



**GOVERNMENT  
OF MALTA**



**MANUAL OF PROCEDURES**

**FOR REFORMS AND INVESTMENTS**

**FALLING UNDER**

**MALTA'S RECOVERY AND RESILIENCE PLAN**

**A GUIDE TO IMPLEMENTING BODIES**

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## Preface

Malta's Recovery and Resilience Plan (RRP) is funded by the EU Recovery and Resilience Facility (RRF) established by virtue of Regulation EU 2021/41, which is at the core of the EU Commission's Next Generation EU Instrument. The Plan pursues the general objectives of the Facility as well as of the European Union Recovery Instrument set up by Council Regulation (EU) 2020/2094 which aim at supporting reforms and investments undertaken by EU Member States to mitigate the economic and social impact of the coronavirus pandemic and make European economies and societies more sustainable, resilient, and better prepared for the challenges and opportunities of the green and digital transitions.

Funding of respective measures in the Member States began at the start of the pandemic in February 2020 and will continue until 31 December 2026. The RRF Regulation entered into force on 19 February 2021.

Malta submitted its Plan to the EU Commission on 13 July 2021 and this has been endorsed by the EU Commission on 16 September 2021. Following Council approval on 5 October 2021, Malta's Plan was updated on 14 July 2023 to introduce measures that address REPowerEU objectives.

The Plan is composed by a set of measures which are needed for the economic recovery which include reforms and investments, grouped into components.

*Disclaimer: This guidance document and annexes are of an explanatory and illustrative nature and are intended only as guidance to assist the Implementing Bodies and others affected by the implementation of the RRP in terms of the applicable procedures. Relevant national and European Union legislation take precedence over the content of these documents and should always be consulted.*

## 1. Introduction

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### 1.1. Recovery and Resilience Facility (RRF)

The Recovery and Resilience Facility (RRF) is a temporary instrument that is the centrepiece of NextGenerationEU, the EU's plan to emerge stronger and more resilient from the current crisis.

Funds are aimed at implementing ambitious reforms and investments to make Member States' economies and societies more sustainable, resilient, and prepared for the green and digital transitions and address the challenges identified in country-specific recommendations under the European Semester framework of economic and social policy coordination.

The RRF is also crucial for implementing the REPowerEU plan – the Commission's response to the socio-economic hardships and global energy market disruption caused by Russia's invasion of Ukraine.

The RRF is programmed at the level of each Member State and is implemented through the recovery and resilience plans (RRP) which outline a coherent package of structural reforms and public investment projects.

### 1.2. Malta's Recovery and Resilience Plan

Malta's allocation under RRF stands at €328.2 million in grants. The Maltese RRP is in line with the Government's socio-economic vision, which is expected to serve as the basis for the country's economic strategy. The Government's long-term economic vision rests on the following five principles:

1. Good Governance
2. A higher quality of life for all citizens
3. Investing in education
4. Renewal of Malta's infrastructure
5. Achieving a carbon neutral economy by 2050

Malta's plan includes 16 investment measures and 31 reform measures. **Malta's RRP contained detailed costings for investments, whereas no costs were associated with reforms.** Therefore:

- the expenditure from the RRF is solely and exclusively limited to grants in relation to investment measures since none of the reform measures were costed to be financed through the RRF;
- reforms may be funded either through national funds or through other Union Funds. Financing from other Union funds measures that have no planned costs under the RRF cannot be considered as double funding.

The Manual will detail the respective checks and verifications which bodies will take in investment-driven versus reform-driven measures. Keeping this distinction in mind, two agreement templates have

been drafted for endorsement by the responsible institution, depending on whether the respective reform refers to an investment (grant agreement) or a reform (reform implementation investment).

At implementation stage of both reform and investment measures and from a budgetary point of view, there shall be a clear distinction between what is financed through national funds and what is financed through EU funding.

### **1.3. Scope of this Manual**

The PPCD has designed this Manual of Procedures (MoP) to guide the entities involved in the management and implementation of reforms and investments under Malta's RRP.

