparing proposals shall be provided, with reasonable notice of upcoming calls for proposals through the publication of a work programme and a reasonable time period between the publication of a call for proposals and the deadline for submitting a proposal.</p>	20	<p>Calls for proposals</p> <p>1. For all actions, except for EIC Pathfinder transition activities, the content of the calls for proposals shall be contained in the work programme.</p> <p>2. For EIC Pathfinder transition activities: (a) the launch and the content of the calls for proposals shall be determined with regard to objectives and budget established by the work programme in relation with the concerned portfolio of actions; (b) grants for a fixed amount not exceeding EUR 50,000 may be awarded without a call for proposals to carry out urgent coordination and support actions for reinforcing the portfolio's community of beneficiaries or assessing possible spin-offs or potential market creating-innovation.</p> <p>3. If necessary to achieve their objectives, calls may be restricted to develop additional activities or to add additional partners to existing actions.</p> <p>4. A call for proposals is not required for coordination and support actions or programme co-fund actions which: (a) are to be carried out by the Joint Research Centre or legal entities identified in the work programme and</p>	<p>change in wording and meaning</p> <p>The need to issue calls for proposals taking into account the need for transparency, non-discrimination, and for flexibility has been removed.</p> <p>(1) It is not clear, why the content of the calls for proposals for "EIC Pathfinder transition activities" should not be contained in the work programme?</p> <p>(2)(b) The grants not exceeding EUR 50.000 may be awarded without calls for proposals, but must be monitored thoroughly.</p> <p>(3) Calls may develop additional activities or add additional partners to existing actions, if necessary.</p> <p>(4) There is a minor change, as the JRC is explicitly mentioned among the actions that do not require a call for proposals.</p> <p>(5) The specified calls for "Seals of Excellence" need to be described more in detail.</p> <p>Under the condition of confidentiality agreements with the applicant, certain information may be shared with interested</p>	

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
			<p>(b) do not fall within the scope of a call for proposals.</p> <p>5. The Work Programme shall specify calls for which "Seals of Excellence" will be awarded. With prior authorisation from the applicant, information concerning the application and the evaluation may be shared with interested financing authorities, subject to the conclusion of confidentiality agreements.</p>	<p>financing authorities. There is no definition of what is meant by an "interested financing authority"?</p> <p>The rule for respecting sufficient time periods for preparing proposals, including reasonable notice of upcoming calls for proposals and reasonable time periods between the publication of a call for proposals and the deadline for submitting a proposal, has been removed.</p> <p>This might facilitate circumstances for the EC, but could have strong repercussions for applicants.</p> <p>{see Article 195 of the FR, Annex II}</p>	
Joint Calls					
12	<p>Joint calls with third countries or with international organisations</p> <p>1. Joint calls for proposals with third countries or their scientific and technological organisations and agencies or with international organisations may be issued to jointly fund actions in priority areas of common interest and expected mutual benefit where there is a clear added value for the Union. Proposals shall be evaluated and selected through joint evaluation and selection procedures to be agreed upon. Such evaluation and selection procedures shall ensure compliance with the principles set out in Title VI of Regulation (EU, Euratom) No 966/2012 and involve a balanced group of independent experts appointed by each party.</p> <p>2. Legal entities receiving funding from the Union shall conclude a grant agreement with the Union or the relevant funding body. That</p>	21	<p>Joint calls</p> <p>The Commission or funding body may issue a joint call for proposals with:</p> <p>(a) third countries, including their scientific and technological organisations or agencies;</p> <p>(b) international organisations;</p> <p>(c) non-profit legal entities.</p> <p>In the case of a joint call, joint procedures shall be established for selection and evaluation of proposals. The procedures shall involve a balanced group of experts appointed by each party.</p>	<p>change in wording and meaning</p> <p>In Horizon Europe, no priority areas are mentioned and non-profit legal entities have been added as call partners.</p> <p>A balanced group of experts is explicitly mentioned for selection and evaluation of proposals.</p> <p>There is no major difference compared to Horizon 2020. The impact of the new approach is expected to be low.</p>	

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
	<p>grant agreement shall include a description of the work to be done by those participants and by the participating legal entities from the third countries involved.</p> <p>3. Legal entities receiving funding from the Union shall conclude a coordination agreement with the participating legal entities receiving funding from the relevant third countries or international organisations.</p>				
Time to Pay					
21	<p>Time to Pay</p> <p>Participants shall be paid in a timely manner in accordance with Regulation (EU, Euratom) No 966/2012. When a payment has been made to the coordinator, the Commission or the relevant funding body shall notify the participants thereof.</p>			<p>removed</p> <p>This Article has been removed from the RfP Horizon Europe and can be now found in Article 116 of the FR.</p> <p>It would be useful to include an obligation for the EC to inform the beneficiaries about any payment made to them.</p> <p>{see Article 116 of the FR, Annex II}</p>	
Procurement (also: Article 40 "Procurement")					
51	<p>Procurement, pre-commercial procurement and public procurement of innovative solutions</p> <p>1. Any procurement carried out by the Commission on its own behalf or jointly with Member States shall be subject to the rules on public procurement set out in Regulation (EU, Euratom) No 966/2012 and Regulation (EU) No 1268/2012.</p> <p>2. Union funding may take the form of pre-commercial procurement or the procurement of innovative solutions carried out by the Commission or the relevant funding body on its own behalf or jointly with contracting</p>	22	<p>Pre-commercial procurement and procurement of innovative solutions</p> <p>1. Actions may involve or have as their primary aim pre-commercial procurement or public procurement of innovative solutions that shall be carried out by beneficiaries which are contracting authorities or contracting entities as defined in Directives 2014/24/EU, 2014/25/EU and 2009/81/EC.</p> <p>2. The procurement procedures: (a) shall comply with the principles of transparency, non- discrimination, equal treatment, sound financial management, proportionality and competition rules;</p>	<p>change in wording and meaning</p> <p>The described rules for pre-commercial procurement and procurement of innovative solutions are extensively identical to those in Horizon 2020.</p> <p>We would welcome the mentioning of Innovation Partnerships [see Article 31 of the Directive 2014/24/EU] as a new instrument for innovation procurement that opens up new possibilities for collaboration between contracting authorities and contractors.</p> <p>[see also: Article 40]</p>	

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
	<p>authorities from Member States and associated countries.</p> <p>The procurement procedures:</p> <p>(a) shall comply with the principles of transparency, non-discrimination, equal treatment, sound financial management, proportionality, with competition rules and, where applicable, with Directives 2004/17/EC, 2004/18/EC and 2009/81/EC, or, where the Commission acts on its own behalf, with Regulation (EU, Euratom) No 966/2012;</p> <p>(b) may provide for specific conditions such as the place of performance of the procured activities being limited for pre-commercial procurement, to the territory of the Member States and of countries associated to Horizon 2020 where duly justified by the objectives of the actions;</p> <p>(c) may authorise the award of multiple contracts within the same procedure (multiple sourcing);</p> <p>(d) shall provide for the award of the contracts to the tender(s) offering best value for money.</p> <p>3. Unless otherwise stipulated in the call for tenders, results generated by procurement carried out by the Commission shall be owned by the Union.</p> <p>4. Specific provisions regarding ownership, access rights and licensing shall be laid down in the contracts regarding pre-commercial procurement to ensure maximum uptake of the results and to avoid any unfair advantage.</p> <p>The contractor generating results in pre-commercial procurement shall own at least the attached intellectual property rights. The contracting authorities shall enjoy at least royalty-free access rights to the results for their own use and the right to grant, or require</p>		<p>(b) for pre-commercial procurement, may provide for specific conditions such as the place of performance of the procured activities being limited to the territory of the Member States and of associated countries;</p> <p>(c) may authorise the award of multiple contracts within the same procedure (multiple sourcing); and</p> <p>(d) shall provide for the award of the contracts to the tender(s) offering best value for money while ensuring absence of conflict of interest.</p> <p>3. The contractor generating results in pre-commercial procurement shall own at least the attached intellectual property rights. The contracting authorities shall enjoy at least royalty-free access rights to the results for their own use and the right to grant, or require the participating contractors to grant, non-exclusive licences to third parties to exploit the results for the contracting authority under fair and reasonable conditions without any right to sub-license. If a contractor fails to commercially exploit the results within a given period after the pre-commercial procurement as identified in the contract, the contracting authorities can require it to transfer any ownership of the results to the contracting authorities.</p>	<p>{see Article 187 and 204 and 205 and Title VII of the FR, Annex II}</p> <p>[see also: Article 15 and 19(3) and 24(4) and 29 and 32(2)]</p>	

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
	<p>the participating contractors to grant, non-exclusive licences to third parties to exploit the results under fair and reasonable conditions without any right to sub-license. If a contractor fails to commercially exploit the results within a given period after the pre-commercial procurement as identified in the contract, it shall transfer any ownership of the results to the contracting authorities.</p> <p>5. Specific provisions regarding ownership, access rights and licensing may be laid down in the contracts regarding public procurement of innovative solutions to ensure maximum uptake of the results and to avoid any unfair advantage.</p>				
Secure Electronic System					
22	<p>Secure electronic system</p> <p>All exchanges with participants, including the conclusion of grant agreements, the notification of grant decisions and any amendments thereto, may be made through an electronic exchange system set up by the Commission or by the relevant funding body, as stipulated in Article 179 of Regulation (EU) No 1268/2012.</p>			<p>removed</p> <p>This Article has been removed from the RfP Horizon Europe and can be now found in Article 148 of the FR.</p> <p>{see Article 148 of the FR, Annex II}</p>	
Cumulative Funding					
37	<p>Cumulative funding</p> <p>An action for which a grant from the Union budget has been awarded may also give rise to the award of a grant on the basis of Regulation (EU) No 1291/2013, provided that the grants do not cover the same cost items.</p>	23	<p>Cumulative funding</p> <p>An action that has received a contribution from another Union programme may also receive a contribution under the Programme, provided that the contributions do not cover the same costs. The rules of each contributing Union programme shall apply to its respective contribution to the action. The cumulative funding shall not exceed the total eligible costs of the action and the support from different Union programmes may be calculated on a pro-rata basis in accordance with</p>	<p>change in wording and meaning</p> <p>Costs for a project can be funded from Horizon Europe and another Union programme, as long as the total eligible project costs are not exceeded. This is possible, as reference is made to the costs and not to the cost items anymore.</p>	

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
			the documents setting out the conditions for support.	{see Article 191 of the FR, Annex II}	
Selection Criteria, Award Criteria and Evaluation (also: Article 27 “Evaluation and Review Procedure”)					
15	<p>Selection and award criteria</p> <p>1. The proposals submitted shall be evaluated on the basis of the following award criteria: (a) excellence; (b) impact; (c) quality and efficiency of the implementation.</p> <p>2. Only the criterion referred to in point (a) of paragraph 1 shall apply to proposals for ERC frontier research actions.</p> <p>3. The criterion referred to in point (b) of paragraph 1 may be given a higher weighting for proposals for innovation actions.</p> <p>4. The work programme or work plan shall lay down further details of the application of the award criteria laid down in paragraph 1, and specify weightings and thresholds.</p> <p>5. The Commission shall take into account the possibility of a two-stage submission procedure provided for in Regulation (EU, Euratom) No 966/2012 and Regulation (EU) No 1268/2012, where appropriate and consistent with the objectives of the call for proposals.</p> <p>6. Proposals shall be ranked according to the evaluation results. The selection shall be made on the basis of that ranking.</p> <p>7. The evaluation shall be carried out by independent experts.</p>	25	<p>Award criteria</p> <p>1. A proposal shall be evaluated on the basis of the following award criteria: (a) excellence; (b) impact; (c) quality and efficiency of the implementation.</p> <p>2. Only the criterion referred to in point (a) of paragraph 1 shall apply to proposals for ERC frontier research actions.</p> <p>3. The work programme shall lay down further details of the application of the award criteria laid down in paragraph 1, and may specify weightings and thresholds.</p>	<p>change in wording and meaning</p> <p>The rules about award criteria remained the same as for Horizon 2020, except of the fact that there must be no higher weighting of “impact” for proposals for IAs anymore. Only the work programme or work plan can lay down further details and specifications. There should be a clear indication of cases where such higher weighting of “impact” for IA proposals is not obligatory, instead of establishing it as a general rule.</p>	
		24	<p>Selection criteria</p> <p>1. By derogation from Article 198 of the Financial Regulation, the financial capacity shall be verified only for the coordinator and only if the requested funding from the Union for the action is equal or greater than EUR 500 000.</p> <p>2. However, if there are grounds to doubt the financial capacity or if there is a higher risk due to the participation in several ongoing actions funded by Union research and innovation programmes, the Commission or funding body shall verify also the financial capacity of other applicants or of coordinators below the threshold referred to in paragraph 1.</p> <p>3. If the financial capacity is structurally guaranteed by another legal entity, the financial capacity of the latter shall be verified.</p>	<p>change in wording and meaning</p> <p>The possibility of a two-stage submission procedure has been removed from the RfP Horizon Europe.</p> <p>(2) In Horizon Europe the financial capacity can be verified by the Commission or funding body below the threshold of EUR 500.000, not only in case of doubt, but also if there is a higher risk due to participation in several ongoing actions.</p> <p>(4) The future framework programme offers the possibility of demanding joint and several liability declarations from legal entities with a weak financial capacity.</p>	<p>198</p> <p>Selection criteria</p> <p>1. The selection criteria shall be such as to make it possible to assess the applicant’s ability to complete the proposed action or work programme. 2. The applicant shall have stable and sufficient sources of funding to maintain his or her activity throughout the period for which the grant is awarded and to participate in its funding (‘financial capacity’). 3. The applicant shall have the professional competencies and qualifications required to complete the proposed action or work programme unless specifically provided otherwise in the basic act (‘operational capacity’).</p>

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
	<p>8. In the case of a legal entity referred to in Article 11(2) or in other duly justified exceptional circumstances, the evaluation may be carried out in a manner derogating from paragraph 7. In each case of such evaluation the Commission shall provide the Member States with detailed information on the evaluation procedure used and its outcome.</p> <p>9. In cases where the requested funding from the Union for the action is equal or superior to EUR 500 000, the Commission or the relevant funding body shall, by means compatible with national law, verify in advance the financial capacity of only the coordinators. Furthermore, whenever there are grounds to doubt the financial capacity of the coordinator or other participants on the basis of available information, the Commission or the relevant funding body shall verify their financial capacity.</p> <p>10. The financial capacity shall not be verified either in respect of legal entities whose viability is guaranteed by a Member State or an associated country or in respect of higher and secondary education establishments.</p> <p>11. Financial capacity may be guaranteed by any other legal entity, whose financial capacity shall in turn be verified in accordance with paragraph 9.</p>	26	<p>4. In case of weak financial capacity, the Commission or funding body may make participation of the applicant conditional on provision of a declaration on joint and several liability by an affiliated entity.</p> <p>5. The contribution to the Mutual Insurance Mechanism set out in Article 33 shall be considered a sufficient guarantee under Article 152 of the Financial Regulation. No additional guarantee or security may be accepted from beneficiaries or imposed upon them.</p> <p>Evaluation</p> <p>1. Proposals shall be evaluated by the evaluation committee which may be :</p> <ul style="list-style-type: none"> - fully or partially composed of external independent experts, - composed of representatives of Union Institutions or bodies as referred to in Article 150 of the Financial Regulation. <p>The evaluation committee may be assisted by independent experts.</p> <p>2. Where necessary, the evaluation committee shall rank the proposals having passed the applicable thresholds, according to:</p> <ul style="list-style-type: none"> - the evaluation scores, - their contribution to the achievement of specific policy objectives, including the constitution of a consistent portfolio of projects. <p>The evaluation committee may also propose any substantial adjustments to the proposals in as far as needed for the consistency of the portfolio.</p>	<p>{see Article 187 and Article 204 and Article 205 of the FR, Annex II}</p> <p>[see also: Article 15 and 19(3) and 22 and 29 and 32(2)]</p> <p>(5) The “Beneficiary Guarantee Fund” has been renamed to “Mutual Insurance Mechanism” without any change in meaning.</p> <p>[see also: Article 33]</p> <p>change in wording and meaning</p> <p>(1) In Horizon Europe it is remarkable that there will be an evaluation committee and in some cases other persons than only external independent experts may be part of that committee. It is not clear, whether (and if yes, in which cases) the other part of the committee should be composed of representatives of Union Institutions or bodies.</p> <p>(2) The first sentence of Article 15(6) of the RfP Horizon 2020 “Proposals shall be ranked according to the evaluation results.” has been replaced by the formulation “where necessary the evaluation committee shall rank the proposals [...]”. Consequently, there is no obligatory ranking of proposals anymore and it is unclear who will decide in which cases such ranking is necessary.</p>	<p>4. Financial and operational capacity shall be verified in particular on the basis of an analysis of any information or supporting documents referred to in Article 196. If no supporting documents were requested in the call for proposals and if the authorising officer responsible has reasonable grounds to question the financial or operational capacity of an applicant, he or she shall request the applicant to provide any appropriate documents. In the case of partnerships the verification shall be performed in accordance with Article 130(6).</p> <p>5. The verification of financial capacity shall not apply to:</p> <ul style="list-style-type: none"> (a) natural persons in receipt of education support; (b) natural persons most in need, such as unemployed persons and refugees, and in receipt of direct support; (c) public bodies, including Member State organisations; (d) international organisations; (e) persons or entities applying for interest rate rebates and guarantee fee subsidies where the objective of those rebates and subsidies is to reinforce the financial capacity of a beneficiary or to generate an income. <p>6. The authorising officer responsible may, depending on a risk assessment, waive the obligation to verify the operational capacity of public bodies, Member State organisations or international organisations.</p> <p>152</p> <p>Guarantees</p>

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
				<p>There should be a clear indication of cases where such ranking is not obligatory, instead of establishing it as a general rule.</p> <p>Maybe the involvement of Member State committees would be suitable. Second sentence of Article 15(6) of the RfP Horizon 2020, “The selection shall be made on the basis of that ranking.” has been removed entirely, which means that there is no obligation anymore to select proposals according to a ranking. This appears to be reasonable concerning the ranking to achieve the specific policy objectives and consistency of the portfolio, but might undermine confidence in the evaluation and selection procedure. There should be a clear indication of cases where the selection of proposals according to a ranking is not obligatory, instead of establishing it as a general rule.</p> <p>If a substantial adjustment to the proposal is made and this leads to additional costs, those costs should be considered in the action’s budget.</p> <p>Remark: If “portfolio of projects” refers to “portfolio of actions” as defined in Article 2(5), this should be changed.</p> <p>{see Article 150 and 198 and 199 and 200 of the FR, Annex II}</p>	<p>1. With the exception of contracts and grants the value of which does not exceed EUR 60 000, the authorising officer responsible may, if proportionate and subject to the authorising officer’s risk analysis, require a guarantee to be lodged:</p> <p>(a) by contractors or beneficiaries in order to limit the financial risks connected with a payment of pre-financing (‘guarantee on pre-financing’);</p> <p>(b) by contractors to ensure compliance with substantial contractual obligations in the case of works, supplies or complex services (‘performance guarantee’);</p> <p>(c) by contractors to ensure full performance of the contract during the contract liability period (‘retention money guarantee’). The JRC shall be exempted from lodging guarantees.</p> <p>As an alternative to requesting a guarantee on pre-financing, for grants, the authorising officer responsible may decide to split the payment into several instalments.</p> <p>2. The authorising officer responsible shall decide whether the guarantee is to be denominated in euro or in the currency of the contract or of the grant agreement.</p> <p>3. The guarantee shall be issued by a bank or by an authorised financial institution accepted by the authorising officer responsible. At the request of the contractor or the beneficiary and provided it is accepted by the authorising officer responsible:</p> <p>(a) the guarantees referred to points (a), (b) and (c) of the first subparagraph of paragraph 1 may be replaced by a joint and several</p>

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
					<p>guarantee of the contractor or the beneficiary and a third party;</p> <p>(b) the guarantee referred to in point (a) of the first subparagraph of paragraph 1 may be replaced by an irrevocable and unconditional joint guarantee of the beneficiaries who are parties to the same grant agreement.</p> <p>4. The guarantee shall have the effect of making the bank or financial institution or the third party provide irrevocable collateral security, or stand as first-call guarantor of the contractor's or beneficiary's obligations.</p> <p>5. Where, in the course of implementation of the contract or the grant agreement, the authorising officer responsible discovers that a guarantor is not or is no longer authorised to issue guarantees in accordance with the applicable national law, he or she shall require that the contractor or the beneficiary replaces the guarantee issued by such a guarantor.</p> <p>150</p> <p>Evaluation committee</p> <p>1. Application documents shall be evaluated by an evaluation committee.</p> <p>2. The evaluation committee shall be appointed by the authorising officer responsible.</p> <p>The evaluation committee shall be made up of at least three persons.</p> <p>3. The members of the evaluation committee evaluating grant applications or tenders shall represent at least two organisational entities of Union institutions or Union bodies referred to in Articles 68, 70 and 71 with no hierarchical link between them, at least one of which does</p>

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
					<p>not come under the authorising officer responsible. Where representations and local units outside the Union, such as a Union delegation, office or branch office in a third country, and Union bodies referred to in Articles 68, 70 and 71 have no separate entities, the requirement of organisational entities with no hierarchical link between them shall not apply.</p> <p>External experts may assist the evaluation committee pursuant to a decision of the authorising officer responsible.</p> <p>Members of the evaluation committee may be external experts where that possibility is provided for in the basic act.</p> <p>4. The members of the evaluation committee evaluating applications in a contest for prizes may be persons referred to in the first subparagraph of paragraph 3 or external experts.</p> <p>5. The members of the evaluation committee and the external experts shall comply with Article 61.</p>
Consortium					
24	<p>Consortium</p> <p>1. The members of any consortium wishing to participate in an action shall appoint one of them to act as coordinator, which shall be identified in the grant agreement. The coordinator shall be the principal point of contact between the members of the consortium in relations with the Commission or the relevant funding body, unless specified otherwise in the grant agreement, or in the event of non-compliance with its obligations under the grant agreement.</p> <p>2. The members of a consortium participating in an action shall conclude an internal</p>			<p>removed</p> <p>This Article has been removed from the RfP Horizon Europe and so they do not include any details about the consortium anymore, including the consortium agreement and the appointment of a coordinator.</p> <p>In the light of a wider use of lump sum payments for entire collaborative actions, the consortium agreement gains higher importance compared to current projects. This is due to the fact that the administrative responsibility as well as the risk of not receiving full or part of payments due to defaulting partners is much higher.</p>	

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
	<p>agreement ("the consortium agreement") establishing their rights and obligations with respect to the implementation of the action in compliance with the grant agreement, except in duly justified cases provided for in the work programme or work plan or call for proposals. The Commission shall publish guidelines on the main issues that may be addressed by participants in the consortium agreement.</p> <p>3. The consortium agreement may stipulate inter alia the following:</p> <ul style="list-style-type: none"> (a) the internal organisation of the consortium; (b) the distribution of the Union funding; (c) rules on dissemination, use and access rights, additional to those in Title III, Chapter I of this Regulation, and to the provisions in the grant agreement; (d) arrangements for settling internal disputes; (e) liability, indemnification and confidentiality arrangements between the participants. <p>The members of the consortium may make any arrangements in the consortium they deem fit to the extent that those arrangements are not in conflict with the grant agreement or this Regulation.</p> <p>4. The consortium may propose to add or remove a participant or change the coordinator in accordance with the relevant provisions of the grant agreement, provided that the change is in conformity with the conditions for participation, does not adversely affect the implementation of the action and is not contrary to the principle of equal treatment.</p>			<p>Also for other collaborative actions, it can be considered as useful to include basic rules about the consortium agreement on the level of the RfP Horizon Europe, for assuring reconciliation of interests among the project partners.</p>	
Evaluation Review Procedure					
16	Evaluation review procedure	27	Evaluation review procedure	change in wording and meaning	

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
	<p>1. The Commission or the relevant funding body shall provide a transparent evaluation review procedure for applicants which consider that the evaluation of their proposal has not been carried out in accordance with the procedures set out in this Regulation, the relevant work programme, work plan or the call for proposals.</p> <p>2. A request for review shall relate to a specific proposal, and shall be submitted by the coordinator of the proposal within 30 days of the date on which the Commission or the relevant funding body informs the coordinator of the evaluation results.</p> <p>3. The Commission or the relevant funding body shall be responsible for the examination of the request referred to in paragraph 2. The examination shall cover only the procedural aspects of the evaluation, and not the merits of the proposal.</p> <p>4. An evaluation review committee composed of Commission staff or of staff of the relevant funding body shall provide an opinion on the procedural aspects of the evaluation process. It shall be chaired by an official of the Commission or of the relevant funding body, from a department other than that responsible for the call for proposals. The committee may recommend one of the following: (a) re-evaluation of the proposal primarily by evaluators not involved in the previous evaluation; (b) confirmation of the initial evaluation.</p> <p>5. On the basis of the recommendation referred to in paragraph 4, a decision shall be taken by the Commission or the relevant</p>		<p>1. An applicant may request an evaluation review if it considers that the applicable evaluation procedure has not been correctly applied to its proposal.</p> <p>2. An evaluation review applies only to the procedural aspects of the evaluation, not to the evaluation of the merits of the proposal.</p> <p>3. An evaluation review shall not delay the selection process for proposals that are not the subject of review.</p>	<p>(1) (2) (3) Rules concerning the request and absence of delay in the selection process of other proposals remain the same in Horizon Europe.</p> <p>The evaluation review committee, its composition, as well as how the review procedure should take place has been removed from the RfP Horizon Europe. It would be important for beneficiaries to know the Commission or relevant funding body responsible for the review procedure and how this would be carried out.</p>	

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
	<p>funding body and notified to the coordinator of the proposal. The Commission or the relevant funding body shall take such decision without undue delay.</p> <p>6. The review procedure shall not delay the selection process of proposals which are not the subject of requests for review.</p> <p>7. The review procedure shall not preclude any other actions the participant may take in accordance with Union law.</p>				
Time to Grant and Implementation of the Grant					
20	<p>Time to grant</p> <p>1. In accordance with Article 128(2) of Regulation (EU, Euratom) No 966/2012, calls for proposals shall specify the planned date by which all applicants shall be informed of the outcome of the evaluation of their application and the indicative date for the signature of grant agreements or the notification of grant decisions.</p> <p>2. The dates referred to in paragraph 1 shall be based on the following periods: (a) for informing all applicants of the outcome of the scientific evaluation of their application, a maximum period of five months from the final date for submission of complete proposals; (b) for signing grant agreements with applicants or notifying grant decisions to them, a maximum period of three months from the date of informing applicants they have been successful.</p> <p>3. The periods referred to in paragraph 2 may be exceeded for actions of the ERC and in exceptional, duly justified cases, in particular</p>	28	<p>Time to grant</p> <p>1. By derogation from the first subparagraph of Article 194(2) of the Financial Regulation, the following periods shall apply: (a) for informing all applicants of the outcome of the evaluation of their application, a maximum period of five months from the final date for submission of complete proposals; (b) for signing grant agreements with applicants, a maximum period of eight months from the final date for submission of complete proposals.</p> <p>2. The work programme for the EIC may establish shorter periods.</p> <p>3. In addition to the exceptions laid down in the second subparagraph of Article 194(2) of the Financial Regulation, the periods referred to in paragraph 1 may be exceeded for actions of the ERC, for missions and when actions are submitted to an ethics or security assessment.</p>	<p>change in wording and meaning</p> <p>(1) The maximum time to grant of eight months has remained the same. Both, time to inform and time to grant, have now the same starting date (final date for submission of complete proposals); instead of the date of informing applicants, they have been successful.</p> <p>(2) (3) While for the EIC, there may be shorter periods, the time to grant may be exceeded for the ERC (as in Horizon 2020), for Missions as well as ethics and security assessments.</p> <p>Compared to Horizon 2020, there are no other exceptions regarding the time to grant anymore and the procedure has been tightened (e.g. no reasonable time for document submission, no obligation for prompt requests by the Commission anymore).</p>	<p>194(2)</p> <p>Content and publication of calls for proposals</p> <p>[...]</p> <p>2. The dates referred to in point (e) of paragraph 1 shall be fixed on the basis of the following periods: (a) for informing all applicants of the outcome of the evaluation of their application, a maximum of six months from the final date for submission of complete proposals; (b) for signing grant agreements with applicants, a maximum of three months from the date of informing applicants that they have been successful.</p> <p>Those periods may be adjusted in order to take into account any time needed to comply with specific procedures that may be required by the basic act in accordance with Regulation (EU) No 182/2011 and may be exceeded in exceptional, duly justified cases, in particular for complex actions, where there is a large number of proposals or delays attributable to the applicants.</p> <p>The authorising officer by delegation shall report in his or her annual activity report on</p>

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
	<p>where actions are complex, where there is a large number of proposals or where requested by the applicants.</p> <p>4. Participants shall be given reasonable time to submit the information and documentation required for the signature of the grant agreement. The Commission shall make decisions and requests for information as promptly as possible. Where possible, resubmission of documents shall be avoided.</p>				<p>the average time taken to inform applicants and to sign grant agreements. In the event of the periods referred to in the first subparagraph being exceeded, the authorising officer by delegation shall give reasons and, where not duly justified in accordance with the second subparagraph, shall propose remedial action. [...]</p>
23	<p>Implementation of actions</p> <p>1. Participants shall implement actions in compliance with all the conditions and obligations set out in this Regulation, Regulation (EU, Euratom) No 966/2012, Regulation (EU) No 1268/2012, Decision 2013/743/EU, the work programme or work plan, the call for proposals and the grant agreement.</p> <p>2. Participants shall make no commitments which are incompatible with this Regulation or the grant agreement. Where a participant fails to comply with its obligations regarding the technical implementation of the action, the other participants shall comply with the obligations without any additional Union funding unless the Commission or the relevant funding body expressly relieves them of that obligation. In the event of a participant defaulting, the Commission may, in accordance with point (a) of Article 39(3) transfer the amount due from the Participant Guarantee Fund referred to in Article 38 to the coordinator of the action. The financial responsibility of each participant shall be limited to its own debt subject to the provisions relating to the Participant</p>	29	<p>Implementation of the grant</p> <p>1. If a beneficiary fails to comply with its obligations regarding the technical implementation of the action, the other beneficiaries shall comply with those obligations without any additional Union funding, unless they are expressly relieved of that obligation. The financial responsibility of each beneficiary shall be limited to its own debt subject to the provisions relating to the Mutual Insurance Mechanism.</p> <p>2. The grant agreement may establish milestones and related pre-financing instalments. If milestones are not met, the action may be suspended, amended or terminated.</p> <p>3. The grant agreement may also be terminated where expected results have lost their relevance for the Union due to scientific, technological or economic reasons, including in the case of EIC and missions, their relevance as part of a portfolio of actions.</p>	<p>change in wording and meaning</p> <p>(1) In Horizon Europe, there is still a technical liability of all partners to implement the action, while the financial responsibility is still limited to each beneficiary's own debt.</p> <p>(2) Actions may be suspended, amended or terminated if established milestones are not met, which leads to an increased importance of milestones in Horizon Europe. This can be considered as useful for lump sum payment actions, but rather strict concerning "normal" projects.</p> <p>(3) Since there will be Missions, termination of a project may be possible if it lost relevance to the Mission. This applies also to the EIC. New is also that projects may be terminated if they became less important due to economic reasons.</p> <p>{see Article 133 of the FR, Annex II}</p> <p>Concerning Missions, a mission board [see Article 5(1)(b) of the SP] will advice on whether to adjust or terminate actions based on implementation assessments.</p>	

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
	<p>Guarantee Fund. Participants shall ensure that the Commission or the relevant funding body is informed in due time of any event which might significantly affect the implementation of the action or the interests of the Union.</p> <p>3. Participants shall implement the action and shall take all necessary and reasonable measures to that end. They shall have the appropriate resources as and when needed for carrying out the action. Where it is necessary for the implementation of the action, they may call upon third parties, including subcontractors, to carry out work under the action or may use resources made available by third parties by means of contributions in kind, according to the conditions set out in the grant agreement. Participants shall retain responsibility towards the Commission or the relevant funding body and towards the other participants for the work carried out.</p> <p>4. The award of subcontracts for carrying out certain elements of the action shall be limited to the cases provided for in the grant agreement and to duly justified cases that could not be clearly foreseen at the time of entry into force of the grant agreement.</p> <p>5. Third parties other than subcontractors may carry out work under the action under the conditions laid down in the grant agreement. The third party and the work to be carried out by it shall be identified in the grant agreement. Costs incurred by those third parties may be deemed eligible if the third party meets all the following conditions: (a) it would be eligible for funding if it were a participant;</p>			<p>The involvement of independent external experts and the programme committee in the decision making process should be assured.</p> <p>The rules in the RfP Horizon 2020 about (the involvement of) third parties are now found in Article 204 and 205 of the FR. Rules about events that might significantly affect the implementation of the action or the interests of the Union, as well as the use of animals have been removed.</p> <p>{see Article 187 and 204 and 205 of the FR, Annex II}</p> <p>[see also: Article 15 and 19(3) and 22 and 24(4) and 32(2)]</p>	

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	<p>(b) it is an affiliated entity or has a legal link to a participant implying a collaboration not limited to the action;</p> <p>(c) it is identified in the grant agreement;</p> <p>(d) it abides by the rules applicable to the participant under the grant agreement with regard to eligibility of costs and control of expenditure;</p> <p>(e) it accepts joint and several liability with the participant for the Union contribution corresponding to the amount declared by the third party, if required by the Commission or the relevant funding body.</p> <p>6. Third parties may also make available resources to a participant by means of contributions in kind to the action. Costs incurred by third parties in relation to such contributions which are made free of charge are eligible for funding provided they meet the conditions established in the grant agreement.</p> <p>7. The action may involve financial support to third parties under the conditions established in Regulation (EU, Euratom) No 966/2012 and Regulation (EU) No 1268/2012. The amounts referred to in point (c) of Article 137(1) of Regulation (EU, Euratom) No 966/2012 may be exceeded where it is necessary to achieve the objectives of an action.</p> <p>8. The action carried out by participants which are contracting authorities within the meaning of Directive 2004/17/EC of the European Parliament and of the Council (1), Directive 2004/18/EC of the European Parliament and of the Council (2) and Directive 2009/81/EC of the European Parliament and of the Council (3) may involve or have as their primary aim the pre-commercial procurement and</p>				

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	<p>procurement of innovative solutions, where provided for in a work programme or a work plan and required for its implementation. In such cases, the rules set out in Article 51(2), (4) and (5) of this Regulation shall apply to the procurement procedures carried out by the participants.</p> <p>9. Participants shall comply with national legislation, regulations and ethical rules in the countries where the action will be carried out. Where appropriate, participants shall seek the approval of the relevant national or local ethics committees prior to the start of the action.</p> <p>10. Work using animals shall be carried out in accordance with Article 13 TFEU and shall comply with the requirement to replace, reduce and refine the use of animals for scientific purposes in accordance with Union law and in particular with Directive 2010/63/EU of the European Parliament and of the Council (4).</p>				
Funding Rates and Costs					
28	<p>Funding of the action</p> <p>3. A single reimbursement rate of the eligible costs shall be applied per action for all activities funded therein. The maximum rate shall be fixed in the work programme or work plan.</p> <p>4. The Horizon 2020 grant may reach a maximum of 100 % of the total eligible costs, without prejudice to the co-financing principle.</p> <p>5. The Horizon 2020 grant shall be limited to a maximum of 70 % of the total eligible costs for innovation actions and programme co-fund actions.</p>	30	<p>Funding rates</p> <p>1. A single funding rate per action shall apply for all activities it funds. The maximum rate shall be fixed in the work programme.</p> <p>2. The Programme may reimburse up to 100 % of total eligible costs of an action, except for: (a) innovation actions: up to 70 % of the total eligible costs, except for non-profit legal entities where the Programme may reimburse up to 100 % of the total eligible costs; (b) programme co-fund actions: at least 30 % of the total eligible costs, and in identified and duly justified cases up to 70 %.</p>	<p>change in wording and meaning?</p> <p>The term “reimbursement rate” has been replaced by “funding rate” without any change in meaning.</p> <p>(2)(b) Programme co-fund actions must be funded by a minimum of 30% and may rise up to 70% in identified and justified cases.</p> <p>{see Article 190 and Article 192 of the FR, Annex II}</p> <p>[see also: Article 32(3)]</p>	

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	<p>By way of derogation from paragraph 3, the Horizon 2020 grant may, for innovation actions, reach a maximum of 100 % of the total eligible costs for non-profit legal entities, without prejudice to the co-financing principle.</p> <p>6. The reimbursement rates determined in this Article shall also apply in the case of actions where flat rate, unit or lump- sum financing is fixed for the whole or part of the action.</p>		<p>3. The funding rates determined in this Article shall also apply for actions where flat rate, unit or lump sum financing is fixed for the whole or part of the action.</p>		
<p>29</p> <p>33</p>	<p>Indirect costs</p> <p>1. Indirect eligible costs shall be determined by applying a flat rate of 25 % of the total direct eligible costs, excluding direct eligible costs for subcontracting and the costs of resources made available by third parties which are not used on the premises of the beneficiary, as well as financial support to third parties.</p> <p>2. By way of derogation from paragraph 1, indirect costs may be declared in the form of a lump sum or unit costs when provided for in the work programme or work plan.</p> <p>Unit costs</p> <p>1. In accordance with Article 124 of Regulation (EU, Euratom) No 966/2012, the Commission may establish methods to determine unit costs based on: (a) statistical data or similar objective means; (b) auditable historical data of the participant.</p> <p>2. Direct eligible personnel costs may be financed on the basis of unit costs determined according to the participant's usual cost accounting practices, provided that they comply with the following cumulative criteria:</p>	<p>31</p>	<p>Indirect costs</p> <p>1. Indirect eligible costs shall be determined by applying a flat rate of 25 % of the total direct eligible costs, excluding direct eligible costs for subcontracting, financial support to third parties and any unit costs or lump sums which include indirect costs. When appropriate, indirect costs included in unit costs or lump sums shall be calculated using the flat rate set out in paragraph 1, except for unit costs for internally invoiced goods and services which shall be calculated on the basis of actual costs, in accordance with the beneficiaries' usual costs accounting practices.</p> <p>2. However, if provided for in the work programme, indirect costs may be declared in the form of a lump sum or unit costs.</p>	<p>change in wording and meaning</p> <p>(1) In Horizon Europe, the costs of in-kind contributions not used on the beneficiaries' premises may be included in the calculation of the 25% flat rate for indirect costs.</p> <p>In case of unit costs including indirect costs, the 25% flat rate needs to be applied. Only in the case of internally invoiced goods and services, the indirect costs have to be calculated based on actual costs in accordance with the usual cost accounting practices of the beneficiary.</p> <p>This can be considered as positive, especially in cases where the indirect costs are above the usual 25% flat rate.</p> <p>Some beneficiaries may have to introduce unit costs to be able to charge costs for internally invoiced goods and services.</p> <p>A better approach would be if organisations could use their usual accounting practices concerning internally invoiced goods and services, whether unit costs or not, provided the amount is lower than comparable market prices.</p> <p>The article concerning unit costs has been removed from the RfP Horizon Europe and therefore do not state the criteria for the</p>	

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
	(a) they are calculated on the basis of the total actual personnel costs recorded in the participant's general accounts which may be adjusted by the participant on the basis of budgeted or estimated elements according to the conditions defined by the Commission; (b) they comply with Articles 26 and 27; (c) they ensure compliance with the non-profit requirement and the avoidance of double funding of costs; (d) they are calculated with due regard to Article 31.			calculation/determination of unit costs anymore. {see Article 181, especially 181(6) of the FR, Annex II}	
31	Annual productive hours 1. Eligible personnel costs shall cover only the actual hours worked by the persons directly carrying out work under the action. Evidence regarding the actual hours worked shall be provided by the participant, usually through a time recording system. 2. For persons working exclusively for the action, no time recording is required. In such cases, the participant shall sign a declaration confirming that the person concerned has worked exclusively for the action. 3. The grant agreement shall contain: (a) the minimum requirements for the time recording system; (b) the option to choose between a fixed number of annual productive hours and the method for establishing the number of annual productive hours to be used for the calculation of the hourly personnel rates, taking account of the participant's usual accounting practices.			removed This Article has been removed from the RfP Horizon Europe, so there are no details about the evidence regarding the actual hours worked anymore, such as time records and declarations. This may be fine as long as it will be included in the MGA Horizon Europe, except for persons working exclusively for the action, who should still be liberated from the time-record obligation on the level of the RfP.	
26	Eligibility of costs 1. Conditions for eligibility of costs are defined in Article 126 of Regulation (EU, Euratom) No	32	Eligible costs 1. In addition to the criteria set out in Article 197 of the Financial Regulation, for beneficiaries with	change in wording and meaning	197 Eligibility criteria

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27	<p>966/2012. Costs incurred by third parties under the action may be eligible according to the provisions of this Regulation and of the grant agreement.</p> <p>2. Ineligible costs are those not complying with the conditions of paragraph 1, including, in particular, provisions for possible future losses or charges, exchange losses, costs related to return on capital, costs reimbursed in respect of another Union action or programme, debt and debt service charges and excessive or reckless expenditure.</p> <p>Direct eligible personnel costs</p> <p>1. Without prejudice to the conditions laid down in Article 26, direct eligible personnel costs shall be limited to salaries plus social security charges and other costs included in the remuneration of personnel assigned to the action, arising from national law or from the employment contract.</p> <p>2. Without prejudice to the conditions laid down in Article 26, additional remuneration to personnel of participants that are non-profit legal entities assigned to the action, including payments on the basis of supplementary contracts regardless of their nature, may also be considered as direct eligible personnel costs, up to the amount set out in paragraph 3, if they fulfil the following additional conditions: (a) it is part of the usual remuneration practices of the participant and is paid in a consistent manner whenever the same kind of work or expertise is required; (b) the criteria used to calculate the supplementary payments are objective and of</p>		<p>project-based remuneration, costs of personnel are eligible up to the remuneration that the person is paid for work in similar projects funded by national schemes.</p> <p>Project-based remuneration means remuneration that is linked to the participation of a person in projects, is part of the beneficiary's usual remuneration practices and is paid in a consistent manner.</p> <p>2. By derogation from Article 190(1) of the Financial Regulation, costs of resources made available by third parties by means of in-kind contributions shall be eligible, up to the direct eligible costs of the third party.</p> <p>3. By derogation from Article 192 of the Financial Regulation, income generated by the exploitation of the results shall not be considered as receipts of the action.</p> <p>4. By derogation from Article 203(4) of the Financial Regulation, a certificate on the financial statements shall be mandatory at payment of the balance, if the amount claimed as actual costs and unit costs calculated in accordance with usual cost accounting practices is equal or greater than EUR 325 000.</p>	<p>The RfP Horizon Europe refrain from a (exemplary) listing of eligible and ineligible costs.</p> <p>(1) In Horizon Europe, there is no general rule for the direct eligible personnel costs anymore, except: - There is a new rule for project-based remuneration, replacing the former additional remuneration. Those, for which additional remuneration was foreseen, may now have the possibility to make a wider use of project-based remuneration.</p> <p>The RfP Horizon Europe do not contain rules about personnel costs anymore (exception: project-based remuneration), and the possibility of a CoMUC has been removed [see Article 35 of the RfP Horizon 2020]. It would be considered desirable to offer the possibility of calculating average personnel costs according to the beneficiaries' usual cost accounting practices, instead of criteria laid down by the EC (in Horizon 2020 these criteria seemed either too complex or inappropriate for the beneficiaries and therefore had not been used in practice). Some rules about the eligibility of personnel costs can be found in e.g. Article 181(7) and (8), Article 186(4)(e) and Article 68a of the FR.</p> <p>(2) As in Horizon 2020, the costs of in-kind contributions must be only eligible up to the direct eligible costs.</p> <p>{see Article 187 and Article 204 and Article 205 of the FR, Annex II}</p>	<p>1. The eligibility criteria shall determine the conditions for participating in a call for proposals.</p> <p>2. Any of the following applicants shall be eligible for participating in a call for proposals: (a) legal persons; (b) natural persons, in so far as this is required by the nature or characteristics of the action or the objective pursued by the applicant; (c) entities which do not have legal personality under the applicable national law, provided that their representatives have the capacity to undertake legal obligations on behalf of the entities and that the entities offer guarantees for the protection of the financial interests of the Union equivalent to those offered by legal persons. In particular the applicant shall have a financial and operational capacity equivalent to that of a legal person. The representatives of the applicant shall prove that those conditions are satisfied.</p> <p>3. The call for proposals may lay down additional eligibility criteria which shall be established with due regard for the objectives of the action and shall comply with the principles of transparency and non-discrimination.</p> <p>4. For the purposes of Article 180(5) and of this Article, the JRC shall be considered as a legal person established in a Member State.</p> <p>{see Article 2(15) RfP above}</p> <p>190(1)</p> <p>Co-financing</p>

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
28	<p>general application by the participant, independent of the source of funding used.</p> <p>3. Additional remuneration may be eligible up to EUR 8 000 per year and per person. In relation to a person not working exclusively for the action, a limit per hour shall apply. The limit per hour shall be calculated by dividing EUR 8 000 by the number of annual productive hours calculated in accordance with Article 31.</p> <p>Funding of the action</p> <p>1. The funding of an action shall not exceed the total eligible costs minus the receipts of the action.</p> <p>2. The following shall be considered as receipts of the action:</p> <p>(a) resources made available by third parties to the participants by means of financial transfers or contributions in kind free of charge, the value of which has been declared as eligible costs by the participant, provided that they have been contributed by the third party specifically to be used in the action;</p> <p>(b) income generated by the action, except income generated by the exploitation of the results of the action;</p> <p>(c) income generated from the sale of assets purchased under the grant agreement up to the value of the cost initially charged to the action by the participant.</p>			<p>[see also: Article 15 and 19(3) and 22 and 24(4) and 29]</p> <p>(3) The RfP Horizon Europe contain no list of income considered as receipts of the action anymore, as the rules of the FR apply (see Article 21 and Article 192 of the FR). Only the case of income generated by the exploitation of action results is (like in Horizon 2020) not be considered as receipt of the action by the RfP in Horizon Europe.</p> <p>{see Article 190 and Article 192 of the FR, Annex II}</p> <p>[see also: Article 30]</p> <p>(4)</p> <p>{see Article 203(4) of the FR, Annex II}</p> <p>[see also: Article 48(3)]</p> <p>{see Article 186 of the FR, Annex II}</p>	<p>1. Grants shall involve co-financing. As a result, the resources necessary to carry out the action or the work programme shall not be provided entirely by the grant.</p> <p>Co-financing may be provided in the form of the beneficiary's own resources, income generated by the action or work programme or financial or in-kind contributions from third parties. [...]</p> <p>192</p> <p>No-profit principle</p> <p>1. Grants shall not have the purpose or effect of producing a profit within the framework of the action or the work programme of the beneficiary ('no-profit principle').</p> <p>2. For the purposes of paragraph 1, a profit shall be defined as a surplus, calculated at the payment of the balance, of receipts over the eligible costs of the action or work programme, where receipts are limited to the Union grant and the revenue generated by that action or work programme.</p> <p>In the case of an operating grant, amounts dedicated to the building up of reserves shall not be taken into account for verifying compliance with the no-profit principle.</p> <p>3. Paragraph 1 shall not apply to:</p> <p>(a) actions the objective of which is the reinforcement of the financial capacity of a beneficiary, or actions which generate income to ensure their continuity after the period of Union financing provided for in the grant agreement;</p> <p>(b) study, research, training or education support paid to natural persons or other direct</p>
34	<p>Certificate on the financial statements</p> <p>The certificate on the financial statements shall cover the total amount of the grant claimed by</p>				

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	<p>a participant under the form of reimbursement of actual costs and under the form of unit costs referred to in Article 33(2), excluding the amounts declared on the basis of lump sums, flat rates and unit costs other than those determined according to the participant's usual cost accounting practices. The certificate shall be submitted only when that amount is equal to or greater than EUR 325 000 at the time of claiming the payment of the balance of the grant.</p>				<p>support paid to natural persons most in need, such as unemployed persons and refugees; (c) actions implemented by non-profit organisations; (d) grants in the form referred to in point (a) of the first subparagraph of Article 125(1); (e) low value grants.</p> <p>4. Where a profit is made, the Commission shall be entitled to recover the percentage of the profit corresponding to the Union contribution to the eligible costs actually incurred by the beneficiary in carrying out the action or work programme.</p> <p>203(4)</p> <p>Supporting documents for payment requests</p> <p>[...]</p> <p>4. A certificate on the financial statements of the action or the work programme and underlying accounts may be demanded by the authorising officer responsible in support of interim payments or payments of balances of any amount. Such a certificate shall be requested on the basis of a risk assessment taking into account, in particular, the amount of the grant, the amount of the payment, the nature of the beneficiary and the nature of the supported activities.</p> <p>The certificate shall be produced by an approved external auditor or, in the case of public bodies, by a competent and independent public officer.</p> <p>The certificate shall certify, in accordance with a methodology approved by the authorising officer responsible and on the basis of agreed-upon procedures compliant with international standards, that the costs declared by the</p>

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					beneficiary in the financial statements on which the payment request is based are real, accurately recorded and eligible in accordance with the grant agreement. In specific and duly justified cases, the authorising officer responsible may request the certificate in the form of an opinion or other format in accordance with international standards. [...]
32	<p>Owners of SMEs and natural persons without a salary</p> <p>The owners of SMEs who do not receive a salary, and other natural persons who do not receive a salary, may charge personnel costs on the basis of a unit cost.</p>			<p>removed</p> <p>This Article has been removed from the RfP Horizon Europe and can be now found in Article 181(7) of the FR.</p> <p>{see Article 181(7) of the FR, Annex II}</p>	
Mutual Insurance Mechanism (Horizon 2020: "Participant Guarantee Fund")					
38	<p>Participant Guarantee Fund</p> <p>1. A participant guarantee fund (the "Fund") is hereby established and shall cover the risk associated with non-recovery of sums due to the Union under actions financed through grants by the Commission under Decision No 1982/2006/EC and by the Commission or Union funding bodies under "Horizon 2020" according to the rules set out in this Regulation. The Fund shall replace and succeed the Participant Guarantee Fund set up under Regulation (EC) No 1906/2006.</p> <p>2. The Fund shall be operated in accordance with Article 39. Any financial interest generated by the Fund shall be added to the Fund and shall serve exclusively for the purposes set out in Article 39(3).</p> <p>3. Where interest is insufficient to cover the operations described in Article 39(3), the Fund</p>	33	<p>Mutual Insurance Mechanism</p> <p>1. A Mutual Insurance Mechanism (the 'Mechanism') is hereby established which shall replace and succeed the fund set up in accordance with Article 38 of Regulation (EC) No 1290/2013. The Mechanism shall cover the risk associated with non-recovery of sums due by the beneficiaries:</p> <p>(a) to the Commission under Decision No 1982/2006/EC,</p> <p>(b) to the Commission and Union bodies under "Horizon 2020",</p> <p>(c) to the Commission and funding bodies under the Programme.</p> <p>The coverage of the risk regarding funding bodies referred to in point (c) of the first subparagraph may be implemented through an indirect coverage system set out in the applicable agreement and taking into account the nature of the funding body.</p>	<p>change in wording and meaning</p> <p>The term "Mutual Insurance Mechanism" has replaced "Participant Guarantee Fund" without a change in meaning.</p> <p>(3) In Horizon Europe, the beneficiary's contribution to the Mechanism may be raised up to 8% or reduced under 5% based on periodic evaluations, instead of only reducing based on the interim evaluation of Horizon 2020.</p> <p>On the one hand, this seems useful, as due to the wider coverage of beneficiaries (see above) there is a better guarantee. On the other hand, beneficiaries are imposed to the risk of losing a higher amount. When applying this rule, the risk level of the respective project should be taken into consideration.</p> <p>The term "Fund" should be replaced by "Mechanism".</p>	<p>21(4)</p> <p>Assigned revenue</p> <p>[...]</p> <p>4. Assigned revenue shall be carried over and transferred in accordance with points (b) and (c) of Article 12(4) and with Article 32. [...]</p> <p>{see Article 12(1)(d)(iii) RfP above and Article 42(4) below}</p>

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
39	<p>shall not intervene and the Commission or the relevant Union funding body shall recover directly from participants or third parties any amount owed.</p> <p>4. The Fund shall be considered a sufficient guarantee under Regulation (EU, Euratom) No 966/2012. No additional guarantee or security may be accepted from participants or imposed upon them except in the case described in paragraph 3 of this Article.</p> <p>5. Participants in actions under Horizon 2020 whose risk is covered by the Fund shall make a contribution of 5 % of the Union funding for the action. At the end of the action the amount contributed to the Fund shall be returned to the participants, via the coordinator.</p> <p>6. The rate of the participants' contribution to the Fund set out in paragraph 5 may be reduced on the basis of the interim evaluation of Horizon 2020.</p> <p>Operation of the Fund</p> <p>1. The Fund shall be managed by the Union, represented by the Commission acting as executive agent on behalf of the participants, in accordance with the conditions established by the grant agreement. The Commission may manage the Fund directly or entrust the financial management of the Fund either to the European Investment Bank or to an appropriate financial institution ("the depository bank"). The depository bank shall manage the Fund pursuant to the instructions of the Commission.</p>		<p>2. The Mechanism shall be managed by the Union, represented by the Commission acting as executive agent. The Commission shall set up specific rules for the operation of the Fund.</p> <p>3. Beneficiaries shall make a contribution of 5 % of the Union funding for the action. On the basis of periodic evaluations, this contribution may be raised by the Commission up to 8% or may be reduced under 5%. The beneficiaries' contribution to the Mechanism may be offset from the initial pre-financing and be paid to the Fund on behalf of the beneficiaries.</p> <p>4. The contribution of the beneficiaries shall be returned at the payment of the balance.</p> <p>5. Any financial return generated by the Mechanism shall be added to the Mechanism. If the return is insufficient, the Mechanism shall not intervene and the Commission or funding body shall recover directly from beneficiaries or third parties any amount owed.</p> <p>6. The amounts recovered shall constitute revenue assigned to the Mechanism within the meaning of Article 21(4) of the Financial Regulation. Once all grants whose risk is covered directly or indirectly by the Mechanism are completed, any sums outstanding shall be recovered by the Commission and entered into the budget of the Union, subject to decisions of the legislative authority.</p> <p>7. The Mechanism may be opened to beneficiaries of any other directly managed Union programme. The Commission shall adopt modalities for participation of beneficiaries of other programmes.</p>	<p>(4) It has been concretized that any return of the contribution has to be effectuated within the balance payment.</p> <p>(7) The extension of the Mechanism to beneficiaries of any directly managed Union programme and for actions not covered by the Fund under Horizon 2020 (e.g. Article 185 initiatives) can be considered positive.</p> <p>Additional guarantees besides the contribution to the Mechanism may not be imposed on beneficiaries [see Article 24(5)].</p> <p>The term "depository bank" has been removed.</p>	