This Manual should be interpreted within the context of the following legal documents and any subsequent amendments:

- Council Regulation (EU) 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis;
- Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility;
- Council Implementing Decision on the approval of the assessment of the recovery and resilience plan for Malta and its ANNEX on the approval of the assessment of the recovery and resilience plan for Malta (doc 11941/21 + ADD 1);
- COUNCIL IMPLEMENTING DECISION amending Council Implementing Decision of 5 October 2021 on the approval of the assessment of the recovery and resilience plan for Malta (doc.. 11202/23 + ADD 1);
- COUNCIL RECOMMENDATION of 20 July 2020 on the 2020 National Reform Programme of Malta and delivering a Council opinion on the 2020 Stability Programme of Malta (2020/C 282/18);
- COUNCIL RECOMMENDATION of 9 July 2019 on the 2019 National Reform Programme of Malta and delivering a Council opinion on the 2019 Stability Programme of Malta COM/2019/518 final Stakeholders involved (2019/C 301/18);
- Operational Agreement signed between the European Commission and the Republic of Malta on 19 September 2022.

While this MoP provides a generic guidance for the responsible institutions, further specific guidance may be made available through separate Circulars, Guidance/Internal Notes, and Standard Operating Procedures issued by the Coordinating Body.

This MoP may be subject to regular revisions and changes. Should there be changes to the MoP, all the responsible institutions shall be informed. Furthermore, the website of the Ministry responsible for the management of EU Funds (<https://fondi.eu/>) will be constantly updated with the latest guidelines and the relevant documentation.

## 2. Roles and Responsibilities

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### 2.1. Coordinating Body

In terms of the RRP, the Ministry responsible for European funds is the Coordinating Body of Malta's Plan and shall be considered as the single point of reference. The PPCD within the Coordinating Body has been entrusted with the effective implementation of Malta's Plan through the Reforms and Investments under the RRP's Components, in line with Article 22 of EU Reg. 2021/241, in particular the function identified in Article 22 (2) and (3). In this regard, the PPCD shall take all the appropriate measures to protect the financial interests of the Union and to ensure that the use of funds in relation to measures supported by the Facility under this Plan complies with the applicable Union and national law.

In this context, the Ministry fulfils all relevant tasks related to financial management vis-à-vis investment measures costed for financing from the RRF; and the monitoring of milestones and targets vis-à-vis both investment and reform measures, to ensure effective implementation of the RRP.

#### Entity responsible for the implementation of Malta's RRP within the Coordinating Body

Planning and Priorities Coordination Division

The Oaks Business Centre

Block B

Farsons Street

Hamrun

*Tel. no.:* (+356) 2555 2653

*Email:* [fondi.eu@gov.mt](mailto:fondi.eu@gov.mt); [eufuds.rtf@gov.mt](mailto:eufuds.rtf@gov.mt)

### 2.2. Horizontal Units within the Ministry responsible for EU funds

Within the Ministry responsible for the management, coordination, and control of European and other funds several horizontal units oversee the implementation of the Plan although they are separate from the PPCD. These include the following:

- The **Financial Control Unit (FCU)** is a horizontal unit providing oversight to the respective Managing Authorities, including the PPCD in its Article 22 (RRF Regulation) function. This unit operates at an arms-length from the other authorities and is tasked with performing internal control functions on the verification of expenditures conducted by the Managing Authorities, including the PPCD in its Article 22 (RRF Regulation) function.



- The **ICT, Digitization, and Communications Unit**, as a horizontal entity, has a key role in ensuring the efficient functioning of the electronic data exchange system (the Management and Information System for the RRP) among its primary responsibilities. Furthermore, this unit is also responsible for drafting and implementing communication strategies to share key messages with internal and external stakeholders, fostering transparency and understanding.
- The **Evaluation Unit** is a unit focused on assessing information. It is responsible for evaluating the various programmes and analyse whether they have produced the desired effects. This unit plays a crucial role in providing insights to support informed decision-making.

### 2.3. Audit Authority

The Internal Audit and Investigations Department has been designated as the audit authority for the purposes of the RRP, as an independent body. The audit authority's strategy comprises both:

- system audits, focusing on the system in place for the reporting of the milestones and targets, and on the system to prevent detect and correct serious irregularities, including the IT system, as well as
- substantive testing based on an adequate sampling (audits on the complete fulfilment of milestones and targets).

#### Internal Audit and Investigations Department

*Tel. no.:* (+356) 2123 7737

*Email:* [info.iaid@gov.mt](mailto:info.iaid@gov.mt)

### 2.4. Implementing Body

The Implementing Body is the responsible institution involved in the execution of each reform and investment and shall liaise on a regular basis with the Ministry responsible for the management of EU funds as the Coordinating Body of the RRP. The responsible institution shall enter into an agreement with the PPCD outlining the relevant details for each Measure, including the pertinent Milestones and Targets as well as the respective financial allocation. The agreement shall also include an organisational chart to ensure adequate administrative capacity within the Implementing Body organisation.

The Implementing Body is also responsible for the achievements of all milestones and targets guided by the principle of sound financial management. Each Implementing Body is to appoint a Project Leader for each measure who shall be appointed by the body responsible of the measure / milestone / target and who shall have the responsibility of ensuring their effective and timely implementation. Monitoring

and reporting to PPCD in terms of the relevant milestones and targets shall also be the Implementing Body's responsibility.

Within each Ministry, the Directorate responsible for Policy Development and Programme Implementation, shall monitor the respective RRP measures, whilst ensuring inter-agency co-ordination for all RRP actions implemented by any Department / public organisation forming part of the Ministry's portfolio. This co-ordination function shall provide support to the entities within the Ministry that are responsible for implementation, which also entails liaison with the PPCD and other horizontal stakeholders. Apart from the input of the Directorate for Policy Development and Programme Implementation, the support of other existing structures within the Ministry, such as the Directorate for Corporate Services, may be necessary.

The list of RRP Implementing Bodies may be obtained from the Management and Information System <https://sfd.gov.mt/sfd1420/Dashboard.aspx> or by sending an e-mail to [eufunds.rrf@gov.mt](mailto:eufunds.rrf@gov.mt).

#### **2.4.1. Schemes**

The Ministry responsible for EU Funds, more particularly, the Measures and Support Division, will be responsible for the implementation of two measures that provide schemes for the private sector. The Measures and Support Division is also mandated to ensure the strategic management, administration and implementation of EU funded measures to support enterprises by taking up the function of Intermediate Body under the European Regional Development Fund (ERDF) in terms of Article 123 (6) of EC Regulation 1303/2013 and Article 71 (3) of Regulation 2021/1060.

The Ministry responsible for Transport, more particularly, Transport Malta, is responsible for the implementation of a measure that provides a scheme for the private sector.

#### **2.5. Line Ministry**

In most cases the Director Programme Implementation and/or the Director for European Union Affairs is responsible for the Line Ministry function in each Ministry. The Director Programme Implementation ensures that the full Line Ministry function (including raising the commitment in the Departmental Accounting System) is carried out efficiently by the relevant officers within the Line Ministry.

The Line Ministry function involves the processing of the payments pertaining to expenditure incurred under the Investment measures costed for financing from the RRF under financed by Malta's Plan, including inputting on the Management and Information System, and in following up any issues arising from management checks and audits pertaining specifically to the Ministry and / or Malta's RRP in general.

## **2.6. Department of Contracts**

The Department of Contracts within the Ministry responsible for Finance is responsible for the administration of the procurement procedures as laid down in the Public Procurement Regulations (including Utilities, Emergency and Property) as well as Concession Contracts Regulations. The Department of Contracts provides guidance and advice to the Implementing Body on all issues pertaining to public contracts. Within the context of Maltese legislation, the Department of Contracts is known as the Central Government Authority whereas the body procuring the goods/services/works is known as the Contracting Authority.

The Department of Contracts ensures that the relevant tenders are launched and published in accordance with the above-mentioned regulations and that contracts are awarded in conformity with the principles of non-discrimination, equality of treatment, transparency, mutual recognition, proportionality, open competition, financial management and good governance.

In terms of the Public Procurement Regulations (S.L. 601.03), the main functions of the Department of Contracts are outlined in Regulations 10 – 15 of the said Regulation.

It is the responsibility of ALL Implementing Bodies (even those not falling within the direct remit of the Department of Contracts such as Schedule 3 Contracting Authorities) to seek the advice of the Department of Contracts on procurement issues.