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
	<p>2. The participants' contribution to the Fund may be offset from the initial pre-financing and be paid to the Fund on behalf of the participants.</p> <p>3. Where amounts are due to the Union by a participant, the Commission may, without prejudice to penalties which may be imposed on the defaulting participant, take either of the following actions: (a) transfer, or order the depository bank to transfer, directly the amount due from the Fund to the coordinator of the action. That transfer shall be made after the termination or withdrawal of the participation of the defaulting participant if the action is still ongoing and if the remaining participants agree to implement it according to the same objectives. Amounts transferred from the Fund shall be regarded as Union funding; (b) recover effectively that amount from the Fund. The Commission shall issue a recovery order against that participant or third party to the benefit of the Fund. The Commission may adopt to that end a recovery decision in accordance with Regulation (EU, Euratom) No 966/2012.</p> <p>4. The amounts recovered shall constitute revenue assigned to the Fund within the meaning of Article 21(4) of Regulation (EU, Euratom) No 966/2012. Once the implementation of all grants whose risk is covered by the Fund is complete, any sums outstanding shall be recovered by the Commission and entered into the budget of the Union, subject to decisions of the legislative authority.</p>				
Intellectual Property Rights (also: Article 46 “Information, communication, publicity and dissemination and exploitation”)					

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
41	<p>Ownership of results</p> <p>1. Results shall be owned by the participant generating them.</p> <p>2. Where participants in an action have jointly generated results, and where their respective contribution to the joint results cannot be ascertained, or where it is not possible to separate such joint results for the purpose of applying for, obtaining or maintaining the relevant intellectual property rights protection, they shall have joint ownership of those results. The joint owners shall establish an agreement regarding the allocation and terms of exercise of that joint ownership in accordance with their obligations under the grant agreement. The joint owners may agree not to continue with joint ownership but decide on an alternative regime, inter alia by transferring their ownership shares to a single owner with access rights for the other participants, once the results have been generated.</p> <p>Unless otherwise agreed in the joint ownership agreement, each joint owner shall be entitled to grant non-exclusive licences to third parties to exploit the jointly owned results, without any right to sub-license, subject to the following conditions:</p> <p>(a) prior notice shall be given to the other joint owners;</p> <p>(b) fair and reasonable compensation shall be provided to the other joint owners.</p> <p>3. If employees or any party working for a participant are entitled to claim rights to the results generated, the participant concerned shall ensure that it is possible for those rights</p>	34	<p>Ownership and protection</p> <p>1. Beneficiaries shall own the results they generate. They shall ensure that any rights of their employees or any other parties in relation to the results can be exercised in a manner compatible with the beneficiaries' obligations in accordance with the terms and conditions laid down in the grant agreement.</p> <p>Two or more beneficiaries shall own results jointly if:</p> <p>(a) they have jointly generated them; and</p> <p>(b) it is not possible to:</p> <p>(i) establish the respective contribution of each beneficiary, or</p> <p>(ii) separate them when applying for, obtaining or maintaining their protection.</p> <p>The joint owners shall agree in writing on the allocation and terms of exercise of their joint ownership. Unless otherwise agreed, each joint owner may grant non-exclusive licences to third parties to exploit the jointly-owned results (without any right to sub-license), if the other joint owners are given advance notice and fair and reasonable compensation. The joint owners may agree in writing to apply another regime than joint ownership.</p> <p>2. Beneficiaries having received Union funding shall adequately protect their results if protection is possible and justified, taking into account all relevant considerations, including the prospects for commercial exploitation. When deciding on protection, beneficiaries shall also consider the legitimate interests of the other beneficiaries in the action.</p>	<p>change in wording and meaning</p> <p>(1) The joint ownership agreement or any other alternative agreement to joint ownership in Horizon Europe must be in writing.</p> <p>(2) In Horizon Europe not only results that are (expected to be) capable for commercial or industrial exploitation should be protected, as it was the case in Horizon 2020. In Horizon Europe, beneficiaries have to take into account all relevant considerations concerning all results, instead of only commercially exploitable results in Horizon 2020. In Horizon Europe, this leads to a higher level of effort for the beneficiaries. There is no mentioning of appropriate time periods and/or territorial coverage for protection anymore.</p> <p>There is no substitution by the EC anymore in case there is no (sufficient) protection or no extension of it and therefore no information obligation by the beneficiaries as in Horizon 2020. This substitution by the EC already had practically no relevance in Horizon 2020.</p>	

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
42	<p>to be exercised in a manner compatible with its obligations under the grant agreement.</p> <p>Protection of results</p> <p>1. Where results are capable of or may reasonably be expected to be capable of commercial or industrial exploitation, the participant owning those results shall examine the possibility of protecting them. The participant shall, if possible, reasonable and justified given the circumstances, adequately protect them for an appropriate period of time and with an appropriate territorial coverage, having due regard to its legitimate interests, and the legitimate interests, particularly the commercial interests, of the other participants in the action.</p> <p>2. Where a participant that has received Union funding intends not to protect results generated by it for reasons other than impossibility under Union or national law or the lack of potential for commercial or industrial exploitation, and unless the participant intends to transfer them to another legal entity established in a Member State or associated country in view of their protection, it shall inform the Commission or the relevant funding body before any dissemination relating to those results takes place. The Commission, on behalf of the Union, or the relevant funding body may, with the consent of the participant concerned, assume ownership of those results and take the necessary steps for their adequate protection.</p> <p>The participant may refuse consent only if it demonstrates that its legitimate interests would suffer significant harm. No</p>				

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
	<p>dissemination relating to those results may take place until the Commission or the relevant funding body has taken a decision not to assume ownership of the results or has decided that it will assume ownership and has taken the necessary steps to ensure their protection. The Commission or the relevant funding body shall make such decision without undue delay. The grant agreement shall lay down time-limits in this respect.</p> <p>3. Where a participant that has received Union funding intends to abandon the protection of results or intends not to seek the extension of such protection for reasons other than the lack of potential for commercial or industrial exploitation within a period that shall not exceed five years following the payment of the balance, it shall inform the Commission or the relevant funding body, which may continue or extend protection by assuming ownership thereof. The participant may refuse consent only if it demonstrates that its legitimate interests would suffer significant harm. The grant agreement shall lay down time-limits in this respect.</p>				
43	<p>Exploitation and dissemination of results</p> <p>1. Each participant that has received Union funding shall use its best efforts to exploit the results it owns, or to have them exploited by another legal entity, in particular through the transfer and licensing of results in accordance with Article 44. Any additional exploitation obligations shall be laid down in the grant agreement. In the case of research with the potential to address major societal challenges, additional exploitation obligations may include licensing on non-exclusive terms. Any such additional</p>	35	<p>Exploitation and dissemination</p> <p>1. Beneficiaries having received Union funding shall use their best efforts to exploit their results, in particular in the Union. Exploitation may be directly by the beneficiaries or indirectly in particular through the transfer and licensing of results in accordance with Article 36. The work programme may provide for additional exploitation obligations. If indicated in the work programme, additional exploitation obligations shall apply. If despite a beneficiary's best efforts to exploit its results directly or indirectly no exploitation takes</p>	<p>change in wording and meaning</p> <p>In Horizon Europe, possible additional exploitation obligations for research likely to address major societal challenges have been removed.</p> <p>(1) Focus of exploitation is now in the Union.</p> <p>In Horizon Europe, there is a new obligation for beneficiaries to find interested parties via an appropriate online platform to exploit the results, if no exploitation takes place in due time.</p>	

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
	<p>obligations shall be indicated in the work programme or work plan.</p> <p>2. Subject to any restrictions due to the protection of intellectual property, security rules or legitimate interests, each participant shall through appropriate means disseminate the results it owns as soon as possible. The grant agreement may lay down time-limits in this respect.</p> <p>Any additional dissemination obligations shall be laid down in the grant agreement and indicated in the work programme or work plan. With regard to the dissemination of results through scientific publications, open access shall apply under the terms and conditions laid down in the grant agreement. Costs relating to open access to scientific publications that result from research funded under Horizon 2020, incurred within the duration of an action, shall be eligible for reimbursement under the conditions of the grant agreement. With due regard to Article 18 of Regulation (EU) No 1291/2013, the grant agreement shall not stipulate conditions regarding open access to publications which would result in additional publishing costs after the completion of an action.</p> <p>With regard to the dissemination of research data, the grant agreement may, in the context of the open access to and the preservation of research data, lay down terms and conditions under which open access to such results shall be provided, in particular in ERC frontier research and FET (Future and Emerging Technologies) research or in other appropriate areas, and taking into consideration the legitimate interests of the participants and any constraints pertaining to data protection rules, security rules or intellectual property rights. In</p>		<p>place within a given period as identified in the grant agreement, the beneficiary shall use an appropriate online platform as identified in the grant agreement to find interested parties to exploit those results. If justified on the basis of a request of the beneficiary, this obligation may be waived.</p> <p>2. Subject to any restrictions due to the protection of intellectual property, security rules or legitimate interests, beneficiaries shall disseminate their results as soon as possible. The work programme may provide for additional dissemination obligations.</p> <p>3. Beneficiaries shall ensure that open access to scientific publications applies under the terms and conditions laid down in the grant agreement. In particular, the beneficiaries shall ensure that they or the authors retain sufficient intellectual property rights to comply with their open access requirements. Open access to research data shall be the general rule under the terms and conditions laid down in the grant agreement, but exceptions shall apply if justified, taking into consideration the legitimate interests of the beneficiaries and any other constraints, such as data protection rules, security rules or intellectual property rights. The work programme may provide for additional obligations to adhere to open science practices.</p> <p>4. Beneficiaries shall manage all research data in accordance with the terms and conditions laid down in the grant agreement and shall establish a Data Management Plan. The work programme may provide for additional obligations to use the European Open Science Cloud for storing and giving access to research data.</p>	<p>This seems appropriate in order to foster the exploitation of unused results.</p> <p>For the exploitation of digital results, the online EC initiatives may be relevant [see https://ec.europa.eu/digital-single-market/en/online-platforms-digital-single-market].</p> <p>It is not explicitly stated anymore that the costs related to open access to scientific publications should be eligible for reimbursement. Costs for open access should also be eligible after the end of the project, as they occur mostly then.</p> <p>(3) In Horizon Europe, open access to research data has been established as general rule [see Article 10]. Exceptions may apply, which</p> <ul style="list-style-type: none"> - have to be justified, - correspond to the legitimate interests of the beneficiaries AND - consider other constraints (such as data protection rules, security rules as well as intellectual property rights). <p>In Horizon 2020, these opt out reasons already existed in the Work Programme 2018-2020. The RfP Horizon Europe mention fewer opt out reasons, but still contain an exemplary list that can be extended to other legitimate interests of the beneficiaries.</p> <p>(4) The Data Management Plan (DMP) in Horizon Europe is obligatory, like in Horizon 2020, but now mentioned on RfP level. In order to enforce the use of the European Open Science Cloud, it is considered useful to set additional obligations in the work programme where necessary.</p>	

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
	<p>such cases, the work programme or work plan shall indicate if the dissemination of research data through open access is required. Prior notice of any dissemination activity shall be given to the other participants. Following notification, a participant may object if it demonstrates that its legitimate interests in relation to its results or background would suffer significant harm by the intended dissemination. In such cases, the dissemination may not take place unless appropriate steps are taken to safeguard those legitimate interests. The grant agreement shall lay down time-limits in this respect.</p> <p>3. For the purposes of monitoring and dissemination by the Commission or the relevant funding body, participants shall provide any information on their exploitation and dissemination related activities, and provide any documents necessary in accordance with the conditions laid down in the grant agreement. Subject to the legitimate interests of the participants which have provided the information, such information shall be made publicly available. The grant agreement shall, inter alia, lay down time-limits with respect to such reporting obligations.</p> <p>4. All patent applications, standards, publications or any other dissemination, including those in electronic form, relating to results shall, if possible, include a statement, which may include visual means, that the action received financial support from the Union. The terms of that statement shall be established in the grant agreement.</p>		<p>5. Beneficiaries that intend to disseminate their results shall give advance notice to the other beneficiaries in the action. Any other beneficiary may object if it can show that the intended dissemination would significantly harm its legitimate interests in relation to its results or background. In such cases, the dissemination may not take place unless appropriate steps are taken to safeguard these legitimate interests.</p> <p>6. Unless the work programme provides otherwise, proposals shall include a plan for the exploitation and dissemination of the results. If the expected exploitation entails developing, creating, manufacturing and marketing a product or process, or in creating and providing a service, this plan shall include a strategy for such exploitation. If the plan provides for exploitation primarily in non-associated third countries, the legal entities shall explain how that exploitation is still in the Union interest. The beneficiaries shall further develop the plan during and after the end of the action.</p> <p>7. For the purposes of monitoring and dissemination by the Commission or funding body, the beneficiaries shall provide any requested information regarding the exploitation and dissemination of their results. Subject to the legitimate interests of the beneficiaries, such information shall be made publicly available.</p>	<p>(6) The need for a strategy in case of expected specified process, product or service exploitation, has been introduced to Horizon Europe.</p> <p>In case of exploitation primarily in non-associated third countries, beneficiaries should explain the advantage/benefit for the Union. This refers to a strong focus on the Union.</p> <p>In Horizon Europe, the plan for exploitation and dissemination has to be adjusted not only during the project, but also continued after the end of the action.</p> <p>The statement obligation about the Union funding related to patent applications, standards, publications or other dissemination of results has been removed.</p> <p>{see Article 196 of the FR, Annex II}</p> <p>[see also: Article 6(9) and 15]</p>	

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
13	<p>Proposals</p> <p>1. Proposals shall include a draft plan for the exploitation and dissemination of the results, where provided for in the work programme or work plan.</p>				
44	<p>Transfer and licensing of results</p> <p>1. Where a participant transfers ownership of results, it shall pass on its obligations under the grant agreement regarding those results to the transferee, including the obligation to pass them on in any subsequent transfer.</p> <p>Without prejudice to confidentiality obligations arising from laws or regulations in the case of mergers and acquisitions, where other participants still enjoy access rights or may still request the granting of access rights to the results to be transferred, a participant which intends to transfer the results shall give prior notice to the other participants, together with sufficient information concerning the intended new owner of the results, to permit the other participants to analyse the effect of the intended transfer on the possible exercise of their access rights.</p> <p>Following notification, a participant may object to the transfer of ownership if it demonstrates that the intended transfer would adversely affect the exercise of its access rights. In such a case, the transfer may not take place until agreement has been reached between the participants concerned. The grant agreement shall lay down time-limits in this respect. The other participants may by prior written agreement waive their right to prior notice and to object to transfers of ownership from one participant to a specifically identified third party.</p>	36	<p>Transfer and licensing</p> <p>1. Beneficiaries may transfer ownership of their results. They shall ensure that their obligations also apply to the new owner and that the latter has the obligation to pass them on in any subsequent transfer.</p> <p>2. Unless agreed otherwise in writing for specifically-identified third parties or unless impossible under applicable law, beneficiaries that intend to transfer ownership of results shall give advance notice to any other beneficiary that still has access rights to the results. This notification must include sufficient information on the new owner to enable a beneficiary to assess the effects on its access rights. Unless agreed otherwise in writing for specifically-identified third parties, a beneficiary may object to the transfer if it can show that the transfer would adversely affect its access rights. In this case, the transfer may not take place until agreement has been reached between the beneficiaries concerned.</p> <p>3. Beneficiaries may grant licences to their results or otherwise give the right to exploit them, if this does not affect compliance with their obligations.</p> <p>4. Where this is justified, the grant agreement shall lay down the right to object to transfers of ownership of results, or to grants of an exclusive license regarding results, if:</p>	<p>change in wording and meaning</p> <p>(2) As in Horizon 2020, it is possible that beneficiaries transferring ownership of results do not need to inform the other beneficiaries of the action, in case they agreed on a transfer to specifically identified third parties. The same possibility applies for the objection to a transfer. In Horizon 2020, these rules only existed in the MGA and now can be found on RfP level.</p>	

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
	<p>2. Provided that access rights to the results can be exercised, and that any additional exploitation obligations are complied with by the participant which owns the results, the latter may grant licences or otherwise grant the right to exploit them to any legal entity, including on an exclusive basis. Exclusive licences for results may be granted subject to consent by all the other participants concerned that they will waive their access rights thereto.</p> <p>3. With regard to results which are generated by participants that have received Union funding, the grant agreement may provide that the Commission or the relevant funding body may object to transfers of ownership or to grants of an exclusive licence to third parties established in a third country not associated with Horizon 2020, if it considers that the grant or transfer is not in accordance with the interests of developing the competitiveness of the Union economy, or is inconsistent with ethical principles or security considerations. In such cases, the transfer of ownership or grant of exclusive licence shall not take place unless the Commission or the relevant funding body is satisfied that appropriate safeguards will be put in place. Where appropriate, the grant agreement shall provide that the Commission or the relevant funding body is to be notified in advance of any such transfer of ownership or grant of an exclusive licence. The grant agreement shall lay down time- limits in this respect.</p>		<p>(a) the beneficiaries generating the results have received Union funding;</p> <p>(b) the transfer or license is to a legal entity established in a non-associated third country; and</p> <p>(c) the transfer or licence is not in line with Union interests.</p> <p>If the right to object applies, the beneficiary shall give advance notice. The right to object may be waived in writing regarding transfers or grants to specifically identified legal entities if measures safeguarding Union interests are in place.</p>		
46	<p>Access rights principles</p> <p>1. Any request to exercise access rights or any waiving of access rights shall be made in writing.</p>	37	<p>Access rights</p> <p>1. The following access rights principles shall apply:</p> <p>(a) a request to exercise access rights or any waiving of access rights shall be made in writing;</p>	<p>change in wording, but not in meaning</p> <p>The continuity in Horizon Europe concerning IPR rules is welcomed.</p>	

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
47	<p>2. Unless otherwise agreed by the owner of the results or background to which access is requested, access rights shall not include the right to sub-license.</p> <p>3. Participants in the same action shall inform each other before their accession to the grant agreement of any legal restriction or limit to granting access to their background. Any agreement concluded thereafter by a participant regarding background shall ensure that any access rights may be exercised.</p> <p>4. The termination of the participation in an action shall not affect the obligation of such a participant to grant access under the terms and conditions established in the grant agreement.</p> <p>5. The consortium agreement may stipulate that where a participant defaults on its obligations and such default is not remedied, such a defaulting participant shall no longer enjoy access rights.</p> <p>Access rights for implementation</p> <p>1. A participant shall enjoy access rights to the results of another participant in the same action if those results are needed by the former to carry out its work under the action. Such access shall be granted on a royalty-free basis.</p> <p>2. A participant shall enjoy access rights to background of another participant in the same action if this background is needed by the former to carry out its work under the action,</p>		<p>(b) unless otherwise agreed with the grantor, access rights do not include the right to sub-license;</p> <p>(c) the beneficiaries shall inform each other before their accession to the grant agreement of any restrictions to granting access to their background;</p> <p>(d) if a beneficiary is no longer involved in an action, it shall not affect its obligations to grant access;</p> <p>(e) if a beneficiary defaults on its obligations, the beneficiaries may agree that it no longer has access rights.</p> <p>2. Beneficiaries shall grant access to:</p> <p>(a) their results on a royalty-free basis to any other beneficiary in the action that needs it to implement its own tasks;</p> <p>(b) their background to any other beneficiary in the action that needs it to implement its own tasks, subject to any restrictions referred to in paragraph 1(c); that access shall be granted on a royalty-free basis, unless otherwise agreed by the beneficiaries before their accession to the grant agreement;</p> <p>(c) their results and, subject to any restrictions referred to in paragraph 1(c), to their background to any other beneficiary in the action that needs it to exploit its own results; that access shall be granted under fair and reasonable conditions to be agreed upon.</p> <p>3. Unless otherwise agreed by the beneficiaries, beneficiaries shall also grant access to their results and, subject to any restrictions referred to in paragraph 1(c), to their background to a legal entity that:</p> <p>(a) is established in a Member State or associated country;</p>		

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
48	<p>and subject to any restrictions or limits pursuant to Article 46(3). Such access shall be granted on a royalty-free basis, unless otherwise agreed by the participants before their accession to the grant agreement.</p> <p>Access rights for exploitation</p> <p>1. A participant shall enjoy access rights to the results of another participant in the same action if those results are needed by the former to exploit its own results. Subject to agreement, such access shall be granted under fair and reasonable conditions.</p> <p>2. A participant shall enjoy access rights to background of another participant in the same action if this background is needed by the former to exploit its own results, and subject to any restrictions or limits pursuant to Article 46(3). Subject to agreement, such access shall be granted under fair and reasonable conditions.</p> <p>3. An affiliated entity established in a Member State or associated country shall, unless otherwise provided for in the consortium agreement, also have access rights to results and, subject to any restrictions or limits pursuant to Article 46(3), to background under fair and reasonable conditions if those results and background are needed to exploit the results generated by the participant to which it is affiliated. Such access rights shall be requested and obtained directly from the participant owning the results or background unless otherwise agreed in accordance with Article 46(2).</p>		<p>(b) is under the direct or indirect control of another beneficiary, or is under the same direct or indirect control as that beneficiary, or is directly or indirectly controlling that beneficiary; and</p> <p>(c) needs the access to exploit the results of that beneficiary.</p> <p>Access shall be granted under fair and reasonable conditions to be agreed upon.</p> <p>4. A request for access for exploitation purposes may be made up to one year after the end of the action, unless the beneficiaries agree on a different time-limit.</p> <p>5. Beneficiaries having received Union funding shall grant access to their results on a royalty-free basis to the Union institutions, bodies, offices or agencies for developing, implementing and monitoring Union policies or programmes. Access shall be limited to non-commercial and non-competitive use. In actions under the cluster 'Inclusive and secure Society', area of intervention 'Protection and Security', beneficiaries having received Union funding shall also grant access to their results on a royalty-free basis to Member States' national authorities, for developing, implementing and monitoring their policies or programmes in that area. Access shall be limited to non-commercial and non-competitive use and shall be granted upon bilateral agreement defining specific conditions aimed at ensuring that those rights will be used only for the intended purpose and that appropriate confidentiality obligations will be in place. The requesting Member State, Union institution, body, office or agency shall notify all Member States of such requests.</p> <p>6. The work programme may provide for additional access rights.</p>		

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
49	<p>4. A request for access under paragraphs 1, 2 or 3 may be made up to one year after the end of the action, unless the participants agree on a different time-limit.</p> <p>Access rights for the Union and the Member States</p> <p>1. The Union institutions, bodies, offices or agencies shall, for the duly justified purpose of developing, implementing and monitoring Union policies or programmes, enjoy access rights solely to the results of a participant that has received Union funding. Such access rights are limited to non-commercial and non-competitive use. Such access shall be granted on a royalty-free basis.</p> <p>2. Regarding actions under the specific objective 'Secure societies - Protecting freedom and security of Europe and its citizens' set out in Part III of Annex I to Regulation (EU) No 1291/2013, Union institutions, bodies, offices and agencies, as well as Member States' national authorities, shall, for the purpose of developing, implementing and monitoring their policies or programmes in this area, enjoy the necessary access rights to the results of a participant that has received Union funding. Such access rights shall be limited to non-commercial and non-competitive use. Such access rights shall be granted on a royalty-free basis and upon bilateral agreement defining specific conditions aimed at ensuring that those rights will be used only for the intended purpose and that appropriate confidentiality obligations will</p>				

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
	<p>be in place. Such access rights shall not extend to the participant's background. The requesting Member State, Union institution, body, office or agency shall notify all Member States of such requests. The Commission rules on security shall apply regarding classified information.</p>				
55	<p>Other specific provisions</p> <p>1. In the case of actions involving security-related activities, the grant agreement may lay down specific provisions, in particular on pre-commercial public procurement, procurement of innovative solutions, changes to the consortium's composition, classified information, exploitation, dissemination, open access to research publications, transfers and licences of results.</p> <p>2. In the case of actions to support existing or new research infrastructures, the grant agreement may lay down specific provisions relating to users of the infrastructure and to the users' access to them.</p> <p>3. In the case of ERC frontier research actions, the grant agreement may lay down specific provisions, in particular on access rights, portability and dissemination, or relating to participants, researchers and any party concerned by the action.</p> <p>4. In the case of training and mobility actions, the grant agreement may lay down specific provisions on commitments relating to the researchers benefiting from the action, ownership, access rights and portability.</p> <p>5. In the case of coordination and support actions, the grant agreement may lay down</p>	38	<p>Specific provisions on exploitation and dissemination</p> <p>Specific rules on ownership, exploitation and dissemination, transfer and licensing as well as access rights may apply for ERC actions, training and mobility actions, pre-commercial procurement actions, public procurement of innovative solutions, programme co-fund actions and coordination and support actions. These specific rules shall not change the obligations on open access.</p>	<p>change in wording and meaning</p> <p>In Horizon Europe, it is considered positive that for certain types of actions there may be changes in provisions on exploitation and dissemination.</p> <p>Article 55(3) RfP Horizon 2020 concerns the important topic of the portability of ERC grants. This should be reintroduced to the RfP Horizon Europe, as it is a crucial part of the ERC instrument.</p>	

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
	<p>specific provisions, in particular on ownership, access rights, exploitation and dissemination of results.</p> <p>6. In the case of the Knowledge and Innovation Communities of the EIT, the grant agreement may lay down specific provisions, in particular on ownership, access rights, exploitation and dissemination.</p>				
Prizes					
50	<p>Prizes</p> <p>1. Union funding may take the form of prizes as defined in Title VII of Regulation (EU, Euratom) No 966/2012 and Regulation (EU) No 1268/2012.</p> <p>2. Any prize awarded shall be conditional upon the acceptance of the appropriate publicity obligations. Regarding the dissemination of results, Title III of this Regulation shall apply. The work programme or work plan may contain specific obligations regarding exploitation and dissemination.</p>	39	<p>Prizes</p> <p>1. Prizes under the Programme shall be awarded and managed in accordance with Title IX of the Financial Regulation, unless otherwise specified in this Chapter.</p> <p>2. Any legal entity, regardless of its place of establishment, may participate in a contest, unless otherwise provided in the work programme or rules of contests.</p> <p>3. The Commission or funding body may organise prizes with: (a) other Union bodies; (b) third countries, including their scientific and technological organisations or agencies; (c) international organisations; or (d) non-profit legal entities.</p> <p>4. The work programme or rules of contest may include obligations regarding communication, exploitation and dissemination.</p>	<p>change in wording and in meaning</p> <p>(1) (2) As in Horizon 2020, the possibility for prizes also applies to Horizon Europe and any legal entity may participate.</p> <p>(3) Joint or common prizes may be organized with other Union bodies, third countries, international organisations as well as non-profit legal entities.</p> <p>{see Title IX of the FR, Annex II}</p>	<p>Title IX</p> <p>Prizes</p> <p>Article 206 – 207</p>
Procurement					
		40	<p>Procurement</p> <p>1. Procurement under the Programme shall be awarded and managed in accordance with Title VII of the Financial Regulation, unless otherwise specified in this Chapter.</p>	<p>new</p> <p>{see also: Article 22}</p> <p>{see Title VII of the FR, Annex II}</p>	<p>Title VII</p> <p>Procurement and Concessions</p> <p>Article 160 – 179</p>

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
			<p>2. Procurement may also take the form of pre-commercial procurement or procurement of innovative solutions carried out by the Commission or the funding body on its own behalf or jointly with contracting authorities from Member States and associated countries. In this case, the rules set out in Article 22 shall apply.</p>		
Blending Operations / Blended Finance					
		41	<p>Blending operations</p> <p>Blending operations decided under this Programme shall be implemented in accordance with the InvestEU Programme and Title X of the Financial Regulation.</p>	<p>new</p> <p>Due to the fact that blending operations may also consist of grants and equity only, the accordance of InvestEU is not always necessary.</p> <p>{see Title X of the FR, Annex II}</p> <p>[see also: Article 2(21) and 42 and 43]</p>	<p>Title X</p> <p>Financial Instruments, Budgetary Guarantees and Financial Assistance</p> <p>Article 208 – 220</p>
		42	<p>Horizon Europe and EIC Blended finance</p> <p>1. The grant and reimbursable advance components of Horizon Europe or EIC blended finance shall be subject to Articles 30 to 33.</p> <p>2. EIC blended finance shall be implemented in accordance with Article 43. The support under the EIC blended finance may be granted until the action can be financed as a blending operation or as a financing and investment operation fully covered by the EU guarantee under InvestEU. By derogation from Article 209 of the Financial Regulation, the conditions laid down in paragraph (2) and, in particular, paragraph (a) and (d), do not apply at the time of the award of EIC blended finance.</p> <p>3. Horizon Europe blended finance may be awarded to a programme co-fund where a joint</p>	<p>new</p> <p>(4) Concerning the repayments it is the usual practice that the amount reimbursed (e.g. loan repayments) should be available and used for the same programme.</p> <p>It would be desirable that reflows generated by the future EIC blending instrument will be used for the EIC.</p> <p>As the InvestEU Programme will be established as independent funding programme within the next MFF, the programme committee will only receive general information on the results of InvestEU (which will be comparable to the information received today about the EFSI). Consequently, there will be no competences for discussions or decision-making under Horizon Europe as it is now in place for the financial instruments in Horizon 2020. This</p>	<p>209</p> <p>Principles and conditions applicable to financial instruments and budgetary guarantees</p> <p>1. Financial instruments and budgetary guarantees shall be used in accordance with the principles of sound financial management, transparency, proportionality, non-discrimination, equal treatment and subsidiarity, and in accordance with their objectives.</p> <p>2. Financial instruments and budgetary guarantees shall:</p> <p>(a) address market failures or sub-optimal investment situations and provide support, in a proportionate manner, only to final recipients that are deemed economically viable according</p>

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
			<p>programme of Member States and associated countries provides for the deployment of financial instruments in support of selected actions. The evaluation and selection of such actions shall be made in accordance with Articles 19, 20, 23, 24, 25 and 26. The implementation modalities of the Horizon Europe blended finance shall comply with Article 29, by analogy Article 43(9) and with additional conditions defined by the work programme.</p> <p>4. Repayments including reimbursed advances and revenues of Horizon Europe and EIC blended finance shall be considered as internal assigned revenues in accordance with Articles 21(3)(f) and 21(4) of Financial Regulation.</p> <p>5. Horizon Europe and EIC blended finance shall be provided in a manner that does not distort competition.</p>	<p>constitutes a weakening of Member State's influence.</p> <p>Reflows from financial instruments from predecessor programmes of Horizon Europe (i.e. established by Regulation (EU) No 1291/2013) were discussed beforehand to be used for the EIC.</p> <p>As stated in Annex IV of the InvestEU regulation, all these reflows will feed in InvestEU as well.</p> <p>In effect, this means that the budget for InvestEU is actually higher than the 3.5 billion euro mentioned. It would be desirable that reflows and revenues from e.g. running SME financial instruments (e.g. FP7/RSI, H2020/InnovFin SME Guarantee) could be used for the EIC.</p> <p>“..” should be corrected to “.”.</p> <p>{see Title X of the FR, Annex II}</p> <p>[see also: Article 41 and 43]</p>	<p>to internationally accepted standards at the time of the Union financial support;</p> <p>(b) achieve additionality by preventing the replacement of potential support and investment from other public or private sources;</p> <p>(c) not distort competition in the internal market and be consistent with State aid rules;</p> <p>(d) achieve a leverage and a multiplier effect, with a target range of values based on an <i>ex ante</i> evaluation for the corresponding financial instrument or budgetary guarantee, by mobilising a global investment exceeding the size of the Union contribution or guarantee, including, where appropriate, the maximisation of private investment;</p> <p>(e) be implemented in a way to ensure that there is a common interest of the implementing entities or counterparts involved in the implementation in achieving the policy objectives defined in the relevant basic act, with provisions on for example co-investment, risk sharing requirements or financial incentives, while preventing a conflict of interests with other activities of the entities or counterparts;</p> <p>(f) provide for remuneration of the Union that is consistent with the sharing of risk among financial participants and the policy objectives of the financial instrument or budgetary guarantee;</p> <p>(g) where remuneration of the implementing entities or the counterparts involved in the implementation is due, provide that such remuneration is performance-based and comprises:</p> <p>(i) administrative fees to remunerate the entity or counterpart for the work carried out in the implementation of a financial instrument or budgetary guarantee, which shall, to the</p>

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
					<p>extent possible, be based on the operations carried out or the amounts disbursed; and (ii) where appropriate, policy related incentives to promote the achievement of the policy objectives or incentivise the financial performance of the financial instrument or budgetary guarantee.</p> <p>Exceptional expenses may be reimbursed in duly justified cases;</p> <p>(h) be based on <i>ex ante</i> evaluations, individually or as part of a programme, in line with Article 34, containing explanations concerning the choice of the type of financial operation taking into account the policy objectives pursued and the associated financial risks and savings for the budget.</p> <p>The evaluations referred to in point (h) of the first subparagraph shall be reviewed and updated to take into account the effect of major socioeconomic changes on the rationale of the financial instrument or budgetary guarantee.</p> <p>3. Without prejudice to sector-specific rules for shared management, revenue, including dividends, capital gains, guarantee fees and interest on loans and on amounts on fiduciary accounts paid back to the Commission or on fiduciary accounts opened for financial instruments or budgetary guarantees and attributable to the support from the budget under a financial instrument or a budgetary guarantee, shall be entered in the budget after deduction of management costs and fees.</p> <p>Annual repayments, including capital repayments, guarantees released, and repayments of the principal of loans, paid back to the Commission or to fiduciary accounts opened for financial instruments or budgetary guarantees and attributable to the support from the budget under a financial instrument</p>

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
					<p>or a budgetary guarantee, shall constitute internal assigned revenue in accordance with point (f) of Article 21(3) and shall be used for the same financial instrument or budgetary guarantee, without prejudice to Article 215(5), for a period not exceeding the period for the budgetary commitment plus two years, unless otherwise specified in a basic act.</p> <p>The Commission shall take into account such internal assigned revenue when proposing the amount for future allocations for financial instruments or budgetary guarantees.</p> <p>Notwithstanding the second subparagraph, the outstanding amount of assigned revenue authorised under a basic act that is to be repealed or terminates may also be assigned to another financial instrument pursuing similar objectives, where this is provided in the basic act establishing that financial instrument.</p> <p>4. The authorising officer responsible for a financial instrument, a budgetary guarantee or a financial assistance shall produce a financial statement covering the period 1 January to 31 December, in accordance with Article 243 and in compliance with the accounting rules referred to in Article 80 and the International Public Sector Accounting Standards (IPSAS).</p> <p>For financial instruments and budgetary guarantees implemented under indirect management, the authorising officer responsible shall ensure that unaudited financial statements covering the period 1 January to 31 December prepared in compliance with the accounting rules referred to in Article 80 and with IPSAS, as well as any information necessary to produce financial statements in accordance with Article 82(2), be provided by the entities pursuant to points (c)(ii), (iii), (v) and (vi) of the first subparagraph of Article 62(1) by 15 February of the following</p>

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
					<p>financial year and that audited financial statements be provided by those entities by 15 May of the following financial year.</p> <p>21(3)(f) and (4)</p> <p>Assigned revenue</p> <p>[...]</p> <p>3. The following shall constitute internal assigned revenue:</p> <p>[...]</p> <p>(f) repayments to financial instruments or budgetary guarantees pursuant to the second subparagraph of Article 209(3);</p> <p>[...]</p> <p>4. Assigned revenue shall be carried over and transferred in accordance with points (b) and (c) of Article 12(4) and with Article 32.</p> <p>[...]</p> <p>{see Article 12(1)(d)(iii) and 33(6) RfP above}</p>
		43	<p>EIC's Accelerator</p> <p>1. The beneficiary of the EIC Accelerator shall be a legal entity qualifying as a start-up, an SME or as a mid-cap, established in a Member State or associated country. The proposal may be submitted by the beneficiary, or by one or more natural persons or legal entities intending to establish or support that beneficiary.</p> <p>2. A single award decision shall cover and provide funding for all forms of Union contribution provided under EIC blended finance.</p> <p>3. Proposals shall be evaluated on their individual merit by independent experts and selected in the</p>	<p>new</p> <p>(2) (4) It remains unclear what is meant by "Union"? Apparently, this term does not only refer to the EC, but maybe to the EIB-Group and/or others too?</p> <p>(5) There is no clear definition of "funding body" that may submit. Furthermore it might be questioned, why the submission may only refer to proposals under the "last evaluation criterion"? This needs to be entirely changed and detailed for better understanding with examples.</p>	

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
			<p>context of an annual open call with cut-off dates, based on Articles 24 to 26, subject to paragraph 4.</p> <p>4. Award criteria shall be: – excellence; – impact; – the level risk of the action and the need for Union support.</p> <p>5. With the agreement of applicants concerned, the Commission or funding bodies implementing Horizon Europe may directly submit for evaluation under the last evaluation criterion a proposal for an innovation and market deployment action which already fulfils the first two criteria, subject to the following cumulative conditions: - the proposal shall stem from any other action funded by Horizon 2020 or this Programme, or from a national programme similar to the EIC’s Pathfinder and acknowledged as such by the Commission; - be based on a previous project review assessing the excellence and the impact of the proposal and subject to conditions and processes further detailed in the work programme.</p> <p>6. A Seal of Excellence may be awarded subject to the following cumulative conditions: - the beneficiary is a start-up or an SME, - the proposal was eligible and has passed applicable thresholds for the first two award criteria referred to in paragraph 4, - for those activities that would be eligible under an innovation action.</p> <p>7. For a proposal having passed the evaluation, independent experts shall propose a corresponding EIC blended finance, based on the risk incurred and the resources and time</p>	<p>Why are only the “first two criteria” stated? There is a need for justified reasons.</p> <p>(9) The so-called “programme managers”, mentioned in the “Annexes to the proposal ... on establishing Horizon Europe”, with a broad portfolio in the Pathfinder and Accelerator instruments are not mentioned in the RfP Horizon Europe. As there may be some influence in the evaluation procedure, this needs to be clarified.</p> <p>(10) “Activities corresponding to an IA may be launched and first pre-financing of the grant or the reimbursable advance paid prior to the implementation of other components of the awarded EIC blended finance.” This sentence is not understandable and should be reviewed.</p> <p>{see Title X of the FR, Annex II}</p> <p>[see also: Article 41 and 42]</p>	

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
			<p>necessary to bring and deploy the innovation to the market. The Commission may reject a proposal retained by independent experts for justified reasons, including compliance with the objectives of Union policies.</p> <p>8. The grant or the reimbursable advance component of the blended finance shall not exceed 70% of the costs of the selected innovation action.</p> <p>9. Implementation modalities of the equity and repayable support components of the EIC blended finance shall be detailed in Decision [Specific programme].</p> <p>10. The contract for the selected action shall establish specific milestones and the corresponding pre-financing and payments by instalments of the EIC blended finance. Activities corresponding to an innovation action may be launched and first pre-financing of the grant or the reimbursable advance paid, prior to the implementation of other components of the awarded EIC blended finance. The implementation of those components shall be subject to the achievement of specific milestones established in the contract.</p> <p>11. In accordance with the contract, the action shall be suspended, amended or terminated if milestones are not met. It may also be terminated where expected market deployment cannot be met. The Commission may decide to increase the EIC blended finance subject to a project review by external independent experts.</p>		
Experts					
40	Appointment of independent experts	44	Appointment of external experts	change in wording and meaning	237(3) and (2)

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
	<p>1. The Commission and, where appropriate, funding bodies may appoint independent experts to evaluate proposals in accordance with Article 15 or to advise on or assist with:</p> <p>(a) the evaluation of proposals;</p> <p>(b) the monitoring of the implementation of actions carried out under Regulation (EU) No 1291/2013 as well as of previous Research and/or Innovation Programmes;</p> <p>(c) the implementation of Union research and innovation policy or programmes including Horizon 2020, as well as the achievement and functioning of the European Research Area;</p> <p>(d) the evaluation of Research and Innovation Programmes;</p> <p>(e) the design of the Union research and innovation policy, including the preparation of future programmes.</p> <p>2. Independent experts shall be chosen on the basis of their skills, experience and knowledge appropriate to carry out the tasks assigned to them. In cases where independent experts have to deal with classified information, the appropriate security clearance shall be required before appointment.</p> <p>Independent experts shall be identified and selected on the basis of calls for applications from individuals and calls addressed to relevant organisations such as research agencies, research institutions, universities, standardisation organisations, civil society organisations or enterprises with a view to establishing a database of candidates.</p> <p>The Commission or the relevant funding body may, if deemed appropriate and in duly justified cases, select in a transparent manner any individual expert with the appropriate skills not included in the database.</p>		<p>1. By derogation from Article 237(3) of the Financial Regulation, external experts may be selected without a call for expressions of interest, if justified and the selection is carried out in a transparent manner.</p> <p>2. In accordance with Article 237(2) and 237(3) of the Financial Regulation, external experts shall be remunerated based on standard conditions. If justified, an appropriate level of remuneration beyond the standard conditions based on relevant market standards, especially for specific high level experts, may be granted.</p> <p>3. In addition to Article paragraphs 2 and 3 of Article 38 of the Financial Regulation, the names of external experts evaluating grant applications, who are appointed in a personal capacity shall be published, together with their area of expertise, at least once a year on the internet site of the Commission or the funding body. Such information shall be collected, processed and published in accordance with the EU data protection rules.</p>	<p>(1) As in Horizon 2020, external experts may be selected without a call for expressions of interest.</p> <p>The selection/appointment criteria in Horizon 2020 concerning skills, knowledge, experience, conflict of interest etc. have been removed, but some (not all) of them are mentioned in Article 237(2) of the FR.</p> <p>{see Article 38 and 237 and 238 of the FR, Annex II}</p>	<p>Remunerated external experts</p> <p>[...]</p> <p>2. Remunerated external experts shall be remunerated on the basis of a fixed amount announced in advance and shall be chosen on the basis of their professional capacity. The selection shall be done on the basis of selection criteria respecting the principles of non-discrimination, equal treatment and absence of conflict of interests.</p> <p>3. A call for expression of interest shall be published on the website of the Union institution concerned.</p> <p>The call for expression of interest shall include a description of the tasks, their duration and the fixed conditions of remuneration.</p> <p>A list of experts shall be drawn up following the call for expression of interest. It shall be valid for no more than five years from its publication or for the duration of a multiannual programme related to the tasks.</p> <p>[...]</p> <p>38(2) and (3)</p> <p>Publication of information on recipients and other information</p> <p>[...]</p> <p>2. Save in the cases referred to in paragraphs 3 and 4, the following information shall be published, having due regard for the requirements of confidentiality and security, in particular the protection of personal data:</p> <p>(a) the name of the recipient;</p> <p>(b) the locality of the recipient, namely:</p>

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
	<p>When appointing independent experts, the Commission or the relevant funding body shall take appropriate measures to seek a balanced composition within the expert groups and evaluation panels in terms of various skills, experience, knowledge, geographical diversity and gender, and taking into account the situation in the field of the action. Where appropriate, private-public sector balance shall also be sought.</p> <p>The Commission or the relevant funding body may call upon the advice of advisory bodies for the appointment of independent experts. In the case of ERC frontier research actions, the Commission shall appoint experts on the basis of a proposal from the Scientific Council of the ERC.</p> <p>3. The Commission or the relevant funding body shall ensure that an expert faced with a conflict of interest in relation to a matter on which the expert is required to provide an opinion does not evaluate, advise or assist on the specific matter in question.</p> <p>4. All exchanges with independent experts, including the conclusion of contracts for their appointment and any amendment thereto, may be done through electronic exchange systems set up by the Commission or by the relevant funding body as stipulated in Article 287(4) of Regulation (EU) No. 1268/2012.</p> <p>5. The names of experts appointed in a personal capacity, who have assisted the Commission or the funding bodies in implementation of Regulation (EU) No 1291/2013 and Decision 2013/743/EU shall be published, together with their area of expertise, at least once a year on the internet</p>				<p>(i) the address of the recipient when the recipient is a legal person; (ii) the region on NUTS 2 level when the recipient is a natural person; (c) the amount legally committed; (d) the nature and purpose of the measure.</p> <p>The information referred to in the first subparagraph of this paragraph shall only be published for prizes, grants and contracts which have been awarded as a result of contests, grant award procedures or procurement procedures, and for experts selected pursuant to Article 237(2).</p> <p>3. The information referred to in the first subparagraph of paragraph 2 shall not be published for:</p> <p>(a) education supports paid to natural persons and other direct support paid to natural persons most in need as referred to in point (b) of Article 191(4); (b) very low value contracts awarded to experts selected pursuant to Article 237(2) as well as very low value contracts below the amount referred to in point 14.4 of Annex I; (c) financial support provided through financial instruments for an amount lower than EUR 500 000; (d) where disclosure risks threatening the rights and freedoms of the persons or entities concerned as protected by the Charter of Fundamental Rights of the European Union or harming the commercial interests of the recipients.</p> <p>In the cases referred to in point (c) of the first subparagraph, the information made available shall be limited to statistical data, aggregated in accordance with relevant criteria, such as geographical situation, economic typology of recipients, type of support received and the</p>

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
	site of the Commission or the relevant funding body. Such information shall be collected, processed and published in accordance with Regulation (EC) No 45/2001 .				Union policy area under which such support was provided. Where natural persons are concerned, the disclosure of the information referred to in the first subparagraph of paragraph 2 shall be based on relevant criteria such as the frequency or the type of the measure and the amounts involved. [...]
Monitoring and Reporting, Information and Communication, Dissemination and Exploitation					
1	3. Regulation (EC) No 294/2008 or any basic act which entrusts budget implementation tasks to a funding body under Article 185 TFEU may establish rules which depart from those laid down in this Regulation. In order to take into account their specific operating needs and subject to the rules established in the relevant basic act, the Commission shall be empowered to adopt delegated acts in accordance with Article 56, with regard to funding bodies set up under Article 187 TFEU concerning:	45	<p>Monitoring and reporting</p> <p>1. Indicators to report on progress of the Programme towards the achievement of the objectives established in Article 3 are set in Annex V along impact pathways.</p> <p>2. The Commission is empowered to adopt delegated acts in accordance with Article 50 concerning amendments to Annex V to supplement or amend the impact pathway indicators, where considered necessary, and set baselines and targets.</p> <p>3. The performance reporting system shall ensure that data for monitoring programme implementation and results are collected efficiently, effectively and in a timely manner. To that end, proportionate reporting requirements shall be imposed on recipients of Union funds and (where relevant) Member States.</p>	<p>new/change in wording and meaning</p> <p>This article contains the reporting and monitoring details, which might also be adapted through a delegated act by the EC.</p>	
4	Information to be made available 1. Without prejudice to Article 3, the Commission shall, upon request, make available to the Union institutions, bodies, offices or agencies, any Member State or associated country, any useful information in its possession concerning results generated by a participant in an action that has received	46	<p>Information, communication, publicity and dissemination and exploitation</p> <p>1. The recipients of Union funding shall acknowledge the origin and ensure the visibility of the Union funding (in particular when promotion the actions and their results) by providing coherent, effective and proportionate targeted</p>	<p>new</p> <p>(1) (2) (3) In Horizon Europe, recipients have to make Union funding visible via a dissemination and exploitation strategy of the EC. This approach is another indication that exploitation and dissemination will become even more important in Horizon Europe.</p>	

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
	<p>Union funding, provided that both the following conditions are met:</p> <ul style="list-style-type: none"> (a) the information concerned is relevant to public policy; (b) the participants have not provided sound and sufficient reasons for withholding the information concerned. <p>In actions under the specific objective 'Secure societies - Protecting freedom and security of Europe and its citizens', the Commission shall upon request make available to Union institutions, bodies, offices or agencies or to Member States' national authorities any useful information in its possession concerning results generated by a participant in an action that has received Union funding. The Commission shall notify the participant of such communication. Where a Member State or Union institution, body, office or agency requests the communication of information, the Commission shall also notify such communication to all Member States.</p> <p>2. The provision of information pursuant to paragraph 1 shall not be deemed to transfer to the recipient any rights or obligations of the Commission or of the participants. However, the recipient shall treat any such information as confidential unless it becomes public or is made available publicly by the participants, or unless it was communicated to the Commission without restrictions concerning confidentiality. The Commission rules on security shall apply regarding classified information.</p>		<p>information to multiple audiences, including the media and the public.</p> <p>2. The Commission shall implement information and communication actions relating to the Programme, and its actions and results. Financial resources allocated to the Programme shall also contribute to the corporate communication of the political priorities of the Union, as far as they are related to the objectives referred to in Article 3.</p> <p>3. The Commission shall also establish a dissemination and exploitation strategy for increasing the availability and diffusion of the Programme's Research and Innovation results and knowledge to accelerate exploitation towards market uptake and boost the impact of the Programme. Financial resources allocated to the Programme shall also contribute to the corporate communication of the political priorities of the Union as well as information, communication, publicity, dissemination and exploitation activities as far as they are related to the objectives referred to in Article 3.</p>		
Programme Evaluation					
30	<p>Evaluation of the funding levels</p> <p>The interim evaluation of Horizon 2020 shall include an evaluation of the impact of the</p>	47	<p>Programme Evaluation</p> <p>1. Programme evaluations shall be carried out in a timely manner to feed into the decision-making</p>	change in wording and meaning	

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
	<p>various features introduced by the new funding levels laid down in Articles 27, 28 and 29 of this Regulation, with the aim of evaluating whether the new approach has led to undesired situations adversely affecting the attractiveness of Horizon 2020.</p>		<p>process on the programme, its successor and other initiatives relevant to research and innovation.</p> <p>2. The interim evaluation of the Programme shall be carried out once there is sufficient information available about the implementation of the Programme, but no later than four years after the start of the programme implementation. It shall include an assessment of the long-term impact of previous Framework Programmes and shall form the basis to adjust programme implementation, as appropriate.</p> <p>3. At the end of the implementation of the Programme, but no later than four years after the end of the period specified in Article 1, a final evaluation of the Programme shall be completed by the Commission. It shall include an assessment of the long-term impact of previous Framework Programmes.</p> <p>4. The Commission shall communicate the conclusions of the evaluations accompanied by its observations, to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions.</p>	<p>Details on programme evaluations are added to the RfP Horizon Europe, including timeframes.</p>	
Audits					
35	<p>Certificate on the methodology</p> <p>1. Participants that calculate and claim direct personnel costs on the basis of unit costs in accordance with Article 33(2) may submit to the Commission a certificate on the methodology. That methodology shall comply with the conditions set out in Article 33(2) and meet the requirements of the grant agreement.</p>	48	<p>Audits</p> <p>1. The control system for the Programme shall ensure an appropriate balance between trust and control, taking into account administrative and other costs of controls at all levels, especially for beneficiaries.</p> <p>2. The audit strategy for the Programme shall be based on the financial audit of a representative sample of expenditure across the Programme as a whole. The representative sample shall be</p>	<p>change in wording and meaning</p> <p>(1) As in Horizon 2020, the balance between trust and control is further relevant.</p> <p>(2) The approach that actions being funded from several Union projects will be audited only once is highly appreciated. This is positive, as fewer audits can be expected and therefore the administrative burden will be reduced.</p>	<p>127</p> <p>Cross-reliance on audits</p> <p>Without prejudice to existing possibilities for carrying out further audits, where an audit based on internationally accepted audit standards providing reasonable assurance has been conducted by an independent auditor on the financial statements and reports setting out the use of a Union contribution, that audit shall form the basis of the overall assurance, as</p>

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
36	<p>2. Where the Commission accepts a certificate on the methodology, it shall be valid for all actions financed under Regulation (EU) No 1291/2013 and the participant shall calculate and claim costs on the basis of it. Once the Commission has accepted a certificate on the methodology, it shall not attribute any systemic or recurrent error to the accepted methodology.</p> <p>Certifying auditors</p> <p>1. The certificates on the financial statements and on the methodology referred to in Articles 34 and 35 shall be established by an independent auditor qualified to carry out statutory audits of accounting documents in accordance with Directive 2006/43/EC of the European Parliament and of the Council (1) or similar national regulations, or by a competent and independent public officer in whom the relevant national authorities have vested the legal capacity to audit the participant and who has not been involved in the preparation of the financial statements.</p> <p>2. Upon request by the Commission, the Court of Auditors or the European Anti-fraud Office (OLAF), the auditor who delivers the certificate on the financial statements and on the methodology shall grant access to the supporting documents and audit working papers on the basis of which a certificate on the financial statements or on the methodology was issued.</p>		<p>complemented by a selection based on an assessment of the risks related to expenditure. Actions that receive joint funding from different Union programmes shall be audited only once, covering all involved programmes and their respective applicable rules.</p> <p>3. In addition, the Commission or funding body may rely on combined systems reviews at beneficiary level. These combined reviews shall be optional for certain types of beneficiaries and shall consist in a systems and process audit, complemented by an audit of transactions, carried out by a competent independent auditor qualified to carry out statutory audits of accounting documents in accordance with Directive 2006/43/EC. They may be used by the Commission or funding body to determine overall assurance on the sound financial management of expenditure and for reconsideration of the level of ex-post audits and certificates on financial statements.</p> <p>4. In accordance with Article 127 of the Financial Regulation, the Commission or funding body may rely on audits on the use of Union contributions carried out by other persons or entities, including by other than those mandated by the Union Institutions or bodies.</p> <p>5. Audits may be carried out up to two years after the payment of the balance.</p>	<p>(3) A further advantage is the possibility of combined system reviews at beneficiary level. This means reduced audits for the beneficiaries.</p> <p>In Horizon 2020, the CoMUC was basically not used and therefore had already no practical relevance [see also: Article 32].</p> <p>{see Article 203(4) of the FR, Annex II}</p> <p>[see also: Article 32(4)]</p> <p>(4) Horizon Europe offers the possibility to rely on audits not carried out by the Commission or funding bodies themselves or by such mandated by the Union institutions or bodies.</p>	<p>further specified, where appropriate, in sector-specific rules, provided that there is sufficient evidence of the independence and competence of the auditor. To that end, the report of the independent auditor and the related audit documentation shall be made available on request to the European Parliament, the Commission, the Court of Auditors and the audit authorities of Member States.</p>
Financial Interests of the Union and Delegation					
		49	Protection of financial interests of the Union	new	