### **2.6.1. Sectoral Procurement Directorate**

The Sectoral Procurement Directorate was established in March 2021 and falls under the remit of the Department of Contracts. The directorate is responsible for the issuing and administration on behalf of Contracting Authorities (CAs) listed under Schedule 16 of the Public Procurement Regulations (S.L.601.03) of calls for tenders published under an open or restricted procedure where the estimated value of such calls exceeds €10,000 but it does not exceed the threshold of €750,000, as defined in Reg 9(1)(c) of the said Regulations. Both thresholds are net of Value Added Tax. In terms of the Public Procurement Regulations (S.L. 601.03), the main functions of the Department of Contracts are outlined in Regulation 79 of the said Regulation.

### **2.6.2. Operations Directorate**

Contracting Authorities falling under Schedule 2 of the Public Procurement Regulations (which currently refer to those falling within the remit of the Ministry responsible for Health) fall within the competence of the Operations Directorate of the Department of Contracts. Thus, the Operations Directorate is responsible for the issuing and administration on behalf of said CAs of calls for tenders which equal or

exceed the above threshold<sup>1</sup>, as defined in Reg 9(1)(b) of the PPR but also for the issuing and administration on behalf of Schedule 16 CAs of open and restricted call for tenders which exceed €750,000. These thresholds are net of Value Added Tax.

#### **Department of Contracts**

Website: [www.contracts.gov.mt](http://www.contracts.gov.mt)  
[etenders.gov.mt](http://etenders.gov.mt)

#### **Operations Directorate**

Tel. no.: (+356) 2122 0212  
 Email: [info.contracts@gov.mt](mailto:info.contracts@gov.mt)

#### **Sectoral Procurement Directorate**

Tel. no.: (+356) 2378 1501  
 Email: [spd.mfe@gov.mt](mailto:spd.mfe@gov.mt)

### **2.6.3. Tender Evaluation Committees**

Tender Evaluation Committees are committees nominated by Contracting Authorities with the purpose of evaluating tenders received and making recommendations thereon. Considering the principle of proportionality, the Tender Evaluation Committees shall use templates and the standard operating procedures circulated by the Department of Contracts and consult with the said Department where further information on the procedure is required.

### **2.6.4. Departmental Contracts Committee**

The Departmental Contracts Committee refers to the Committee set up in terms of Regulation 73 of the Public Procurement Regulations (S.L. 601.03) with the purpose of making definite recommendations for the award of public contracts administered by Contracting Authorities falling under Schedule 2 of the Regulations, and those public contracts administered by the Sectoral Procurement Directorate on behalf of a Contracting Authority.

### **2.6.5. General Contracts Committee**

The General Contracts Committee refers to the Committee set up in terms of Regulation 64 of the Public Procurement Regulations (S.L. 601.03), to carry out the functions detailed in Regulation 72 of the said Regulations. One of the main functions of this Committee is to evaluate reports and recommendations submitted by Contracting Authorities and make definite recommendations for the award of

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<sup>1</sup> At time of publishing of this Manual, the *above threshold* procurement procedures refer to those which equal or exceed an estimated value of €140,000, excluding VAT.

contracts, for those public contracts administered by the Operations Directorate on behalf of a Contracting Authority.

## 2.7. The EU Payments Unit

It is fundamental to note that the general principles applicable to the management of the EU budget dictate that the authorisation of payments should be distinct from other functions. In adherence to this, it will be ensured that the authorisation of payments to Contractors is carried out by officials from a dedicated EU Payments Unit, independent of the PPCD.

The EU Payments Unit housed under the Ministry responsible for EU Funds, is therefore responsible for processing payments to contractors in respect to expenditure incurred under the investment measures costed to be financed from the RRF.

## 2.8. Contractor

The contractor is the provider of works, supplies, or services that has been awarded a contract following the launch and adjudication of a procurement procedure. The Implementing Body is responsible for ensuring (through supervision and certification of works, services and/or supplies) that the contractor delivers the works/supplies/services in accordance with the terms and conditions stipulated in the agreement and in accordance with local and European Union regulations.

## 2.9. National Audit Office

The National Audit Office is the external auditor of the Government of Malta and is completely independent of the executive arm of the Government.

The National Audit Office may carry out audits as the external auditor of Government, in relation to the national funds used to implement specific investment and reform measures, where and as applicable.