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
			<p>1. The Commission or its representatives, and the Court of Auditors, shall have the power of audit or, in the case of international organisations, the power of verification in accordance with agreements reached with them, on the basis of documents and onthe-spot, over all grant beneficiaries, contractors and subcontractors who have received Union funds under this Regulation.</p> <p>2. The European Anti-Fraud Office (OLAF) may carry out administrative investigations, including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council and Council Regulation (Euratom, EC) No 2185/96, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with Union funding or budgetary guarantees under this Regulation.</p> <p>3. Competent authorities of third countries and international organisations may also be required to cooperate with the European Public Prosecutor's Office (EPPO), in accordance with Mutual Legal Assistance Agreements, when it carries out investigations into criminal offences falling within its competence in accordance with Regulation (EU) 2017/1939.</p> <p>4. Without prejudice to paragraphs 1 and 2, cooperation agreements with third countries and with international organisations, contracts, grant agreements and other legal commitments, as well as agreements establishing a budgetary guarantee, resulting from the implementation of this Regulation shall contain provisions expressly empowering the Commission, the Court of Auditors and OLAF to conduct such audits, on-the-</p>	<p>The RFP Horizon Europe sets measures to protect the Union's financial interests. This can be considered as appropriate and reasonable.</p> <p>The term "onthe-spot" should be corrected to "on-the-spot".</p>	

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
			spot checks and inspections, according to their respective competences. This shall include provisions to ensure that any third parties involved in the implementation of Union funds or of a financing operation supported, in whole or in part, by a budgetary guarantee grant equivalent rights.		
56	<p>Exercise of the delegation</p> <p>1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.</p> <p>2. The power to adopt delegated acts referred to in Article 1(3) shall be conferred on the Commission for the duration of Horizon 2020.</p> <p>3. The delegation of power referred to in Article 1(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the <i>Official Journal of the European Union</i> or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.</p> <p>4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.</p> <p>5. A delegated act adopted pursuant to Article 1(3) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both</p>	50	<p>Exercise of the delegation</p> <p>1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.</p> <p>2. The power to adopt delegated acts referred to in Article 45(2) shall be conferred on the Commission until 31 December 2028.</p> <p>3. The delegation of power referred to in Article 45(2) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of power specified in that decision. It shall take effect the day following the publication of the decision in the <i>Official Journal</i> of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.</p> <p>4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.</p> <p>5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.</p>	<p>change in wording and meaning</p> <p>(4) The involvement of the Member States can be considered positive, as the Commission shall consult experts appointed by the Member States.</p>	

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
	informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.		6. A delegated act adopted pursuant to Article 45(2) shall enter into force if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.		
Final Provisions					
57	<p>Repeal and transitional provisions</p> <p>1. Regulation (EC) No 1906/2006 is repealed with effect from 1 January 2014.</p> <p>2. Without prejudice to paragraph 1, this Regulation shall not affect the continuation or modification, including the total or partial termination, of the actions concerned, until their closure, or until the award of financial assistance by the Commission or funding bodies under Decision No 1982/ 2006/EC or any other legislation applying to that assistance on 31 December 2013, which shall continue to apply to the actions concerned until their closure.</p> <p>3. Any sums from the participant Guarantee Fund set up by Regulation (EC) No 1906/2006 as well as all its rights and obligations shall be transferred to the Fund as of 31 December 2013. The participants in actions under Decision No 1982/ 2006/EC signing grant agreements after 31 December 2013 shall make their contribution to the Fund.</p>	51	<p>Repeal</p> <p>Regulation (EU) No 1291/2013 and Regulation (EU) No 1290/2013 are repealed with effect from 1 January 2021.</p>	change in wording and meaning	
		52	<p>Transitional provisions</p> <p>1. This Regulation shall not affect the continuation or modification of the actions concerned, until their closure, under Regulation (EU) No 1291/2013 and Regulation (EU) No 1290/2013, which shall continue to apply to those actions until their closure. Work plans and actions provided for in work plans adopted under Regulation (EU) No1290/2013 and under the corresponding funding bodies' basic acts shall also continue to be governed by Regulation (EU) No1290/2013 and those basic acts until their completion.</p> <p>2. The financial envelope for the Programme may also cover technical and administrative assistance expenses necessary to ensure the transition between the Programme and the measures adopted under its predecessor Regulation (EU) No 1291/2013.</p>		

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
58	<p>This Regulation shall enter into force on the third day following that of its publication in the <i>Official Journal of the European Union</i>. This Regulation shall be binding in its entirety and directly applicable in all Member States.</p> <p>Done at Strasbourg,</p>	53	<p>Entry into force</p> <p>This Regulation shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i>. This Regulation shall be binding in its entirety and directly applicable in all Member States.</p> <p>Done at Brussels,</p>	change in wording and meaning	
52	<p>Financial Instruments</p> <p>1. Financial instruments may take any of the forms referred to in, and shall be implemented in accordance with, Title VIII of Regulation (EU, Euratom) No 966/2012 and may be combined with each other and with grants funded under the Union budget, including under Regulation (EU) No 1291/2013.</p> <p>2. By way of derogation from the second subparagraph of Article 140(6) of Regulation (EU, Euratom) No 966/2012, both revenues and annual repayments generated by a financial instrument established under Regulation (EU) No 1291/2013 shall be assigned, in accordance with Article 21(4) of Regulation No 966/2012, to that financial instrument.</p> <p>3. By way of derogation from the second subparagraph of Article 140(6) of Regulation (EU, Euratom) No 966/2012, both revenues and annual repayments generated by the Risk Sharing Finance facility set up under Decision No 1982/2006/EC and the early stage part of the High-Growth and Innovative SME Facility (GIF1) set up under Decision No 1639/2006/EC, shall be assigned, in accordance with Article 21(4) of Regulation (EU, Euratom) No 966/2012, to the succeeding financial</p>			<p>removed</p> <p>The article about “financial instruments” has been removed from the RfP Horizon Europe, as they have been added to the InvestEU.</p>	

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
	instruments under Regulation (EU) No 1291/2013.				
53	<p>SME Instrument</p> <p>1. Only SMEs may apply for calls for proposals issued under the dedicated SME instrument referred to in Article 22 of Regulation (EU) No 1291/2013. They may cooperate with other companies, and with research organisations or universities.</p> <p>2. Once a company has been validated as an SME, that legal status shall be assumed to prevail for the entire duration of the project, even in cases where the company, due to its growth, later exceeds the ceilings of the SME definition.</p> <p>3. In the case of the SME instrument or grants by funding bodies or by the Commission targeting SMEs, the grant agreement may lay down specific provisions, in particular on ownership, access rights, exploitation and dissemination.</p>			<p>removed</p> <p>The article concerning the SME instrument has been removed from the RfP Horizon Europe, as SME activities will be covered by the EIC activities.</p>	
54	<p>Fast Track to Innovation</p> <p>1. In accordance with Article 7, any legal entity may participate in a Fast Track to Innovation ("FTI") action. Actions funded under FTI shall be innovation actions. The FTI call shall be open to proposals relating to any technology field under the specific objective "Leadership in enabling and industrial technologies" set out in point 1 of Part II of Annex I to Regulation (EU) No 1291/2013 or to any of the specific objectives under the priority "Societal challenges" set out in points 1 to 7 of Part III of Annex I to that Regulation.</p>			<p>removed</p> <p>The article concerning the Fast Track to Innovation instrument has been removed from the RfP Horizon Europe.</p>	

Horizon 2020 Article	Horizon 2020 Rules for Participation	Horizon Europe Article	Horizon Europe Rules for Participation	Analysis	Financial Regulation 2018/1046
	<p>2. Proposals may be submitted at any time. The Commission shall set three cut-off dates per year to evaluate proposals. The period between a cut-off date and signature of the grant agreement or notification of the grant decision shall not exceed six months. Proposals shall be ranked according to the impact, quality and efficiency of implementation and excellence, with the criterion of impact given a higher weighting. No more than five legal entities shall participate in any one action. The amount of the grant shall not exceed EUR 3 million.</p>				

ANNEX I

Common Provisions on the European Structural Funds 2018/0196

and

Regulation on the financing, management and monitoring of the common agricultural policy 2018/0217

Common Provisions on the European Structural Funds 2018/0196

- **Article 21** (reference in Article 9(8) of the Rules for Participation in Horizon Europe)

Transfer of resources

1. Member States may request the transfer of up to 5 % of programme financial allocations from any of the Funds to any other Fund under shared management or to any instrument under direct or indirect management.
2. Transferred resources shall be implemented in accordance with the rules of the Fund or the instrument to which the resources are transferred and, in the case of transfers to instruments under direct or indirect management, for the benefit of the Member State concerned.
3. Requests under paragraph 1 shall set out the total amount transferred for each year by Fund and by category of region, where relevant, shall be duly justified and shall be accompanied by the revised programme or programmes, from which the resources are to be transferred in accordance with Article 19 indicating to which other Fund or instrument the amounts are transferred.
4. The Commission may object to a request for transfer in the related programme amendment where this would undermine the achievement of the objectives of the programme from which the resources are to be transferred.
5. Only resources of future calendar years may be transferred.

- **Article 67(5)** (reference in Article 11 of the Rules for Participation in Horizon Europe)

Selection of operations by the managing authority

[...]

5. For operations awarded a Seal of Excellence certification, or selected under the programme co-fund under Horizon Europe, the managing authority may decide to grant support from the ERDF or the ESF+ directly, provided that such operations are consistent with the objectives of the programme.

The co-financing rate of the instrument providing the Seal of Excellence certification or the programme co-fund shall apply and shall be set out in the document referred in paragraph 4.

[...]

4. The managing authority shall ensure that the beneficiary is provided with a document setting out all the conditions for support for each operation including the specific requirements concerning the products or services to be delivered, the financing plan, the time-limit for its execution and where applicable, the method to be applied for determining the costs of the operation and the conditions for payment of the grant.

Regulation on the financing, management and monitoring of the common agricultural policy 2018/0217

- **Article 8** (reference in Article 11 of the Rules for Participation in Horizon Europe)

Paying agencies and coordinating bodies

1. Paying agencies shall be departments or bodies of the Member States responsible for the management and control of expenditure referred in Article 5(2) and Article 6.

With the exception of making payment, the carrying out of those tasks may be delegated.

2. Member States shall accredit, as paying agencies, departments or bodies which have an administrative organisation and a system of internal control which provide sufficient guarantees that payments are legal, regular and properly accounted for. To this end, paying agencies shall comply with minimum conditions for the accreditation with regard to the internal environment, control activities, information and communication and monitoring laid down by the Commission pursuant to point (a) of Article 10(1).

Each Member State shall restrict the number of its accredited paying agencies as follows:

- (a) to a single agency at national level or, where applicable, one per region; and
- (b) to a single agency for the management of both EAGF and EAFRD expenditure.

However, where paying agencies are established at regional level, Member States shall, in addition, either accredit a paying agency at national level for aid schemes which, by their nature, have to be managed at national level or Member States shall confer the management of these schemes on their regional paying agencies.

Paying agencies which did not manage EAGF or EAFRD expenditure for at least three years shall have their accreditation withdrawn.

Member States shall not appoint any new additional paying agency after the date of entry into force of this Regulation.

3. For the purposes of Article 63(5) and (6) of Regulation (EU, Euratom) 2018/... [the new Financial Regulation] ('the Financial Regulation'), the person in charge of the accredited paying agency shall, by 15 February of the year following the financial year concerned, draw up and provide the Commission with the following:

- (a) the annual accounts for the expenditure incurred in carrying out the tasks entrusted to their accredited paying agency, as provided for in point (a) of Article 63(5) of the Financial Regulation, accompanied by the requisite information for their clearance in accordance with Article 51;

- (b) the annual performance report referred to in Article 52(1) showing that the expenditure was made in accordance with Article 35;
- (c) a management declaration as provided for in Article 63(6) of the Financial Regulation, as to:
 - (i) the fact that the information is properly presented, complete and accurate, as provided for in point (a) of Article 63(6) of the Financial Regulation,
 - (ii) the proper functioning of the governance systems put in place, which give the necessary guarantees concerning the outputs reported in the annual performance report, as provided for in points (b) and (c) of Article 63(6) of the Financial Regulation,
 - (iii) an analysis of the nature and extent of errors and weaknesses identified in systems by audit and controls, as well as corrective action taken or planned, as provided for in point (b) of Article 63(5) of the Financial Regulation.

The deadline of 15 February referred to in the first subparagraph may be exceptionally extended by the Commission to 1 March, upon request by the Member State concerned, as provided for in the second subparagraph Article 63(7) of the Financial Regulation.

4. Where more than one paying agency is accredited, Member States shall appoint a public coordinating body, to which it shall assign the following tasks:

- (a) to collect the information to be provided to the Commission and to send that information to the Commission;
- (b) to furnish the annual performance report referred to in Article 52(1);
- (c) to take or coordinate actions with a view to resolving any deficiencies of a common nature and to keep the Commission informed of any follow-up;
- (d) to promote and ensure harmonised application of Union rules.

As regards the processing of the financial information referred to in point (a) of the first subparagraph, the coordinating body shall be subject to specific accreditation by the Member States.

The annual performance report provided by the coordinating body shall be covered by the scope of the opinion referred to in Article 11(1) and its transmission shall be accompanied by a management declaration covering the entirety of that report.

5. Where an accredited paying agency does not meet or no longer meets one or more of the accreditation criteria referred to in paragraph 2, the Member State, acting on its own initiative or at the request of the Commission, shall withdraw that accreditation unless the paying agency makes the necessary changes within a period to be determined by the competent authority depending on the severity of the problem.

6. The paying agencies shall manage and ensure the control of the operations linked to public intervention for which they are responsible and they shall retain overall responsibility in that field.

Where support is provided through a financial instrument which is implemented by the EIB or another international financial institution in which a Member State is a shareholder, the paying agency shall rely on the control report supporting the payment applications submitted by the EIB or another international institution.

ANNEX II

Further relevant articles of the Financial Regulation 2018/1046

- **Article 2** (further relevant for Article 2 Title I “Definitions” and Annex II “Types of Actions” of the Rules for Participation in Horizon Europe)

Definitions

For the purposes of this Regulation, the following definitions apply:

- (1) ‘applicant’ means a natural person or an entity with or without legal personality who has submitted an application in a grant award procedure or in a contest for prizes;
- (2) ‘application document’ means a tender, a request to participate, a grant application or an application in a contest for prizes;
- (3) ‘award procedure’ means a procurement procedure, a grant award procedure, a contest for prizes, or a procedure for the selection of experts or persons or entities implementing the budget pursuant to point (c) of the first subparagraph of Article 62(1);
- (4) ‘basic act’ means a legal act, other than a recommendation or an opinion, which provides a legal basis for an action and for the implementation of the corresponding expenditure entered in the budget or of the budgetary guarantee or financial assistance backed by the budget, and which may take any of the following forms:
 - (a) in implementation of the Treaty on the Functioning of the European Union (TFEU) and the Treaty establishing the European Atomic Energy Community (the Euratom Treaty), the form of a regulation, a directive or a decision within the meaning of Article 288 TFEU; or
 - (b) in implementation of Title V of the Treaty on European Union (TEU), one of the forms specified in Articles 28(1) and 31(2), Article 33, and Articles 42(4) and 43(2) TEU;
- (5) ‘beneficiary’ means a natural person or an entity with or without legal personality with whom a grant agreement has been signed;
- (6) ‘blending facility or platform’ means a cooperation framework established between the Commission and development or other public finance institutions with a view to combining non-repayable forms of support and/or financial instruments and/or budgetary guarantees from the budget and repayable forms of support from development or other public finance institutions, as well as from private-sector finance institutions and private-sector investors;
- (7) ‘budget implementation’ means the carrying out of activities relating to the management, monitoring, control and auditing of budget appropriations in accordance with the methods provided for in Article 62;
- (8) ‘budgetary commitment’ means the operation by which the authorising officer responsible reserves the budget appropriations necessary to cover subsequent payments to honour legal commitments;
- (9) ‘budgetary guarantee’ means a legal commitment of the Union to support a programme of actions by taking on the budget a financial obligation that can be called upon should a specified event materialise during the implementation of the programme, and that remains valid for the duration of the maturity of the commitments made under the supported programme;

- (10) 'building contract' means a contract covering the purchase, exchange, long lease, usufruct, leasing, rental or hire purchase, with or without option to buy, of land, buildings or other immovable property. It covers both existing buildings and buildings before completion provided that the candidate has obtained a valid building permit for it. It does not cover buildings designed in accordance with the specifications of the contracting authority that are covered by works contracts;
- (11) 'candidate' means an economic operator that has sought an invitation or has been invited to take part in a restricted procedure, a competitive procedure with negotiation, a competitive dialogue, an innovation partnership, a design contest or a negotiated procedure;
- (12) 'central purchasing body' means a contracting authority providing centralised purchasing activities and, where applicable, ancillary purchasing activities;
- (13) 'check' means the verification of a specific aspect of a revenue or expenditure operation;
- (14) 'concession contract' means a contract for pecuniary interest concluded in writing between one or more economic operators and one or more contracting authorities within the meaning of Articles 174 and 178, in order to entrust the execution of works or the provision and management of services to an economic operator (the 'concession'), and where:
- (a) the remuneration consists either solely in the right to exploit the works or services or in that right together with payment;
 - (b) the award of the concession contract involves the transfer to the concessionaire of an operating risk in exploiting those works or services encompassing demand risk or supply risk, or both. The concessionaire shall be deemed to assume an operating risk where, under normal operating conditions, there is no guarantee of recouping the investments made or the costs incurred in operating the works or the services concerned;
- (15) 'contingent liability' means a potential financial obligation that could be incurred depending on the outcome of a future event;
- (16) 'contract' means a public contract or a concession contract;
- (17) 'contractor' means an economic operator with whom a public contract has been signed;
- (18) 'contribution agreement' means an agreement concluded with persons or entities implementing Union funds pursuant to points (c)(ii) to (viii) of the first subparagraph of Article 62(1);
- (19) 'control' means any measure taken to provide reasonable assurance regarding the effectiveness, efficiency and economy of operations, the reliability of reporting, the safeguarding of assets and information, the prevention and detection and correction of fraud and irregularities and their follow-up, and the adequate management of the risks relating to the legality and regularity of the underlying transactions, taking into account the multiannual character of programmes as well as the nature of the payments concerned. Controls may involve various checks, as well as the implementation of any policies and procedures to achieve the objectives referred to in the first sentence;
- (20) 'counterpart' means the party that is granted a budgetary guarantee;
- (21) 'crisis' means:
- (a) a situation of immediate or imminent danger threatening to escalate into an armed conflict or to destabilise a country or its neighbourhood;
 - (b) a situation caused by natural disasters, man-made crisis such as wars and other conflicts or extraordinary circumstances having comparable effects related, inter alia, to climate change, environmental degradation, privation of access to energy and natural resources or extreme poverty;
- (22) 'decommitment' means an operation whereby the authorising officer responsible cancels wholly or partly the reservation of appropriations previously made by means of a budgetary commitment;

- (23) ‘dynamic purchasing system’ means a completely electronic process for making commonly used purchases of items generally available on the market;
- (24) ‘economic operator’ means any natural or legal person, including a public entity, or a group of such persons, who offers to supply products, execute works or provide services or supply immovable property;
- (25) ‘equity investment’ means the provision of capital to a company, invested directly or indirectly in return for total or partial ownership of that company and where the equity investor may assume some management control of the company and may share the company’s profits;
- (26) ‘European office’ means an administrative structure set up by the Commission, or by the Commission with one or more other Union institutions, to perform specific cross-cutting tasks;
- (27) ‘final administrative decision’ means a decision of an administrative authority having final and binding effect in accordance with the applicable law;
- (28) ‘financial asset’ means any asset in the form of cash, an equity instrument of a publicly or privately held entity or a contractual right to receive cash or another financial asset from such entity;
- (29) ‘financial instrument’ means a Union measure of financial support provided from the budget to address one or more specific policy objectives of the Union which may take the form of equity or quasi-equity investments, loans or guarantees, or other risk-sharing instruments, and which may, where appropriate, be combined with other forms of financial support or with funds under shared management or funds of the European Development Fund (EDF);
- (30) ‘financial liability’ means a contractual obligation to deliver cash or another financial asset to another entity;
- (31) ‘framework contract’ means a public contract concluded between one or more economic operators and one or more contracting authorities, the purpose of which is to establish the terms governing specific contracts under it to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged;
- (32) ‘global provisioning’ means the total amount of resources deemed necessary over the entire lifetime of a budgetary guarantee as a result of applying the provisioning rate referred to in Article 211(1) to the amount of the budgetary guarantee authorised by the basic act referred to in point (b) of Article 210(1);
- (33) ‘grant’ means a financial contribution by way of donation. Where such a contribution is provided under direct management, it shall be governed by Title VIII;
- (34) ‘guarantee’ means a written commitment to assume responsibility for all or part of a third party’s debt or obligation or for the successful performance by that third party of its obligations if an event occurs which triggers such guarantee, such as a loan default;
- (35) ‘guarantee on demand’ means a guarantee that must be honoured by the guarantor upon the counterpart’s demand, notwithstanding any deficiencies in the enforceability of the underlying obligation;
- (36) ‘in-kind contribution’ means non-financial resources made available free of charge by third parties to a beneficiary;
- (37) ‘legal commitment’ means an act whereby the authorising officer responsible enters into or establishes an obligation which results in subsequent payment or payments and the recognition of expenditure charged to the budget, and which includes specific agreements and contracts concluded under financial framework partnership agreements and framework contracts;
- (38) ‘leverage effect’ means the amount of reimbursable financing provided to eligible final recipients divided by the amount of the Union contribution;
- (39) ‘liquidity risk’ means the risk that a financial asset held in the common provisioning fund might not be sold during a certain period of time without incurring a significant loss;

- (40) 'loan' means an agreement which obliges the lender to make available to the borrower an agreed amount of money for an agreed period and under which the borrower is obliged to repay that amount within the agreed period;
- (41) 'low value grant' means a grant lower than or equal to EUR 60 000;
- (42) 'Member State organisation' means an entity established in a Member State as a public law body, or as a body governed by private law entrusted with a public service mission and provided with adequate financial guarantees from the Member State;
- (43) 'method of implementation' means any of the methods of budget implementation referred to in Article 62, that is direct management, indirect management and shared management;
- (44) 'multi-donor action' means any action where Union funds are pooled with at least one other donor;
- (45) 'multiplier effect' means the investment by eligible final recipients divided by the amount of the Union contribution;
- (46) 'output' means the deliverables generated by the action determined in accordance with sector-specific rules;
- (47) 'participant' means a candidate or tenderer in a procurement procedure, an applicant in a grant award procedure, an expert in a procedure for selection of experts, an applicant in a contest for prizes or a person or entity participating in a procedure for implementing Union funds pursuant to point (c) of the first subparagraph of Article 62(1);
- (48) 'prize' means a financial contribution given as a reward following a contest. Where such a contribution is provided under direct management, it shall be governed by Title IX;
- (49) 'procurement' means the acquisition by means of a contract of works, supplies or services and the acquisition or rental of land, buildings or other immovable property, by one or more contracting authorities from economic operators chosen by those contracting authorities;
- (50) 'procurement document' means any document produced or referred to by the contracting authority to describe or determine elements of the procurement procedure, including:
- (a) the publicity measures set out in Article 163;
 - (b) the invitation to tender;
 - (c) the tender specifications, including the technical specifications and the relevant criteria, or the descriptive documents in the case of a competitive dialogue;
 - (d) the draft contract;
- (51) 'public contract' means a contract for pecuniary interest concluded in writing between one or more economic operators and one or more contracting authorities within the meaning of Articles 174 and 178, in order to obtain, against payment of a price paid in whole or in part from the budget, the supply of movable or immovable assets, the execution of works or the provision of services, comprising:
- (a) building contracts;
 - (b) supply contracts;
 - (c) works contracts;
 - (d) service contracts;

- (52) 'quasi-equity investment' means a type of financing that ranks between equity and debt, having a higher risk than senior debt and a lower risk than common equity and which can be structured as debt, typically unsecured and subordinated and in some cases convertible into equity, or into preferred equity;
- (53) 'recipient' means a beneficiary, a contractor, a remunerated external expert or a person or entity receiving prizes or funds under a financial instrument or implementing Union funds pursuant to point (c) of the first subparagraph of Article 62(1);
- (54) 'repurchase agreement' means the sale of securities for cash with an agreement to repurchase them on a specified future date, or on demand;
- (55) 'research and technological development appropriation' means an appropriation entered either in one of the titles of the budget relating to the policy areas linked to 'Indirect research' or 'Direct research' or in a chapter relating to research activities in another title;
- (56) 'result' means the effects of the implementation of an action determined in accordance with sector-specific rules;
- (57) 'risk-sharing instrument' means a financial instrument which allows for the sharing of a defined risk between two or more entities, where appropriate in exchange for an agreed remuneration;
- (58) 'service contract' means a contract covering all intellectual and non-intellectual services other than those covered by supply contracts, works contracts and building contracts;
- (59) 'sound financial management' means implementation of the budget in accordance with the principles of economy, efficiency and effectiveness;
- (60) 'Staff Regulations' means the Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the European Union laid down in Regulation (EEC, Euratom, ECSC) No 259/68;
- (61) 'subcontractor' means an economic operator that is proposed by a candidate or tenderer or contractor to perform part of a contract or by a beneficiary to perform part of the tasks co-financed by a grant;
- (62) 'subscription' means sums paid to bodies of which the Union is member, in accordance with the budgetary decisions and the conditions of payment established by the body concerned;
- (63) 'supply contract' means a contract covering the purchase, leasing, rental or hire purchase, with or without option to buy, of products, and which may include, as an incidental matter, siting and installation operations;
- (64) 'technical assistance' means, without prejudice to sector-specific rules, support and capacity-building activities necessary for the implementation of a programme or an action, in particular preparatory, management, monitoring, evaluation, audit and control activities;
- (65) 'tenderer' means an economic operator that has submitted a tender;
- (66) 'Union' means the European Union, the European Atomic Energy Community, or both, as the context may require;
- (67) 'Union institution' means the European Parliament, the European Council, the Council, the Commission, the Court of Justice of the European Union, the Court of Auditors, the European Economic and Social Committee, the Committee of the Regions, the European Ombudsman, the European Data Protection Supervisor or the European External Action Service (the 'EEAS'); the European Central Bank shall not be considered to be a Union institution;
- (68) 'vendor' means an economic operator registered in a list of vendors to be invited to submit requests to participate in or submit tenders;
- (69) 'volunteer' means a person working on a non-compulsory basis for an organisation without being paid;

(70) ‘work’ means the outcome of building or civil engineering works taken as a whole that is sufficient in itself to fulfil an economic or technical function;

(71) ‘works contract’ means a contract covering either:

- (a) the execution or both the execution and design of a work;
- (b) the execution or both the execution and design of a work related to one of the activities referred to in Annex II to Directive 2014/24/EU; or
- (c) the realisation, by whatever means, of a work corresponding to the requirements specified by the contracting authority exercising a decisive influence on the type or design of the work.