### **National Audit Office**

*Tel. no.:* (+356) 2205 5555

*Email:* [nao.malta@gov.mt](mailto:nao.malta@gov.mt)

## 2.10. Channels of Communication

The following lines of communication shall be adhered to:

1. The Ministry responsible for EU Funds shall liaise directly with the European Commission.

2. In terms of the implementation of measures, the Coordinating Body will communicate with the Implementing Body on issues pertaining to the operation / measure, as applicable.
3. Any queries pertaining to implementation of Malta's RRP may be addressed to the Coordinating Body.
4. It is the responsibility of the Implementing Body to consult the relevant national authorities on issues pertaining to the respective measure, including the Department of Contracts on procurement; the EU Payments Unit in terms of payments; the Planning Authority on planning and environmental permits; the Commission for the Rights of Persons with Disability on the rights of persons with disability; the National Commission for the Promotion of Equality on equal opportunities; the State Aid Monitoring Board in relation to state aid issues; the Commissioner for Revenue on issues related to Value Added Tax; where and as applicable.
5. As a rule, changes under the RRP are not permitted, and in any case strictly limited to specific provisions in the RRF Regulation. Keeping this in mind, the Coordinating Body should be informed immediately of any possible changes to the respective measure including changes in implementation of the measure as well as its timeline. Any changes in terms of the measures' contact person/s should also be communicated to the Coordinating Body. In such cases, the relevant template on Changes in Project Leader is to be filled in. The desk officers would then update the information on the Management and Information System as the RRP Database.
6. Access rights to the MIS are managed in accordance with the RRP Standard Operating Procedure number 1 available at [https://fondi.eu/wp-content/uploads/2023/01/RRP\\_Annex-2-SOP-RRFD-User-Rights-1.pdf](https://fondi.eu/wp-content/uploads/2023/01/RRP_Annex-2-SOP-RRFD-User-Rights-1.pdf). It is the responsibility of the respective Project Leader, Director, or Head of Organisation to immediately terminate access to any user who no longer requires access to the information system.
7. MIS users should note that training is organised regularly on the use of the management information systems. Those users requiring assistance in using the MIS may consult the tutorials available on same information systems by selecting the help icon on the respective page.
8. The Coordinating Body also provides periodic training sessions on the use of the MIS. New officers from within Implementing Bodies interested in attending training sessions should contact the Coordinating Body so that they are advised when new training sessions are scheduled. It is important that prior to attending these training sessions, attendees ensure that they have been given access to their RRP Database user account.

### 3. Compliance with Horizontal Principles

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Throughout implementation, the Implementing Body must comply with the EU Charter of Fundamental Rights as well as with the horizontal principles of sustainable development and the Union's promotion of the aim of preserving, protecting and improving the quality of the environment, including adherence with the Do No Significant Harm (DNSH) Obligations, equal opportunities and non-discrimination, and equality between men and women, gender mainstreaming and the integration of a gender perspective. State aid requirements should also be adhered to.

#### 3.1. Equal Opportunities

Equal opportunity is a cross-cutting theme, and all efforts should be made by the Implementing Bodies to include this element within the respective measure/s. The effort undertaken needs to go beyond legislation obligations. Implementing Bodies must take into consideration equal opportunities at all stages of the implementation and necessary steps should be taken to prevent any discrimination based on sex, racial or ethnic origin, religion or belief, disability, age, or sexual orientation.

**National Commission for the Promotion of Equality:**

*Tel. no.:* (+356) 2595 7850

*Email:* [equality.gov.mt](mailto:equality.gov.mt)

**Commission for the Rights of Persons with Disability:**

*Tel. no.:* (+356) 2226 7600

*Email:* [helpdesk@crpd.org.mt](mailto:helpdesk@crpd.org.mt)

#### 3.2. Sustainable Development

Sustainable development is at the very heart of the European Union's (EU) policy agenda. Every EU initiative aims to improve citizens' lives, contribute to a healthier planet, and build a sustainable future. The EU and its Member States are determined to deliver on the UN 2030 Agenda for Sustainable Development and its 17 Sustainable Development Goals (SDGs). The European Green Deal plays a major role in achieving some of these goals. The National Sustainable Development Strategy may be downloaded from: <https://sustainabledevelopment.gov.mt/>

### 3.3. Environmental Sustainability – Do No Significant Harm

The measures financed under Malta's RRP cannot have a significant negative impact on the environment and shall also be fully compatible with the 'Do No Significant Harm' principle. An assessment pertaining to the investments financed under the RRP was carried out at drafting stage (this assessment is contained in the RRP<sup>2</sup>) whereby every investment was assessed in terms of its potential effect in terms of:

- Climate change mitigation;
- Climate change adaptation;
- The sustainable use and protection of water and marine resources;
- The circular economy, including waste prevention and recycling;
- Pollution prevention and control to air, water or land;
- The protection and restoration of biodiversity and ecosystems.