- **Article 38** (further relevant for Article 44 “Appointment of external experts” of the Rules for Participation in Horizon Europe)

Publication of information on recipients and other information

1. The Commission shall make available, in an appropriate and timely manner, information on recipients of funds financed from the budget, where the budget is implemented by it in accordance with point (a) of the first subparagraph of Article 62(1).

The first subparagraph of this paragraph shall also apply to other Union institutions when they implement the budget pursuant to Article 59(1).

2. Save in the cases referred to in paragraphs 3 and 4, the following information shall be published, having due regard for the requirements of confidentiality and security, in particular the protection of personal data:

- (a) the name of the recipient;
- (b) the locality of the recipient, namely:
 - (i) the address of the recipient when the recipient is a legal person;
 - (ii) the region on NUTS 2 level when the recipient is a natural person;
- (c) the amount legally committed;
- (d) the nature and purpose of the measure.

The information referred to in the first subparagraph of this paragraph shall only be published for prizes, grants and contracts which have been awarded as a result of contests, grant award procedures or procurement procedures, and for experts selected pursuant to Article 237(2).

3. The information referred to in the first subparagraph of paragraph 2 shall not be published for:

- (a) education supports paid to natural persons and other direct support paid to natural persons most in need as referred to in point (b) of Article 191(4);
- (b) very low value contracts awarded to experts selected pursuant to Article 237(2) as well as very low value contracts below the amount referred to in point 14.4 of Annex I;

(c) financial support provided through financial instruments for an amount lower than EUR 500 000;

(d) where disclosure risks threatening the rights and freedoms of the persons or entities concerned as protected by the Charter of Fundamental Rights of the European Union or harming the commercial interests of the recipients.

In the cases referred to in point (c) of the first subparagraph, the information made available shall be limited to statistical data, aggregated in accordance with relevant criteria, such as geographical situation, economic typology of recipients, type of support received and the Union policy area under which such support was provided.

Where natural persons are concerned, the disclosure of the information referred to in the first subparagraph of paragraph 2 shall be based on relevant criteria such as the frequency or the type of the measure and the amounts involved.

4. Persons or entities implementing Union funds pursuant to point (c) of the first subparagraph of Article 62(1) shall publish information on recipients in accordance with their rules and procedures, to the extent that those rules are deemed equivalent following the assessment carried out by the Commission pursuant to point (e) of the first subparagraph of Article 154(4), and provided that any publication of personal data is subject to safeguards equivalent to those set out in this Article.

Bodies designated pursuant to Article 63(3) shall publish information in accordance with sector-specific rules. Those sector-specific rules may, in accordance with the relevant legal basis, derogate from paragraphs 2 and 3 of this Article, in particular for the publication of personal data, where justified on the basis of the criteria referred to in the third subparagraph of paragraph 3 of this Article, and taking into account the specificities of the sector concerned.

5. The information referred to in paragraph 1 shall be published on the websites of Union institutions, no later than 30 June of the year following the financial year in which the funds were legally committed.

The websites of Union institutions shall contain a reference to the address of the website where the information referred to in paragraph 1 can be found if it is not published directly on a dedicated website of Union institutions.

The Commission shall make available, in an appropriate and timely manner, information about a single website, including a reference to its address, where the information as provided by the persons, entities or bodies referred to in paragraph 4 can be found.

6. Where personal data are published, the information shall be removed two years after the end of the financial year in which the funds were legally committed. This shall also apply to personal data referring to legal persons whose official name identifies one or more natural persons.

- **Article 116** (further relevant for Article 21 “Time to pay” of the Rules for Participation in Horizon 2020)

Time limits for payments

1. Payments shall be made within:

(a) 90 calendar days for contribution agreements, contracts and grant agreements involving technical services or actions which are particularly complex to evaluate and for which payment depends on the approval of a report or a certificate;

(b) 60 calendar days for all other contribution agreements, contracts and grant agreements for which payment depends on the approval of a report or a certificate;

(c) 30 calendar days for all other contribution agreements, contracts and grant agreements.

2. The time allowed for making payments shall be understood to include validation, authorisation and the payment of expenditure.

It shall begin to run from the date on which a payment request is received.

3. A payment request shall be registered by the authorised department of the authorising officer responsible as soon as possible and is deemed to be received on the date it is registered.

The date of payment is deemed to be the date on which the Union institution's account is debited.

A payment request shall include the following essential elements:

- (a) the creditor's identification;
- (b) the amount;
- (c) the currency;
- (d) the date.

Where at least one essential element is missing, the payment request shall be rejected.

The creditor shall be informed in writing of a rejection and the reasons for it as soon as possible and in any case within 30 calendar days from the date on which the payment request was received.

4. The authorising officer responsible may suspend the time limit for payment where:

- (a) the amount of the payment request is not due; or
- (b) the appropriate supporting documents have not been produced.

If information comes to the notice of the authorising officer responsible which puts in doubt the eligibility of expenditure in a payment request, he or she may suspend the time limit for payment for the purpose of verifying, including by means of on-the-spot-checks, that the expenditure is eligible. The remaining time allowed for payment shall begin to run from the date on which the requested information or revised documents are received or the necessary further verification, including on-the-spot checks, is carried out.

The creditors concerned shall be informed in writing of the reasons for a suspension.

5. Except in the case of Member States, the EIB and the EIF, on the expiry of the time limits laid down in paragraph 1, the creditor shall be entitled to interest in accordance with the following conditions:

- (a) the interest rates shall be those referred to in Article 99(2);
- (b) the interest shall be payable for the period elapsing from the calendar day following expiry of the time limit for payment laid down in paragraph 1 up to the day of payment.

However, in the event that the interest calculated in accordance with the first subparagraph is lower than or equal to EUR 200, it shall be paid to the creditor only on a request submitted within two months of receiving late payment.

6. Each Union institution shall submit to the European Parliament and Council a report on the compliance with and the suspension of the time limits laid down in paragraphs 1 to 4 of this Article. The report of the Commission shall be annexed to the summary of the annual activity reports referred to in Article 74(9).

- **Article 125** (further relevant for Article 17 “Grants” of the Rules for Participation in Horizon Europe)

Forms of Union contribution

1. Union contributions under direct, shared and indirect management shall help achieve a Union policy objective and the results specified and may take any of the following forms:

- (a) financing not linked to the costs of the relevant operations based on:
 - (i) the fulfilment of conditions set out in sector-specific rules or Commission decisions; or
 - (ii) the achievement of results measured by reference to previously set milestones or through performance indicators;
- (b) reimbursement of eligible costs actually incurred;
- (c) unit costs, which cover all or certain specific categories of eligible costs which are clearly identified in advance by reference to an amount per unit;
- (d) lump sums, which cover in global terms all or certain specific categories of eligible costs which are clearly identified in advance;
- (e) flat-rate financing, which covers specific categories of eligible costs, which are clearly identified in advance, by applying a percentage;
- (f) a combination of the forms referred to in points (a) to (e).

Union contributions under point (a) of the first subparagraph of this paragraph shall, in direct and indirect management, be established in accordance with Article 181, sector-specific rules or a Commission decision and, in shared management, in accordance with sector-specific rules. Union contributions under points (c), (d) and (e) of the first subparagraph of this paragraph shall, in direct and indirect management, be established in accordance with Article 181 or sector-specific rules and, in shared management, in accordance with sector-specific rules.

2. When determining the appropriate form of a contribution, the potential recipients’ interests and accounting methods shall be taken into account to the greatest extent possible.

3. The authorising officer responsible shall report on financing not linked to costs pursuant to points (a) and (f) of the first subparagraph of paragraph 1 of this Article in the annual activity report referred to in Article 74(9).

- **Article 133** (further relevant for Article 29(3) “Implementation of the Grant” of the Rules for Participation in Horizon Europe)

Adversarial procedure and means of redress

1. Before adopting any measure adversely affecting the rights of a participant or a recipient the authorising officer responsible shall ensure that the participant or the recipient has been given the opportunity to submit observations.
2. Where a measure of an authorising officer adversely affects the rights of a participant or a recipient, the act establishing that measure shall contain an indication of the available means of administrative and/or judicial redress for challenging it.

- **Article 148** (further relevant for Article 22 “Secure electronic system” of the Rules for Participation in Horizon 2020)

Electronic exchange systems

1. All exchanges with recipients, including the entering into legal commitments and any amendments thereto, may be done through electronic exchange systems.
2. Electronic exchange systems shall satisfy the following conditions:
 - (a) only authorised persons may have access to the system and to documents transmitted through it;
 - (b) only authorised persons may electronically sign or transmit a document through the system;
 - (c) authorised persons are identified through the system by established means;
 - (d) the time and date of the electronic transaction are determined precisely;
 - (e) the integrity of documents is preserved;
 - (f) the availability of documents is preserved;
 - (g) where appropriate, the confidentiality of documents is preserved;
 - (h) the protection of personal data in accordance with Regulation (EC) No 45/2001 is ensured.
3. Data sent or received through such a system shall enjoy legal presumption of the integrity of the data and the accuracy of the date and time of sending or receiving the data indicated by the system.

A document sent or notified through such a system shall be considered as equivalent to a paper document, shall be admissible as evidence in legal proceedings, shall be deemed original and shall enjoy legal presumption of its authenticity and integrity, provided that the document does not contain any dynamic features capable of automatically changing it.

The electronic signatures referred to in point (b) of paragraph 2 shall have a legal effect equivalent to handwritten signatures.

- **Article 150** (further relevant for Article 24 “Selection criteria” and Article 25 “Award criteria” and Article 26 “Evaluation” of the Rules for Participation in Horizon Europe)

Evaluation committee

1. Application documents shall be evaluated by an evaluation committee.
2. The evaluation committee shall be appointed by the authorising officer responsible.

The evaluation committee shall be made up of at least three persons.

3. The members of the evaluation committee evaluating grant applications or tenders shall represent at least two organisational entities of Union institutions or Union bodies referred to in Articles 68, 70 and 71 with no hierarchical link between them, at least one of which does not come under the authorising officer responsible. Where representations and local units outside the Union, such as a Union delegation, office or branch office in a third country, and Union bodies referred to in Articles 68, 70 and 71 have no separate entities, the requirement of organisational entities with no hierarchical link between them shall not apply.

External experts may assist the evaluation committee pursuant to a decision of the authorising officer responsible.

Members of the evaluation committee may be external experts where that possibility is provided for in the basic act.

4. The members of the evaluation committee evaluating applications in a contest for prizes may be persons referred to in the first subparagraph of paragraph 3 or external experts.
5. The members of the evaluation committee and the external experts shall comply with Article 61.

- **Title VII – Articles 160 – 177** (further relevant for Article 22 “Pre-commercial procurement and procurement of innovative solutions” and Article 40 “Procurement” of the Rules for Participation in Horizon Europe)

PROCUREMENT AND CONCESSIONS

CHAPTER 1

Common provisions

Article 160

Principles applicable to contracts and scope

1. All contracts financed in whole or in part by the budget shall respect the principles of transparency, proportionality, equal treatment and non-discrimination.
2. All contracts shall be put out to competition on the broadest possible basis, except when use is made of the procedure referred to in point (d) of Article 164(1).

The estimated value of a contract shall not be determined with a view to circumventing the applicable rules, nor shall a contract be split up for that purpose.

The contracting authority shall divide a contract into lots, whenever appropriate, with due regard to broad competition.

3. Contracting authorities shall not use framework contracts improperly or in such a way that their purpose or effect is to prevent, restrict or distort competition.

4. The JRC may receive funding charged to appropriations other than research and technological development appropriations in respect of its participation in procurement procedures financed in whole or in part from the budget.

5. The rules on procurement laid down in this Regulation shall not apply to the activities of the JRC on behalf of third parties, with the exception of the principles of transparency and equal treatment.

Article 161

Annex on procurement and delegation of powers

Detailed rules on procurement are laid down in Annex I to this Regulation. To ensure that Union institutions, when awarding contracts on their own account, apply the same standards as those imposed on contracting authorities covered by Directives 2014/23/EU and 2014/24/EU, the Commission is empowered to adopt delegated acts in accordance with Article 269 of this Regulation to amend Annex I to this Regulation, in order to align that Annex to amendments to those Directives and to introduce related technical adjustments.

Article 162

Mixed contracts and common procurement vocabulary

1. A mixed contract covering two or more types of procurement (works, supplies or services) or concessions (works or services) or both, shall be awarded in accordance with the provisions applicable to the type of procurement that characterises the main subject matter of the contract in question.

2. In the case of mixed contracts consisting of supplies and services, the main subject matter shall be determined by a comparison of the values of the respective supplies or services.

A contract covering one type of procurement (works, supplies or services) and concessions (works or services) shall be awarded in accordance with the provisions applicable to the public contract concerned.

3. This Title shall not apply to contracts for technical assistance concluded with the EIB or the EIF.

4. Any references to nomenclatures in the context of procurement shall be made using the Common Procurement Vocabulary (CPV) as set out in Regulation (EC) No 2195/2002 of the European Parliament and of the Council (1).

Article 163

Publicity measures

1. For procedures with a value equal to or greater than the thresholds referred to in Article 175(1) or Article 178, the contracting authority shall publish in the *Official Journal of the European Union*:
 - (a) a contract notice to launch a procedure, except in the case of the procedure referred to in point (d) of Article 164(1);
 - (b) a contract award notice on the results of the procedure.
2. Procedures with a value below the thresholds referred to in Article 175(1) or Article 178 shall be advertised by appropriate means.
3. Publication of certain information on a contract award may be withheld where its release would impede law enforcement, or otherwise be contrary to the public interest, would harm the legitimate commercial interests of economic operators or might prejudice fair competition between them.

Article 164

Procurement procedures

1. Procurement procedures for awarding concession contracts or public contracts, including framework contracts shall take one of the following forms:
 - (a) open procedure;
 - (b) restricted procedure, including through a dynamic purchasing system;
 - (c) design contest;
 - (d) negotiated procedure, including without prior publication;
 - (e) competitive dialogue;
 - (f) competitive procedure with negotiation;
 - (g) innovation partnership;
 - (h) procedures involving a call for expression of interest.
2. In open procedures any interested economic operator may submit a tender.
3. In restricted procedures, competitive dialogues, competitive procedures with negotiation and innovation partnerships, any economic operator may submit a request to participate by providing the information that is requested by the contracting authority. The contracting authority shall invite all candidates, that satisfy the selection criteria and that are not in any of the situations referred to in Articles 136(1) and 141(1), to submit a tender.

Notwithstanding the first subparagraph, the contracting authority may limit the number of candidates to be invited to participate in the procedure on the basis of objective and non-discriminatory selection criteria, which shall be indicated in the contract notice or the call for expression of interest. The number of candidates invited shall be sufficient to ensure genuine competition.
4. In all procedures involving negotiation, the contracting authority shall negotiate with tenderers the initial and any subsequent tenders or parts thereof, except their final tenders, in order to improve their content. The minimum requirements and the criteria specified in the procurement documents shall not be subject to negotiation.

A contracting authority may award a contract on the basis of the initial tender without negotiation where it has indicated in the procurement documents that it reserves the possibility to do so.

5. The contracting authority may use:

- (a) the open or restricted procedure for any purchase;
- (b) the procedures involving a call for expression of interest for contracts with a value below the thresholds referred to in Article 175(1), to preselect candidates to be invited to submit tenders in response to future restricted invitations to tender, or to collect a list of vendors to be invited to submit requests to participate or submit tenders;
- (c) the design contest to acquire a plan or design selected by a jury after being put out to competition;
- (d) the innovation partnership to develop an innovative product, service or innovative works and for the subsequent purchase of the resulting supply, services or works;
- (e) the competitive procedure with negotiation or the competitive dialogue for concession contracts, for the service contracts referred to in Annex XIV to Directive 2014/24/EU, in cases where only irregular or unacceptable tenders were submitted in response to an open or restricted procedure after the initial procedure has been completed, and for cases where this is justified by the specific circumstances linked, inter alia, to the nature or the complexity of the subject matter of the contract or to the specific type of contract, as further detailed in Annex I to this Regulation;
- (f) the negotiated procedure for contracts with a value below the thresholds referred to in Article 175(1), or the negotiated procedure without prior publication for specific types of purchases falling outside the scope of Directive 2014/24/EU or in the clearly defined exceptional circumstances set out in Annex I to this Regulation.

6. A dynamic purchasing system shall be open throughout its duration to any economic operator who satisfies the selection criteria.

The contracting authority shall follow the rules of the restricted procedure for procurement through a dynamic purchasing system.

Article 165

Interinstitutional procurement and joint procurement

1. Where a contract or a framework contract is of interest to two or more Union institutions, executive agencies or Union bodies referred to in Articles 70 and 71, and whenever there is a possibility for realising efficiency gains, the contracting authorities concerned may carry out the procedure and the management of the subsequent contract or framework contract on an interinstitutional basis under the lead of one of the contracting authorities.

The bodies and persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU as well as the Office of the Secretary of the Board of Governors of the European Schools may also participate in interinstitutional procedures.

The terms of a framework contract shall only apply between those contracting authorities that are identified for that purpose in the procurement documents and those economic operators that are party to the framework contract.

2. Where a contract or framework contract is necessary for the implementation of a joint action between a Union institution and one or more contracting authorities from Member States, the procurement procedure may be carried out jointly by the Union institution and the contracting authorities.

Joint procurement may be conducted with EFTA States and Union candidate countries if that possibility has been specifically provided for in a bilateral or multilateral treaty.

The procedural provisions applicable to Union institutions shall apply to the joint procurement.

Where the share pertaining to or managed by the contracting authority of a Member State in the total estimated value of the contract is equal to or above 50 %, or in other duly justified cases, the Union institution may decide that the procedural rules applicable to the contracting authority of a Member State shall apply to the joint procurement, provided that those rules may be considered as equivalent to those of the Union institution.

The Union institution and the contracting authority from a Member State, an EFTA State or a Union candidate country concerned by the joint procurement shall agree in particular upon the detailed practical arrangements for the evaluation of the requests for participation or of the tenders, the award of the contract, the law applicable to the contract and the competent court for hearing disputes.

Article 166

Preparation of a procurement procedure

1. Before launching a procurement procedure, the contracting authority may conduct a preliminary market consultation with a view to preparing the procedure.
2. In the procurement documents, the contracting authority shall identify the subject matter of the procurement by providing a description of its needs and the characteristics required of the works, supplies or services to be bought, and shall specify the applicable exclusion, selection and award criteria. The contracting authority shall also indicate which elements define the minimum requirements to be met by all tenders. Minimum requirements shall include compliance with applicable environmental, social and labour law obligations established by Union law, national law, collective agreements or the applicable international social and environmental conventions listed in Annex X to Directive 2014/24/EU.

Article 167

Award of contracts

1. Contracts shall be awarded on the basis of award criteria provided that the contracting authority has verified the following:
 - (a) the tender complies with the minimum requirements specified in the procurement documents;
 - (b) the candidate or tenderer is not excluded under Article 136 or rejected under Article 141;
 - (c) the candidate or tenderer meets the selection criteria specified in the procurement documents and is not subject to conflicts of interest which may negatively affect the performance of the contract.
2. The contracting authority shall apply the selection criteria to evaluate the capacity of the candidate or tenderer. Selection criteria shall only relate to the legal and regulatory capacity to pursue the professional activity, the economic and financial capacity, and the technical and professional capacity. The JRC shall be presumed to meet the requirements relating to financial capacity.
3. The contracting authority shall apply the award criteria to evaluate the tender.

4. The contracting authority shall base the award of contracts on the most economically advantageous tender, which shall consist in one of three award methods: lowest price, lowest cost or best price-quality ratio.

For the lowest cost method, the contracting authority shall use a cost-effectiveness approach including life-cycle costing.

For the best price-quality ratio, the contracting authority shall take into account the price or cost and other quality criteria linked to the subject matter of the contract.

Article 168

Submission, electronic communication and evaluation

1. The contracting authority shall lay down time limits for the receipt of tenders and requests to participate in accordance with point 24 of Annex I and taking into account the complexity of the purchase, leaving an adequate period for economic operators to prepare their tenders.

2. If deemed appropriate and proportionate, the contracting authority may require tenderers to lodge a guarantee to make sure that the tenders submitted are not withdrawn before contract signature. The required guarantee shall represent 1 to 2 % of the total estimated value of the contract.

The contracting authority shall release the guarantees:

- (a) in respect of tenderers or tenders rejected as referred to in point 30.2(b) or (c) of Annex I, after having provided the information on the outcome of the procedure;
- (b) in respect of tenderers ranked as referred to in point 30.2(e) of Annex I, after the contract is signed.

3. The contracting authority shall open all requests to participate and tenders. However, it shall reject:

- (a) requests to participate and tenders which do not comply with the time limit for receipt, without opening them;
- (b) tenders already open when they are received, without examining their content.

4. The contracting authority shall evaluate all requests to participate or tenders not rejected during the opening phase as laid down in paragraph 3 on the basis of the criteria specified in the procurement documents with a view to awarding the contract or to proceeding with an electronic auction.

5. The authorising officer may waive the appointment of an evaluation committee as provided for in Article 150(2) in the following cases:

- (a) the value of the contract is below the thresholds referred to in Article 175(1);
- (b) on the basis of a risk analysis for the cases referred to in points (c), (e), (f)(i), (f)(iii) and (h) of the second subparagraph of point 11.1 of Annex I;
- (c) on the basis of a risk analysis when reopening competition within a framework contract;
- (d) for procedures in the field of external actions having a value of less than or equal to EUR 20 000.

6. Requests to participate and tenders which do not comply with all the minimum requirements set out in the procurement documents shall be rejected.

Article 169

Contacts during the procurement procedure

1. Before the time limit for receipt of requests to participate or tenders, the contracting authority may communicate additional information about the procurement documents if it discovers an error or omission in the text or upon request from candidates or tenderers. Information provided shall be disclosed to all candidates or tenderers.
2. After the time limit for receipt of requests to participate or tenders, in every case where contact has been made, and in the duly justified cases where contact has not been made as provided for in Article 151, a record shall be kept in the procurement file.

Article 170

Award decision and information to candidates or tenderers

1. The authorising officer responsible shall decide to whom the contract is to be awarded, in compliance with the selection and award criteria specified in the procurement documents.
2. The contracting authority shall notify all candidates or tenderers, whose requests to participate or tenders are rejected, of the grounds on which the decision was taken, as well as the duration of the standstill periods referred to in Articles 175(2) and 178(1).

For the award of specific contracts under a framework contract with reopening of competition, the contracting authority shall inform the tenderers of the result of the evaluation.

3. The contracting authority shall inform each tenderer who is not in an exclusion situation referred to in Article 136(1), who is not rejected under Article 141, whose tender is compliant with the procurement documents and who makes a request in writing, of any of the following:
 - (a) the name of the tenderer, or tenderers in the case of a framework contract, to whom the contract is awarded and, except in the case of a specific contract under a framework contract with reopening of competition, the characteristics and relative advantages of the successful tender, the price paid or contract value, whichever is appropriate;
 - (b) the progress of negotiation and dialogue with tenderers.

However, the contracting authority may decide to withhold certain information where its release would impede law enforcement, would be contrary to the public interest or would prejudice the legitimate commercial interests of economic operators or might distort fair competition between them.

Article 171

Cancellation of the procurement procedure

The contracting authority may, before the contract is signed, cancel the procurement procedure without the candidates or tenderers being entitled to claim any compensation. The decision shall be justified and brought to the attention of the candidates or tenderers as soon as possible.

Article 172

Performance and modifications of the contract

1. Performance of the contract shall not start before it is signed.
2. The contracting authority may modify a contract or framework contract without a procurement procedure only in the cases provided for in paragraph 3 and provided the modification does not alter the subject matter of the contract or framework contract.
3. A contract, a framework contract or a specific contract under a framework contract may be modified without a new procurement procedure in any of the following cases:
 - (a) for additional works, supplies or services by the original contractor that have become necessary and that were not included in the initial procurement, where the following conditions are fulfilled:
 - (i) a change of contractor cannot be made for technical reasons linked to interchangeability or interoperability requirements with existing equipment, services or installations;
 - (ii) a change of contractor would cause substantial duplication of costs for the contracting authority;
 - (iii) any increase in price, including the net cumulative value of successive modifications, does not exceed 50 % of the initial contract value;
 - (b) where all of the following conditions are fulfilled:
 - (i) the need for modification has been brought about by circumstances which a diligent contracting authority could not foresee;
 - (ii) any increase in price does not exceed 50 % of the initial contract value;
 - (c) where the value of the modification is below the following thresholds:
 - (i) the thresholds referred to in Article 175(1), and in point 38 of Annex I in the field of external actions, applicable at the time of the modification; and
 - (ii) 10 % of the initial contract value for public service and supply contracts and works or services concession contracts and 15 % of the initial contract value for public works contracts;
 - (d) where both of the following conditions are fulfilled:
 - (i) the minimum requirements of the initial procurement procedure are not altered;
 - (ii) any ensuing modification of value complies with the conditions set out in point (c) of this subparagraph, unless such modification of value results from the strict application of the procurement documents or contractual provisions.

The initial contract value shall not take into account price revisions.

The net cumulative value of several successive modifications under point (c) of the first subparagraph shall not exceed any threshold referred to therein.

The contracting authority shall apply the *ex post* publicity measures set out in Article 163.

Article 173

Performance guarantees and retention money guarantees

1. A performance guarantee shall amount to a maximum of 10 % of the total value of the contract.

It shall be fully released after final acceptance of the works, supplies or complex services, within a period subject to the time limits set out in Article 116(1) and to be specified in the contract. It may be released partially or fully upon provisional acceptance of the works, supplies or complex services.

2. A retention money guarantee amounting to a maximum of 10 % of the total value of the contract may be constituted by deductions from interim payments as and when they are made or by deduction from the final payment.

The contracting authority shall determine the amount of the retention money guarantee which shall be proportionate to the risks identified in relation to the performance of the contract, taking into account its subject matter and the usual commercial terms applicable in the sector concerned.

A retention money guarantee shall not be used in a contract where a performance guarantee has been requested and not released.

3. Subject to approval by the contracting authority, the contractor may request to replace the retention money guarantee by another type of guarantee referred to in Article 152.

4. The contracting authority shall release the retention money guarantee after the expiry of the contractual liability period, within a period subject to the time limits set out in Article 116(1) and to be specified in the contract.

CHAPTER 2

Provisions applicable to contracts awarded by Union institutions on their own account

Article 174

The contracting authority

1. Union institutions, executive agencies and Union bodies referred to in Articles 70 and 71 shall be deemed to be contracting authorities in respect of contracts awarded on their own account, except where they purchase from a central purchasing body. Departments of Union institutions shall not be deemed to be contracting authorities where they conclude service-level agreements amongst themselves.

Union institutions deemed to be contracting authorities in accordance with the first subparagraph shall, in accordance with Article 60, delegate the necessary powers for the exercise of the function of the contracting authority.

2. Each authorising officer by delegation or subdelegation within each Union institution shall assess whether the thresholds referred to in Article 175(1) have been reached.

Article 175

Thresholds applicable and standstill period

1. To award public and concession contracts, the contracting authority shall respect the thresholds laid down in points (a) and (b) of Article 4 of Directive 2014/24/EU when selecting a procedure referred to in Article 164(1) of this Regulation. Those thresholds shall determine the publicity measures set out in Article 163(1) and (2) of this Regulation.

2. Subject to the exceptions and conditions specified in Annex I to this Regulation, in the case of contracts the value of which exceeds the thresholds referred to in paragraph 1, the contracting authority shall not sign the contract or framework contract with the successful tenderer until a standstill period has elapsed.
3. The standstill period shall have a duration of 10 days when using electronic means of communication and 15 days when using other means.

Article 176

Rules on access to procurement

1. Participation in procurement procedures shall be open on equal terms to all natural and legal persons within the scope of the Treaties and to all natural and legal persons established in a third country which has a special agreement with the Union in the field of procurement under the conditions laid down in such an agreement. It shall also be open to international organisations.
2. For the purpose of Article 160(4), the JRC shall be considered as a legal person established in a Member State.

Article 177

Procurement rules of the World Trade Organisation

Where the plurilateral Agreement on Government Procurement concluded within the World Trade Organisation applies, the procurement procedure shall also be open to economic operators established in the states which have ratified that agreement, under the conditions laid down therein.

[...]

- **Article 181** (further relevant for Article 31 “Indirect costs” of the Rules for Participation in Horizon Europe)

Lump sums, unit costs and flat-rate financing

1. Where the grant takes the form of lump sums, unit costs or flat-rate financing as referred to in point (c), (d) or (e) of the first subparagraph of Article 125(1), this Title shall apply, with the exception of the provisions or parts of the provisions related to the verification of eligible costs actually incurred.
2. Where possible and appropriate, lump sums, unit costs or flat rates shall be determined in such a way as to allow their payment upon achievement of concrete outputs and/or results.
3. Unless otherwise provided in the basic act, the use of lump sums, unit costs or flat-rate financing shall be authorised by a decision of the authorising officer responsible, who shall act in accordance with the internal rules of the Union institution concerned.
4. The authorisation decision shall contain at least the following:

- (a) justification concerning the appropriateness of such forms of financing with regard to the nature of the supported actions or work programmes, as well as to the risks of irregularities and fraud and costs of control;
- (b) identification of the costs or categories of costs covered by lump sums, unit costs or flat-rate financing, which shall be considered eligible in accordance with points (c), (e) and (f) of Article 186(3) and Article 186(4), and which shall exclude ineligible costs under the applicable Union rules;
- (c) description of the methods for determining lump sums, unit costs or flat-rate financing. Those methods shall be based on one of the following:
 - (i) statistical data, similar objective means or an expert judgement provided by internally available experts or procured in accordance with the applicable rules; or
 - (ii) beneficiary-by-beneficiary approach, by reference to certified or auditable historical data of the beneficiary or to its usual cost accounting practices;
- (d) where possible, the essential conditions triggering the payment, including, where applicable, the achievement of outputs and/or results;
- (e) where lump sums, unit costs and flat rates are not output based and/or result based, a justification on why an output based and/or result based approach is not possible or appropriate.

The methods referred to in point (c) of the first subparagraph shall ensure:

- (a) the respect for the principle of sound financial management, in particular the appropriateness of the respective amounts with regard to the required outputs and/or results taking into account foreseeable revenue to be generated by the actions or work programmes;
- (b) reasonable compliance with the principles of co-financing and no double funding.

5. The authorisation decision shall apply for the duration of the programme or programmes unless otherwise provided in that decision.

The authorisation decision may cover the use of lump sums, unit costs or flat rates applicable to more than one specific funding programme where the nature of the activities or of the expenditure allow for a common approach. In such cases, the authorising decision may be adopted by the following:

- (a) the authorising officers responsible where all activities concerned fall under their responsibility;
- (b) the Commission where this is appropriate in view of the nature of the activities or of the expenditure or in view of the number of authorising officers concerned.

6. The authorising officer responsible may authorise or impose, in the form of flat-rates, funding of the beneficiary's indirect costs up to a maximum of 7 % of total eligible direct costs for the action. A higher flat rate may be authorised by a reasoned Commission decision. The authorising officer responsible shall report in the annual activity report referred to in Article 74(9) on any such decision taken, the flat rate authorised and the reasons leading to that decision.

7. SME owners and other natural persons who do not receive a salary may declare eligible personnel costs for the work carried out by themselves under an action or work programme, on the basis of unit costs authorised in accordance with paragraphs 1 to 6.

8. Beneficiaries may declare personnel costs for the work carried out by volunteers under an action or work programme, on the basis of unit costs authorised in accordance with paragraphs 1 to 6.

- **Article 186** (further relevant for Article 32 “Eligible costs” of the Rules for Participation in Horizon Europe)

Eligible costs

1. Grants shall not exceed an overall ceiling expressed in terms of an absolute value (‘maximum grant amount’) which shall be established on the basis of:
 - (a) the overall amount of financing not linked to costs in the case referred to in point (a) of the first subparagraph of Article 125(1);
 - (b) estimated eligible costs, where possible, in the case referred to in point (b) of the first subparagraph of Article 125(1);
 - (c) the overall amount of the estimated eligible costs clearly defined in advance in the form of lump sums, unit costs or flat rates as referred to in points (c), (d) and (e) of the first subparagraph of Article 125(1).

Without prejudice to the basic act, grants may in addition be expressed as a percentage of the estimated eligible costs, where the grant takes the form specified in point (b) of the first subparagraph, or as a percentage of the lump sums, unit costs or flat rate financing referred to in point (c) of the first subparagraph.

Where the grant takes the form specified in point (b) of the first subparagraph of this paragraph and where, due to specificities of an action, the grant can only be expressed in terms of an absolute value, the verification of the eligible costs shall be done in accordance with Article 155(4) and, where applicable, Article 155(5).
2. Without prejudice to the maximum co-financing rate specified in the basic act:
 - (a) the grant shall not exceed the eligible costs;
 - (b) where the grant takes the form specified in point (b) of the first subparagraph of paragraph 1 and where the estimated eligible costs include costs for volunteers’ work referred to in Article 181(8), the grant shall not exceed the estimated eligible costs other than the costs for volunteers’ work.
3. Eligible costs actually incurred by the beneficiary, as referred to in point (b) of the first subparagraph of Article 125(1), shall meet all of the following criteria:
 - (a) they are incurred during the duration of the action or of the work programme, with the exception of costs relating to final reports and audit certificates;
 - (b) they are indicated in the estimated overall budget of the action or work programme;
 - (c) they are necessary for the implementation of the action or of the work programme which is the subject of the grant;
 - (d) they are identifiable and verifiable, in particular being recorded in the accounting records of the beneficiary and determined according to the applicable accounting standards of the country where the beneficiary is established and according to the usual cost accounting practices of the beneficiary;
 - (e) they comply with the requirements of applicable tax and social legislation;
 - (f) they are reasonable, justified, and comply with the principle of sound financial management, in particular regarding economy and efficiency.
4. Calls for proposals shall specify the categories of costs considered as eligible for Union funding.

Unless provided otherwise in the basic act and in addition to paragraph 3 of this Article, the following categories of costs shall be eligible where the authorising officer responsible has declared them as such under the call for proposals:

- (a) costs relating to a pre-financing guarantee lodged by the beneficiary, where that guarantee is required by the authorising officer responsible pursuant to Article 152(1);
- (b) costs relating to certificates on the financial statements and operational verification reports, where such certificates or reports are required by the authorising officer responsible; EN 30.7.2018 Official Journal of the European Union L 193/
- (c) VAT, where it is not recoverable under the applicable national VAT legislation and is paid by a beneficiary other than a non-taxable person within the meaning of the first subparagraph of Article 13(1) of Council Directive 2006/112/EC (1);
- (d) depreciation costs, provided they are actually incurred by the beneficiary;
- (e) salary costs of the personnel of national administrations to the extent that they relate to the cost of activities which the relevant public authority would not carry out if the project concerned were not undertaken.

For the purposes of point (c) of the second subparagraph:

- (a) VAT shall be considered as not recoverable if according to national law it is attributable to any of the following activities:
 - (i) exempt activities without right of deduction;
 - (ii) activities which fall outside the scope of VAT;
 - (iii) activities, as referred to in point (i) or (ii), in respect of which VAT is not deductible but refunded by means of specific refund schemes or compensation funds not referred to in Directive 2006/112/EC, even if that scheme or fund is established by national VAT legislation;
- (b) VAT relating to the activities listed in Article 13(2) of Directive 2006/112/EC shall be regarded as paid by a beneficiary other than a non-taxable person within the meaning of the first subparagraph of Article 13(1) of that Directive, regardless of whether those activities are regarded by the Member State concerned as activities engaged in by bodies governed by public law acting as public authorities.

- **Article 187** (further relevant for Article 15 “Ethics” and Article 19(3) “Entities eligible for funding” and Article 22 “Pre-commercial procurement and procurement of innovative solutions” and Article 24(4) “Selection criteria” and Article 29 “Implementation of the grant” and Article 32(2) “Eligible costs” of the Rules for Participation in Horizon Europe)

Affiliated entities and sole beneficiary

1. For the purpose of this Title, the following entities shall be considered as entities affiliated to the beneficiary:

- (a) entities forming the sole beneficiary in accordance with paragraph 2;
- (b) entities that satisfy the eligibility criteria and that do not fall within one of the situations referred to in Articles 136(1) and 141(1) and that have a link with the beneficiary, in particular a legal or capital link, which is neither limited to the action nor established for the sole purpose of its implementation.

Section 2 of Chapter 2 of Title V shall apply also to affiliated entities.

2. Where several entities satisfy the criteria for being awarded a grant and together form one entity, that entity may be treated as the sole beneficiary, including where the entity is specifically established for the purpose of implementing the action to be financed by the grant.

3. Unless otherwise provided in the call for proposals, entities affiliated to a beneficiary may participate in the implementation of the action, provided that both of the following conditions are fulfilled:

(a) the entities concerned are identified in the grant agreement;

(b) the entities concerned abide by the rules applicable to the beneficiary under the grant agreement with regard to:

(i) eligibility of costs or conditions triggering the payment;

(ii) rights of checks and audits by the Commission, OLAF and the Court of Auditors.

Costs incurred by such entities may be accepted as eligible costs actually incurred or may be covered by lump sums, unit costs and flat-rate financing.

- **Article 190** (further relevant for Article 30 “Funding rates” and Article 32(3) “Eligible costs” of the Rules for Participation in Horizon Europe)

Co-financing

1. Grants shall involve co-financing. As a result, the resources necessary to carry out the action or the work programme shall not be provided entirely by the grant.

Co-financing may be provided in the form of the beneficiary’s own resources, income generated by the action or work programme or financial or in-kind contributions from third parties.

2. In-kind contributions from third parties in the form of volunteers’ work valued in accordance with Article 181(8) shall be presented as eligible costs in the estimated budget. They shall be presented separately from other eligible costs. Volunteers’ work may comprise up to 50 % of the co-financing. For the purposes of calculating that percentage, in-kind contributions and other co-financing shall be based on the estimates provided by the applicant.

Other in-kind contributions from third parties shall be presented separately from the contributions to the eligible costs in the estimated budget. Their approximate value shall be indicated in the estimated budget and shall not be subject to subsequent changes.

3. By way of derogation from paragraph 1, an external action may be financed in full by the grant where this is essential for it to be carried out. In such a case, justification shall be provided in the award decision.

4. This Article shall not apply to interest rate rebates and guarantee fee subsidies.

- **Article 191** (further relevant for Article 23 “Cumulative funding” of the Rules for Participation in Horizon Europe)

Principle of non-cumulative award and prohibition of double funding

1. Each action may give rise to the award of only one grant from the budget to any one beneficiary, except where otherwise authorised in the relevant basic acts.

A beneficiary may be awarded only one operating grant from the budget per financial year.

An action may be financed jointly from separate budget lines by different authorising officers responsible.

2. The applicant shall immediately inform the authorising officers of any multiple applications and multiple grants relating to the same action or to the same work programme.

3. In no circumstances shall the same costs be financed twice by the budget.

4. In relation to the following types of support, paragraphs 1 and 2 shall not apply and, where appropriate, the Commission may decide not to verify whether the same cost was financed twice:

- (a) study, research, training or education support paid to natural persons;
- (b) direct support paid to natural persons most in need, such as unemployed persons and refugees.

- **Article 192** (further relevant for Article 30 “Funding rates” and Article 32(3) “Eligible costs” of the Rules for Participation in Horizon Europe)

No-profit principle

1. Grants shall not have the purpose or effect of producing a profit within the framework of the action or the work programme of the beneficiary (‘no-profit principle’).

2. For the purposes of paragraph 1, a profit shall be defined as a surplus, calculated at the payment of the balance, of receipts over the eligible costs of the action or work programme, where receipts are limited to the Union grant and the revenue generated by that action or work programme.

In the case of an operating grant, amounts dedicated to the building up of reserves shall not be taken into account for verifying compliance with the no-profit principle.

3. Paragraph 1 shall not apply to:

- (a) actions the objective of which is the reinforcement of the financial capacity of a beneficiary, or actions which generate income to ensure their continuity after the period of Union financing provided for in the grant agreement;
- (b) study, research, training or education support paid to natural persons or other direct support paid to natural persons most in need, such as unemployed persons and refugees;
- (c) actions implemented by non-profit organisations;

- (d) grants in the form referred to in point (a) of the first subparagraph of Article 125(1);
- (e) low value grants.

4. Where a profit is made, the Commission shall be entitled to recover the percentage of the profit corresponding to the Union contribution to the eligible costs actually incurred by the beneficiary in carrying out the action or work programme.

- **Article 195** (further relevant for Article 20 “Calls for proposals” of the Rules for Participation in Horizon Europe)

Exceptions to calls for proposals

Grants may be awarded without a call for proposals only in the following cases:

- (a) for the purposes of humanitarian aid, emergency support operations, civil protection operations or crisis management aid;
- (b) in other exceptional and duly substantiated emergencies;
- (c) to bodies with a de jure or de facto monopoly or to bodies designated by Member States, under their responsibility, where those Member States are in a de jure or de facto monopoly situation;
- (d) to bodies identified by a basic act, within the meaning of Article 58, as beneficiaries or to bodies designated by Member States, under their responsibility, where those Member States are identified by a basic act as beneficiaries;
- (e) in the case of research and technological development, to bodies identified in the work programme referred to in Article 110, where the basic act expressly provides for that possibility, and on condition that the project does not fall under the scope of a call for proposals;
- (f) for activities with specific characteristics that require a particular type of body on account of its technical competence, its high degree of specialisation or its administrative powers, on condition that the activities concerned do not fall within the scope of a call for proposals;
- (g) to the EIB or the EIF for actions of technical assistance. In such cases, points (a) to (d) of Article 196(1) shall not apply.

Where the particular type of body referred to in point (f) of the first paragraph is a Member State, the grant may also be awarded without a call for proposals to the body designated by the Member State, under its responsibility, for the purpose of implementing the action.

The cases referred to in points (c) and (f) of the first paragraph shall be duly substantiated in the award decision.

- **Article 196** (further relevant for Article 6(9) “Implementation and forms of EU funding” and Article 15 “Ethics” and Article 35(6) “Exploitation and dissemination” of the Rules for Participation in Horizon Europe)

Content of grant applications

1. The grant application shall contain the following:

- (a) information on the legal status of the applicant;
- (b) a declaration on the applicant's honour in accordance with Article 137(1) and on compliance with the eligibility and selection criteria;
- (c) information necessary to demonstrate the applicant's financial and operational capacity to carry out the proposed action or work programme and, if decided by the authorising officer responsible on the basis of a risk assessment, supporting documents confirming that information, such as the profit and loss account and the balance sheet for up to the three last financial years for which the accounts were closed;

Such information and supporting documents shall not be requested from applicants to which the verification of the financial or operational capacity does not apply in accordance with Article 198(5) or (6). In addition, supporting documents shall not be requested for low value grants;

- (d) where the application concerns a grant for an action for which the amount exceeds EUR 750 000 or an operating grant which exceeds EUR 100 000, an audit report produced by an approved external auditor, where it is available, and always in cases where a statutory audit is required by Union or national law, certifying the accounts for up to the last three available financial years. In all other cases, the applicant shall provide a self-declaration signed by its authorised representative certifying the validity of its accounts for up to the last three available financial years;

The first subparagraph shall apply only to the first application made by a beneficiary to an authorising officer responsible in any one financial year.

In the case of agreements between the Commission and a number of beneficiaries, the thresholds set in the first subparagraph shall apply to each beneficiary.

In the case of partnerships referred to in Article 130(4), the audit report referred to in the first subparagraph of this point, covering the last two financial years available, must be produced before signature of the financial framework partnership agreement.

The authorising officer responsible may, depending on a risk assessment, waive the obligation referred to in the first subparagraph for education and training establishments and, in the case of agreements with a number of beneficiaries, beneficiaries who have accepted joint and several liabilities or who do not bear any financial responsibility.

The first subparagraph shall not apply to persons and entities eligible under indirect management to the extent that they comply with the conditions specified in point (c) of the first subparagraph of Article 62(1) and in Article 154;

- (e) a description of the action or work programme and an estimated budget, which:

- (i) shall have revenue and expenditure in balance; and
- (ii) shall indicate the estimated eligible costs of the action or work programme.

Points (i) and (ii) shall not apply to multi-donor actions.

By way of derogation from point (i), in duly justified cases, the estimated budget may include provisions for contingencies or possible variations in exchange rates;

(f) indication of the sources and amounts of Union funding received or applied for in respect of the same action or part of the action or for the functioning of the applicant during the same financial year as well as any other funding received or applied for the same action.

2. The application may be divided in several parts that may be submitted at different stages in accordance with Article 200(2).

- **Article 197** (further relevant for Article 18 "Entities eligible for participation" of the Rules for Participation in Horizon Europe)

Eligibility criteria

1. The eligibility criteria shall determine the conditions for participating in a call for proposals.

2. Any of the following applicants shall be eligible for participating in a call for proposals:

(a) legal persons;

(b) natural persons, in so far as this is required by the nature or characteristics of the action or the objective pursued by the applicant;

(c) entities which do not have legal personality under the applicable national law, provided that their representatives have the capacity to undertake legal obligations on behalf of the entities and that the entities offer guarantees for the protection of the financial interests of the Union equivalent to those offered by legal persons. In particular the applicant shall have a financial and operational capacity equivalent to that of a legal person. The representatives of the applicant shall prove that those conditions are satisfied.

3. The call for proposals may lay down additional eligibility criteria which shall be established with due regard for the objectives of the action and shall comply with the principles of transparency and non-discrimination.

4. For the purposes of Article 180(5) and of this Article, the JRC shall be considered as a legal person established in a Member State.

- **Article 198** (further relevant for Article 24 "Selection criteria" and Article 25 "Award criteria" and Article 26 "Evaluation" of the Rules for Participation in Horizon Europe)

Selection criteria

1. The selection criteria shall be such as to make it possible to assess the applicant's ability to complete the proposed action or work programme.

2. The applicant shall have stable and sufficient sources of funding to maintain his or her activity throughout the period for which the grant is awarded and to participate in its funding ('financial capacity').

3. The applicant shall have the professional competencies and qualifications required to complete the proposed action or work programme unless specifically provided otherwise in the basic act ('operational capacity').

4. Financial and operational capacity shall be verified in particular on the basis of an analysis of any information or supporting documents referred to in Article 196.

If no supporting documents were requested in the call for proposals and if the authorising officer responsible has reasonable grounds to question the financial or operational capacity of an applicant, he or she shall request the applicant to provide any appropriate documents.

In the case of partnerships the verification shall be performed in accordance with Article 130(6).

5. The verification of financial capacity shall not apply to:

(a) natural persons in receipt of education support;

(b) natural persons most in need, such as unemployed persons and refugees, and in receipt of direct support;

(c) public bodies, including Member State organisations;

(d) international organisations;

(e) persons or entities applying for interest rate rebates and guarantee fee subsidies where the objective of those rebates and subsidies is to reinforce the financial capacity of a beneficiary or to generate an income.

6. The authorising officer responsible may, depending on a risk assessment, waive the obligation to verify the operational capacity of public bodies, Member State organisations or international organisations.

- **Article 199** (further relevant for Article 24 "Selection criteria" and Article 25 "Award criteria" and Article 26 "Evaluation" of the Rules for Participation in Horizon Europe)

Award criteria

The award criteria shall be such as to make it possible to:

(a) assess the quality of the proposals submitted in the light of the objectives and priorities set and of the expected results;

(b) award grants to the actions or to the work programmes which maximise the overall effectiveness of the Union funding;

(c) evaluate the grant applications.

- **Article 200** (further relevant for Article 24 “Selection criteria” and Article 25 “Award criteria” and Article 26 “Evaluation” of the Rules for Participation in Horizon Europe)

Evaluation procedure

1. Proposals shall be evaluated, on the basis of the pre-announced selection and award criteria, with a view to determining which proposals may be financed.
2. The authorising officer responsible shall, where appropriate, divide the process into several procedural stages. The rules governing the process shall be announced in the call for proposals.

The applicants whose proposals are rejected at any stage shall be informed in accordance with paragraph 7.

The same documents and information shall not be required more than once during the same procedure.

3. The evaluation committee referred to in Article 150 or, where appropriate, the authorising officer responsible may ask an applicant to provide additional information or to clarify the supporting documents submitted in accordance with Article 151. The authorising officer shall keep appropriate records of contacts with applicants during the procedure.

4. Upon completion of its work, the members of the evaluation committee shall sign a record of all the proposals examined, containing an assessment of their quality and identifying those which may receive funding.

Where necessary that record shall rank the proposals examined, provide recommendations on the maximum amount to award and possible non-substantial adjustments to the grant application.

The record shall be kept for future reference.

5. The authorising officer responsible may invite an applicant to adjust its proposal in the light of the recommendations of the evaluation committee. The authorising officer responsible shall keep appropriate records of contacts with applicants during the procedure.

6. The authorising officer responsible shall, on the basis of the evaluation, take his or her decision giving at least:

- (a) the subject and the overall amount of the decision;
- (b) the names of the successful applicants, the title of the actions, the amounts accepted and the reasons for that choice, including where it is inconsistent with the opinion of the evaluation committee;
- (c) the names of any applicants rejected and the reasons for that rejection.

7. The authorising officer responsible shall inform applicants in writing of the decision on their application. If the grant requested is not awarded, the Union institution concerned shall give the reasons for the rejection of the application. Rejected applicants shall be informed as soon as possible of the outcome of the evaluation of their application and in any case within 15 calendar days after information has been sent to the successful applicants.

8. For grants awarded pursuant to Article 195, the authorising officer responsible may:

- (a) decide not to apply paragraphs 2 and 4 of this Article and Article 150;

(b) merge the content of the evaluation report and the award decision into a single document and sign it.

- **Article 201** (further relevant for Article 18 “Grant Agreement” of the Rules for Participation in Horizon 2020)

Grant agreement

1. Grants shall be covered by a written agreement.
2. The grant agreement shall at least include the following:
 - (a) the subject;
 - (b) the beneficiary;
 - (c) the duration, namely:
 - (i) the date of its entry into force;
 - (ii) the starting date and the duration of the action or the financial year of the funding;
 - (d) a description of the action or, for an operating grant, of the work programme together with a description of the results expected;
 - (e) the maximum amount of Union funding expressed in euro, the estimated budget of the action or work programme and the form of the grant;
 - (f) the rules regarding reporting and payments and the procurement rules provided for in Article 205;
 - (g) the acceptance by the beneficiary of the obligations referred to in Article 129;
 - (h) provisions governing the visibility of the Union financial support, except in duly justified cases where public display is not possible or appropriate;
 - (i) the applicable law which shall be Union law, complemented, where necessary, by national law as specified in the grant agreement. Derogation may be made in the grant agreements concluded with international organisations;
 - (j) the competent court or arbitration tribunal to hear disputes.
3. Pecuniary obligations of entities or persons other than States arising from the implementation of a grant agreement shall be enforceable in accordance with Article 100(2).
4. Amendments to grant agreements shall not have the purpose or the effect of making such changes that would call into question the grant award decision or be contrary to the principle of equal treatment of applicants.

- **Article 203(4)** (further relevant for Article 32(4) “Eligible costs” and Article 48(3) “Audits and controls” of the Rules for Participation in Horizon Europe)

Supporting documents for payment requests

[...]

4. A certificate on the financial statements of the action or the work programme and underlying accounts may be demanded by the authorising officer responsible in support of interim payments or payments of balances of any amount. Such a certificate shall be requested on the basis of a risk assessment taking into account, in particular, the amount of the grant, the amount of the payment, the nature of the beneficiary and the nature of the supported activities.

The certificate shall be produced by an approved external auditor or, in the case of public bodies, by a competent and independent public officer.

The certificate shall certify, in accordance with a methodology approved by the authorising officer responsible and on the basis of agreed-upon procedures compliant with international standards, that the costs declared by the beneficiary in the financial statements on which the payment request is based are real, accurately recorded and eligible in accordance with the grant agreement. In specific and duly justified cases, the authorising officer responsible may request the certificate in the form of an opinion or other format in accordance with international standards.

[...]

- **Article 204** (further relevant for Article 15 “Ethics” and Article 19(3) “Entities eligible for funding” and Article 22 “Pre-commercial procurement and procurement of innovative solutions” and Article 24(4) “Selection criteria” and Article 29 “Implementation of the grant” and Article 32(2) “Eligible costs” of the Rules for Participation in Horizon Europe)

Financial support to third parties

Where implementation of an action or a work programme requires the provision of financial support to third parties, the beneficiary may provide such financial support if the conditions for such provision are defined in the grant agreement between the beneficiary and the Commission, with no margin for discretion by the beneficiary.

No margin for discretion shall be considered to exist if the grant agreement specifies the following:

- (a) the maximum amount of financial support that can be paid to a third party which shall not exceed EUR 60 000 and the criteria for determining the exact amount;
- (b) the different types of activities that may receive such financial support, on the basis of a fixed list;
- (c) the definition of the persons or categories of persons which may receive such financial support and the criteria for providing it.

The threshold referred to in point (a) of the second paragraph may be exceeded where achieving the objectives of the actions would otherwise be impossible or overly difficult.

- **Article 205** (further relevant for Article 15 “Ethics” and Article 19(3) “Entities eligible for funding” and Article 22 “Pre-commercial procurement and procurement of innovative solutions” and Article 24(4) “Selection criteria” and Article 29 “Implementation of the grant” and Article 32(2) “Eligible costs” of the Rules for Participation in Horizon Europe)

Implementation contracts

1. Without prejudice to Directive 2014/24/EU and Directive 2014/25/EU of the European Parliament and of the Council (1), where the implementation of the action or work programme requires the award of a public contract, the beneficiary may award the public contract in accordance with its usual purchasing practices provided that the public contract is awarded to the tender offering best value for money or, as appropriate, to the tender offering the lowest price, while avoiding any conflict of interests.

2. Where implementation of the action or work programme requires the award of a public contract with a value of more than EUR 60 000, the authorising officer responsible may, if duly justified, require the beneficiary to abide by special rules in addition to those referred to in paragraph 1.

Those special rules shall be based on rules contained in this Regulation and shall be proportionate to the value of the public contracts concerned, the relative size of the Union contribution in relation to the total cost of the action and the risk. Such special rules shall be included in the grant agreement.

- **Title IX – Articles 206 - 207** (further relevant for Article 39 “Prizes” of the Rules for Participation in Horizon Europe)

PRIZES

Article 206

General rules

1. Prizes shall be awarded in accordance with the principles of transparency and equal treatment and shall promote the achievement of policy objectives of the Union.
2. Prizes shall not be awarded directly without a contest.

Contests for prizes with a unit value of EUR 1 000 000 or more may only be published where those prizes are mentioned in the financing decision referred to in Article 110 and after information on such prizes has been submitted to the European Parliament and to the Council.

3. The amount of the prize shall not be linked to costs incurred by the winner.
4. Where implementation of an action or work programme requires prizes to be awarded to third parties by a beneficiary, that beneficiary may award such prizes provided that the eligibility and award criteria, the amount of the prizes and the payment arrangements are defined in the grant agreement between the beneficiary and the Commission, with no margin for discretion.

Article 207

Rules of contest, award and publication

1. Rules of contests shall:

- (a) specify the eligibility criteria;
- (b) specify the arrangements and the final date for the registration of applicants, if required, and for the submission of applications;
- (c) specify the exclusion criteria as set out in Articles 136 and the grounds for rejection set out in Article 141;
- (d) provide for the sole liability of the applicant in the event of a claim relating to the activities carried out in the framework of the contest;
- (e) provide for acceptance by the winners of the obligations referred to in Article 129 and of the publicity obligations as specified in the rules of the contest;
- (f) specify the award criteria, which shall be such as to make possible to assess the quality of the applications with regard to the objectives pursued and the expected results and to determine objectively whether applications are successful;
- (g) specify the amount of the prize or prizes;
- (h) specify the arrangements for the payment of prizes to the winners after their award.

For the purposes of point (a) of the first subparagraph, beneficiaries shall be eligible, unless stated otherwise in the rules of contest.

Article 194(3) shall apply *mutatis mutandis* to the publication of contests.

2. Rules of contests may set the conditions for cancelling the contest, in particular where its objectives cannot be fulfilled.

3. Prizes shall be awarded by the authorising officer responsible following an evaluation by the evaluation committee referred to in Article 150.

Article 200(4) and (6) shall apply *mutatis mutandis* to the award decision.

4. Applicants shall be informed as soon as possible of the outcome of the evaluation of their application and in any case within 15 calendar days after the award decision has been taken by the authorising officer.

The decision to award the prize shall be notified to the winning applicant and shall serve as the legal commitment.

5. All prizes awarded in the course of a financial year shall be published in accordance with Article 38(1) to (4).

When requested by the European Parliament and by the Council following the publication, the Commission shall forward them a report on:

- (a) the number of applicants in the past year;
- (b) the number of applicants and the percentage of successful applications per contest;
- (c) a list of the experts having taken part in evaluation committees in the past year, together with a reference to the procedure for their selection.

• **Title X – Articles 208 – 219** (further relevant for Chapter V “Blended operations and blended finance” of the Rules for Participation in Horizon Europe)

FINANCIAL INSTRUMENTS, BUDGETARY GUARANTEES AND FINANCIAL ASSISTANCE

CHAPTER 1

Common provisions

Article 208

Scope and implementation

1. Where it proves to be the most appropriate way to achieve policy objectives of the Union, the Union may establish financial instruments or provide budgetary guarantees or financial assistance backed by the budget by means of a basic act defining their scope and period of implementation.
2. Member States may contribute to the Union's financial instruments, budgetary guarantees or financial assistance. If authorised by the basic act, third parties may also contribute.
3. Where financial instruments are implemented under shared management with Member States, sector-specific rules shall apply.
4. Where financial instruments or budgetary guarantees are implemented under indirect management, the Commission shall conclude agreements with entities pursuant to points (c)(ii), (iii), (v) and (vi) of the first subparagraph of Article 62(1). Where the systems, rules and procedures of those entities have been assessed pursuant to Article 154(4), they may fully rely on those systems, rules and procedures. Those entities may, when implementing financial instruments and budgetary guarantees under indirect management, conclude agreements with financial intermediaries which shall be selected in accordance with procedures equivalent to those applied by the Commission. Those entities shall transpose the requirements pursuant to Article 155(2) in those agreements.

The Commission shall remain responsible for ensuring that the implementation framework for financial instruments complies with the principle of sound financial management and supports the attainment of defined and time-bound policy objectives, measurable in terms of outputs and/or results. The Commission shall be accountable for the implementation of financial instruments without prejudice to the entrusted entities' legal and contractual responsibility in accordance with the applicable law and Article 129.

Where third countries contribute to financial instruments or budgetary guarantees pursuant to paragraph 2, the basic act may allow for the designation of eligible implementing entities or counterparts from the countries concerned.

5. The Court of Auditors shall have full access to any information related to the financial instruments, budgetary guarantees and financial assistance, including by means of on-the-spot checks.

The Court of Auditors shall be the external auditor responsible for the projects and programmes supported by a financial instrument, a budgetary guarantee or a financial assistance.

Article 209

Principles and conditions applicable to financial instruments and budgetary guarantees

1. Financial instruments and budgetary guarantees shall be used in accordance with the principles of sound financial management, transparency, proportionality, non-discrimination, equal treatment and subsidiarity, and in accordance with their objectives.

2. Financial instruments and budgetary guarantees shall:

- (a) address market failures or sub-optimal investment situations and provide support, in a proportionate manner, only to final recipients that are deemed economically viable according to internationally accepted standards at the time of the Union financial support;
- (b) achieve additionality by preventing the replacement of potential support and investment from other public or private sources;
- (c) not distort competition in the internal market and be consistent with State aid rules;
- (d) achieve a leverage and a multiplier effect, with a target range of values based on an *ex ante* evaluation for the corresponding financial instrument or budgetary guarantee, by mobilising a global investment exceeding the size of the Union contribution or guarantee, including, where appropriate, the maximisation of private investment;
- (e) be implemented in a way to ensure that there is a common interest of the implementing entities or counterparts involved in the implementation in achieving the policy objectives defined in the relevant basic act, with provisions on for example co-investment, risk sharing requirements or financial incentives, while preventing a conflict of interests with other activities of the entities or counterparts;
- (f) provide for remuneration of the Union that is consistent with the sharing of risk among financial participants and the policy objectives of the financial instrument or budgetary guarantee;
- (g) where remuneration of the implementing entities or the counterparts involved in the implementation is due, provide that such remuneration is performance-based and comprises:
 - (i) administrative fees to remunerate the entity or counterpart for the work carried out in the implementation of a financial instrument or budgetary guarantee, which shall, to the extent possible, be based on the operations carried out or the amounts disbursed; and
 - (ii) where appropriate, policy related incentives to promote the achievement of the policy objectives or incentivise the financial performance of the financial instrument or budgetary guarantee.

Exceptional expenses may be reimbursed in duly justified cases;

- (h) be based on *ex ante* evaluations, individually or as part of a programme, in line with Article 34, containing explanations concerning the choice of the type of financial operation taking into account the policy objectives pursued and the associated financial risks and savings for the budget.

The evaluations referred to in point (h) of the first subparagraph shall be reviewed and updated to take into account the effect of major socioeconomic changes on the rationale of the financial instrument or budgetary guarantee.

3. Without prejudice to sector-specific rules for shared management, revenue, including dividends, capital gains, guarantee fees and interest on loans and on amounts on fiduciary accounts paid back to the Commission or on fiduciary accounts opened for financial instruments or budgetary guarantees and attributable to the support from the budget under a financial instrument or a budgetary guarantee, shall be entered in the budget after deduction of management costs and fees.

Annual repayments, including capital repayments, guarantees released, and repayments of the principal of loans, paid back to the Commission or to fiduciary accounts opened for financial instruments or budgetary guarantees and attributable to the support from the budget under a financial instrument or a budgetary guarantee, shall constitute internal assigned revenue in accordance with point (f) of Article 21(3) and shall be used for the same financial instrument or budgetary guarantee, without prejudice to Article 215(5), for a period not exceeding the period for the budgetary commitment plus two years, unless otherwise specified in a basic act.

The Commission shall take into account such internal assigned revenue when proposing the amount for future allocations for financial instruments or budgetary guarantees.

Notwithstanding the second subparagraph, the outstanding amount of assigned revenue authorised under a basic act that is to be repealed or terminates may also be assigned to another financial instrument pursuing similar objectives, where this is provided in the basic act establishing that financial instrument.

4. The authorising officer responsible for a financial instrument, a budgetary guarantee or a financial assistance shall produce a financial statement covering the period 1 January to 31 December, in accordance with Article 243 and in compliance with the accounting rules referred to in Article 80 and the International Public Sector Accounting Standards (IPSAS).

For financial instruments and budgetary guarantees implemented under indirect management, the authorising officer responsible shall ensure that unaudited financial statements covering the period 1 January to 31 December prepared in compliance with the accounting rules referred to in Article 80 and with IPSAS, as well as any information necessary to produce financial statements in accordance with Article 82(2), be provided by the entities pursuant to points (c)(ii), (iii), (v) and (vi) of the first subparagraph of Article 62(1) by 15 February of the following financial year and that audited financial statements be provided by those entities by 15 May of the following financial year.

Article 210

Financial liability of the Union

1. The financial liability and aggregate net payments from the budget shall not exceed at any time:

(a) for financial instruments: the amount of the relevant budgetary commitment made for it;

(b) for budgetary guarantees: the amount of the budgetary guarantee authorised by the basic act;

(c) for financial assistance: the maximum amount of funds that the Commission is empowered to borrow for funding the financial assistance as authorised by the basic act, and the relevant interest.

2. Budgetary guarantees and financial assistance may generate a contingent liability for the Union which shall only exceed the financial assets provided to cover the financial liability of the Union if provided for in a basic act establishing a budgetary guarantee or financial assistance and under the conditions set out therein.

3. For the purposes of the annual assessment provided for in point (j) of Article 41(5), the contingent liabilities arising from budgetary guarantees or financial assistance borne by the budget shall be deemed sustainable, if their forecast multiannual evolution is compatible with the limits set by the regulation laying down the multiannual financial framework provided for in Article 312(2) TFEU and the ceiling on annual payment appropriations set out in Article 3(1) of Decision 2014/335/EU, Euratom.

Article 211

Provisioning of financial liabilities

1. For budgetary guarantees and financial assistance to third countries, a basic act shall set out a provisioning rate as a percentage of the amount of the financial liability authorised. That amount shall exclude the contributions referred to in Article 208(2).

The basic act shall provide for the review of the provisioning rate at least every three years.

2. The setting of a provisioning rate shall be guided by a qualitative and quantitative assessment by the Commission of the financial risks arising from a budgetary guarantee or a financial assistance to a third country in accordance with the principle of prudence, whereby assets and profits shall not be overestimated and liabilities and losses shall not be underestimated.

Unless otherwise specified in the basic act establishing the budgetary guarantee or financial assistance to a third country, the provisioning rate shall be based on the global provisioning needed in advance to cover the net expected losses and, in addition, an adequate safety buffer. Without prejudice to the powers of the European Parliament and of the Council, the global provisioning shall be constituted over the period of time foreseen in the relevant financial statement as referred to in Article 35.

3. For a financial instrument provision shall be made, where appropriate, to respond to future payments related to a budgetary commitment of that financial instrument.

4. The following resources shall contribute to the provisioning:

- (a) contributions from the budget, while fully respecting the regulation laying down the multiannual financial framework and after examination of the possibilities for redeployments;
- (b) returns on investments of the resources held in the common provisioning fund;
- (c) amounts recovered from defaulting debtors in accordance with the recovery procedure laid down in the guarantee or the loan agreement;
- (d) revenue and any other payments received by the Union in accordance with the guarantee or the loan agreement;
- (e) where applicable, contributions in cash by Member States and third parties pursuant to Article 208(2).

Only the resources referred to in points (a) to (d) of the first subparagraph of this paragraph shall be taken into account for calculating the provisioning resulting from the provisioning rate referred to in paragraph 1.

5. Provisions shall be used for the payment of:

- (a) calls on the budgetary guarantee;
- (b) payment obligations related to a budgetary commitment for a financial instrument;
- (c) financial obligations arising from the borrowing of funds pursuant to Article 220(1);
- (d) where applicable, other expenses associated to the implementation of financial instruments, budgetary guarantees and financial assistance to third countries.

6. Where the provisions for a budgetary guarantee exceed the amount of provisioning resulting from the provisioning rate referred to in paragraph 1 of this Article, resources referred to in points (b), (c) and (d) of the first subparagraph of paragraph 4 of this Article related to that guarantee shall be used within the limits of the eligible period provided for in the basic act, however, not beyond the constitution phase of the provisioning, and without prejudice to Article 213(4), to restore the budgetary guarantee up to its initial amount.

7. The Commission shall immediately inform the European Parliament and the Council and may propose adequate replenishment measures or an increase of the provisioning rate where:

- (a) as a result of calls on a budgetary guarantee, the level of provisions for that budgetary guarantee falls below 50 % of the provisioning rate referred to in paragraph 1, and again where it falls below 30 % of that provisioning rate, or where it could fall below any of those percentages within a year according to a risk assessment by the Commission;

(b) a country benefitting from financial assistance by the Union fails to pay on a maturity.

Article 212

Common provisioning fund

1. The provisions made to cover the financial liabilities arising from financial instruments, budgetary guarantees or financial assistance shall be held in a common provisioning fund.

By 30 June 2019, the Commission shall submit to the European Parliament and to the Council an independent external evaluation of the advantages and disadvantages of entrusting the financial management of the assets of the common provisioning fund to the Commission, to the EIB, or to a combination of the two, taking into account the relevant technical and institutional criteria used in comparing asset management services, including the technical infrastructure, a comparison of costs for the services provided, the institutional set-up, reporting, performance, accountability and expertise of the Commission and the EIB and the other asset management mandates for the budget. The evaluation shall, where appropriate, be accompanied by a legislative proposal.

2. Global profits or losses from the investment of the resources held in the common provisioning fund shall be allocated proportionately among the respective financial instruments, budgetary guarantees or financial assistance.

The financial manager of the resources of the common provisioning fund shall keep a minimum amount of resources of the fund in cash or cash equivalents in accordance with prudential rules and the forecasts for payments provided by the authorising officers of the financial instruments, budgetary guarantees or financial assistance.

The financial manager of the resources of the common provisioning fund may enter into repurchase agreements, with the resources of the common provisioning fund as collateral, to make payments out of the fund where this procedure is reasonably expected to be more beneficial for the budget than the divestment of resources within the timeframe of the payment request. The duration or roll-over period of repurchase agreements related to a payment shall be limited to the minimum necessary to minimise a loss for the budget.

3. Pursuant to point (d) of the first subparagraph of Article 77(1) and Article 86(1) and (2), the accounting officer shall set up the procedures to be applied to the revenue and expenditure operations and, in agreement with the financial manager of the resources of the common provisioning fund, to the assets and liabilities related to the common provisioning fund.

4. In the exceptional cases where the Commission has made a transfer as referred to in point (g) of the first subparagraph of Article 30(1), the Commission shall immediately inform the European Parliament and the Council thereof, and shall urgently propose the measures necessary to restore the budgetary item of the guarantee from which the transfer was made, while fully respecting the ceilings provided for in the regulation laying down the multiannual financial framework.

Article 213

Effective provisioning rate

1. The provisioning of budgetary guarantees and financial assistance to third countries in the common provisioning fund shall be based on an effective provisioning rate. That rate shall provide a level of protection against the financial liabilities of the Union equivalent to the level that would be provided by the respective provisioning rates if the resources were held and managed separately.

2. The effective provisioning rate applicable shall be a percentage of each initial provisioning rate determined in accordance with the second subparagraph of Article 211(2). It shall apply only to the amount of resources in the common provisioning fund foreseen for the payment of guarantee calls over a one year period. It shall provide for a ratio, in the form of a percentage, between the amount of cash and cash equivalents in the common provisioning fund required to honour guarantee calls and the total amount of cash and cash equivalents that would be required in each guarantee fund to honour guarantee calls, if the resources were held and managed separately, where both amounts represent an equivalent liquidity risk. That ratio shall not fall below 95 %. The calculation of the effective provisioning rate shall take into account:

- (a) the forecast of inflows and outflows in the common provisioning fund, having regard to the initial phase of constitution of global provisioning in accordance with the second subparagraph of Article 211(2);
- (b) the risk correlation among the budgetary guarantees and the financial assistance to third countries;
- (c) the market conditions.

The Commission shall by 1 July 2020 adopt delegated acts in accordance with Article 269 to supplement this Regulation with detailed conditions for the calculation of the effective provisioning rate, including a methodology for that calculation.

The Commission is empowered to adopt delegated acts in accordance with Article 269 to amend the minimum ratio referred to in the first subparagraph of this paragraph in the light of the experience gained with the operation of the common provisioning fund while maintaining a prudent approach in line with the principle of sound financial management. The minimum ratio shall not be set at a level lower than 85 %.

3. The effective provisioning rate shall be calculated annually by the financial manager of the resources of the common provisioning fund and shall be the reference for the Commission's calculation of the contributions from the budget pursuant to point (a) of Article 211(4) and, subsequently, point (b) of paragraph 4 of this Article.

4. Following the calculation of the annual effective provisioning rate in accordance with paragraphs 1 and 2 of this Article, the following operations in the context of the budgetary procedure shall be made and presented in the working document referred to in point (h) of Article 41(5):

- (a) any surplus of provisions for a budgetary guarantee or a financial assistance to a third country shall be returned to the budget;
- (b) any replenishment of the fund shall be carried out in annual tranches during a maximum period of three years, without prejudice to Article 211(6).

5. After having consulted the accounting officer, the Commission shall establish the guidelines applicable to the management of the resources in the common provisioning fund in accordance with appropriate prudential rules and excluding derivative operations for speculative purposes. Those guidelines shall be attached to the agreement with the financial manager of the resources of the common provisioning fund.

An independent evaluation of the adequacy of the guidelines shall be carried out every three years and transmitted to the European Parliament and to the Council.

Article 214

Annual reporting

1. In addition to the reporting obligation laid down in Article 250, the Commission shall report annually to the European Parliament and to the Council on the common provisioning fund.

2. The financial manager of the resources of the common provisioning fund shall report annually to the European Parliament and to the Council on the common provisioning fund.

CHAPTER 2

Specific provisions

Section 1

Financial instruments

Article 215

Rules and implementation

1. Notwithstanding Article 208(1), financial instruments may be established, in duly justified cases, without being authorised by means of a basic act, provided that such instruments are included in the draft budget in accordance with point (e) of the first subparagraph of Article 41(4).
2. Where financial instruments or budgetary guarantees are combined within a single agreement with ancillary support from the budget, including grants, this Title shall apply to the whole measure. The reporting shall be carried out in accordance with Article 250 and shall clearly identify which parts of the measure are financial instruments or budgetary guarantees.
3. The Commission shall ensure a harmonised and simplified management of financial instruments, in particular in the area of accounting, reporting, monitoring and financial risk management.
4. Where the Union participates in a financial instrument as a minority stakeholder, the Commission shall ensure compliance with this Title in accordance with the principle of proportionality, on the basis of the size and value of the participation of the Union in the instrument. However, irrespective of the size and value of the Union participation in the instrument, the Commission shall ensure compliance with Articles 129 and 155, Article 209(2) and (4), Article 250 and, insofar as the exclusion situations referred to in point (d) of Article 136(1) are concerned, Section 2 of Chapter 2 of Title V.
5. Where the European Parliament or the Council consider that a financial instrument has not achieved its objectives effectively, they may request that the Commission submit a proposal for a revised basic act with a view to winding down the instrument. In the event of the winding down of the financial instrument, any new amount paid back to that instrument pursuant to Article 209(3) shall be considered as general revenue and returned to the budget.
6. The purpose of the financial instruments or a grouping of financial instruments on a facility level and, where applicable, their specific legal form and place of registration shall be published on the Commission website.
7. Entities entrusted with the implementation of financial instruments may open fiduciary accounts within the meaning of Article 85(3) on behalf of the Union. Those entities shall send the corresponding account statements to the Commission's responsible service. Payments to fiduciary accounts shall be made by the Commission on the basis of payment requests that are duly substantiated with disbursement forecasts, taking into account the balances available on the fiduciary accounts and the need to avoid excessive balances on such accounts.

Article 216

Financial instruments directly implemented by the Commission

1. Financial instruments may be directly implemented pursuant to point (a) of the first subparagraph of Article 62(1) through any of the following:
 - (a) a dedicated investment vehicle in which the Commission participates together with other public or private investors with a view to increasing the leverage effect of the Union contribution;
 - (b) loans, guarantees, equity participations and other risk-sharing instruments other than investments in dedicated investment vehicles, provided directly to final recipients or through financial intermediaries.
2. Dedicated investment vehicles referred to in point (a) of paragraph 1 shall be established pursuant to the laws of a Member State. In the field of external actions, they may also be established pursuant to the laws of a country other than a Member State. The managers of such vehicles shall be obliged by law or contractually to act with the diligence of a professional manager and in good faith.
3. The managers of dedicated investment vehicles referred to in point (a) of paragraph 1 and financial intermediaries or final recipients of financial instruments shall be selected with due account to the nature of the financial instrument to be implemented, the experience and the financial and operational capacity of the entities concerned, and the economic viability of projects of final recipients. The selection shall be transparent, justified on objective grounds and shall not give rise to a conflict of interests.

Article 217

Treatment of contributions from funds implemented under shared management

1. Separate records shall be kept for contributions to financial instruments established under this Section from funds implemented under shared management.
2. Contributions from funds implemented under shared management shall be placed in separate accounts and used in accordance with the objectives of the respective funds to actions and final recipients consistent with the programme or programmes from which contributions are made.
3. As regards contributions from funds implemented under shared management to financial instruments established under this Section, sector-specific rules shall apply. Notwithstanding the first sentence, managing authorities may rely on an existing *ex ante* evaluation, carried out in accordance with point (h) of the first subparagraph and the second subparagraph of Article 209(2), prior to contributing to an existing financial instrument.

Section 2

Budgetary guarantees

Article 218

Rules for budgetary guarantees

1. The basic act shall define:
 - (a) the amount of the budgetary guarantee that shall not be exceeded at any time, without prejudice to Article 208(2);
 - (b) the types of operations covered by the budgetary guarantee.
2. Contributions from Member States to budgetary guarantees pursuant to Article 208(2) may be provided in the form of guarantees or cash.

Contributions from third parties to budgetary guarantees pursuant to Article 208(2) may be provided in the form of cash.

The budgetary guarantee shall be increased by the contributions referred to in the first and second subparagraph. Payments for guarantee calls shall be made, where necessary, by the contributing Member States or third parties on a *pari passu* basis. The Commission shall sign an agreement with the contributors that shall contain, in particular, provisions concerning the payment conditions.

Article 219

Implementation of budgetary guarantees

1. Budgetary guarantees shall be irrevocable, unconditional and on demand for the types of operations covered.
2. Budgetary guarantees shall be implemented pursuant to point (c) of the first subparagraph of Article 62(1) or, in exceptional cases, pursuant to point (a) of the first subparagraph of Article 62(1).
3. A budgetary guarantee shall only cover financing and investment operations which comply with points (a) to (d) of the first subparagraph of Article 209(2).
4. Counterparts shall contribute with their own resources to the operations covered by the budgetary guarantee.
5. The Commission shall conclude a guarantee agreement with the counterpart. The granting of the budgetary guarantee is subject to the entry into force of the guarantee agreement.
6. Counterparts shall provide the Commission annually with:
 - (a) a risk assessment and grading information concerning the operations covered by the budgetary guarantee as well as expected defaults;
 - (b) information on the outstanding financial obligation arising for the Union from the budgetary guarantee, broken down by individual operations, measured in compliance with the Union accounting rules as referred to in Article 80 or with IPSAS;
 - (c) the total profits or losses deriving from the operations covered by the budgetary guarantee.

- **Article 237** (further relevant for Article 44 “Appointment of external experts” of the Rules for Participation in Horizon Europe)

Remunerated external experts

1. For values below the thresholds referred to in Article 175(1) and on the basis of the procedure laid down in paragraph 3 of this Article, Union institutions may select remunerated external experts to assist them in the evaluation of grant applications, projects and tenders, and to provide opinions and advice in specific cases.
2. Remunerated external experts shall be remunerated on the basis of a fixed amount announced in advance and shall be chosen on the basis of their professional capacity. The selection shall be done on the basis of selection criteria respecting the principles of non-discrimination, equal treatment and absence of conflict of interests.

3. A call for expression of interest shall be published on the website of the Union institution concerned.

The call for expression of interest shall include a description of the tasks, their duration and the fixed conditions of remuneration.

A list of experts shall be drawn up following the call for expression of interest. It shall be valid for no more than five years from its publication or for the duration of a multiannual programme related to the tasks.

4. Any interested natural person may submit an application at any time during the period of validity of the call for expression of interest, with the exception of the last three months of that period.

5. Experts paid from research and technological development appropriations shall be recruited in accordance with the procedures laid down by the European Parliament and by the Council when they adopt each research framework programme or in accordance with the corresponding rules for participation. For the purpose of Section 2 of Chapter 2 of Title V, such experts shall be treated as recipients.

- **Article 238** (further relevant for Article 44 “Appointment of external experts” of the Rules for Participation in Horizon Europe)

Non-remunerated experts

Union institutions may reimburse travel and subsistence expenses incurred by, or where appropriate pay any other indemnities to, persons invited or mandated by them.

- **Article 279(1)** (further relevant for Article 19 “Grant decision” of the Rules for Participation in Horizon 2020)

Transitional provisions

1. Legal commitments for grants implementing the budget under the Multiannual Financial Framework 2014-2020 may continue to take the form of grant decisions. The provisions of Title VIII applicable to grant agreements shall apply *mutatis mutandis* to grant decisions. The Commission shall review the use of grant decisions under the post-2020 multiannual financial framework, in particular in view of the progress made in electronic signature and electronic management of grants by that time.

[...]

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