All the requirements listed in this assessment are to be addressed during implementation, including inclusion in the respective procurement processes. An excel sheet including all such information (downloadable from the MIS notifications page) is to be filled in and sent to the Coordinating Body prior to publication of tenders.

Adherence with the respective DNSH obligations is also to be confirmed upon completion of the respective target or milestone, by means of the provision of information and backing documentation (as applicable) in the Summary Note.

### 3.4. Environment and Planning

Implementing Bodies must ensure that planning regulations and obligations are followed and that environmental issues are taken into consideration throughout the operation's life cycle. To ensure the timely implementation of the RRP measures, the timeframes stipulated by national law and procedures needed to obtain planning permits must be kept in mind. Officials within the Environment and Resources Authority / Planning Authority may provide advice on the environmental and planning permitting.

#### **Planning Authority**

*Tel. no.:* (+356) 2290 0000

*Email:* [customercare@pa.org.mt](mailto:customercare@pa.org.mt)

#### **Environment and Resources Authority**

*Tel. no.:* (+356) 2292 3500

*Email:* [info@era.org.mt](mailto:info@era.org.mt)

<sup>2</sup> [Malta-Recovery-and-Resilience-Plan-2023-7.11.2023.pdf \(fondi.eu\)](#)



### 3.5. State Aid Requirements

1. European Union state aid rules apply to operations which involve any direct (or indirect) financial support from the public sector to commercial enterprises or organizations carrying out an economic activity or if in some way the assistance involved distorts trade or threatens to distort competition within the Community.
2. The PPCD shall seek confirmation from the SAMB that the measures under Malta's RRP do not give rise to state aid implications.
3. Clearances by SAMB are to be filed and communicated to the respective Implementing Bodies for their records.
4. Any conditions stipulated by SAMB are to be registered by PPCD for monitoring, and follow-ups with the respective Implementing Bodies. Where follow-ups are required, the PPCD is to liaise with SAMB and the Implementing Bodies, as necessary. Should Art. 107 TFEU notification be required, this shall follow the standard process through the SAMB.
5. It is the responsibility of the Implementing Body to comply with State Aid parameters and to inform PPCD of any changes to the nature of the intervention, which could potentially give rise to State Aid implications. In such case, the Implementing Body should seek clearance from the SAMB and inform PPCD accordingly.

**State Aid Monitoring Board**

*Tel. no.:* (+356) 2125 2757

*Email:* [yana.haber@gov.mt](mailto:yana.haber@gov.mt)

## 4. Fraud, Corruption, Conflict of Interest and Double Funding

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### 4.1. Anti-Fraud Strategy

Fraud involving public funds is often linked with corruption, which is generally understood as any act or omission that abuses official authority or seeks to bring about the abuse of official authority, to obtain undue benefit. Irregularity is a broader concept than fraud. It is defined as any breach of applicable law, resulting from an act or omission by an economic operator which has, or would have, the effect of prejudicing the EU budget of the Union (including public funds), by charging unjustified expenditure to that budget<sup>3</sup>. If such breach of law has been committed intentionally, then it is fraud. Hence, what differentiates fraud from other irregularities is malicious intent on the part of the perpetrator.<sup>4</sup>

The Recovery and Resilience Plan makes a clear distinction between 'minor irregularities' and 'severe irregularities'. Whilst minor irregularities involve breaches of certain conditions of funding and are often the result of genuine errors, severe irregularities involve suspicion of fraud, fraud, corruption, conflict of interest and double funding as deliberately committed, and such irregularity constitute a criminal offence.

Furthermore, the EU treaty<sup>5</sup> defines fraud, in respect of expenditure, as an intentional act or omission related to:

- the use or presentation of false, incorrect, or incomplete statements or documents, which leads to the misappropriation or wrongful retention of funds from the EU
- non-disclosure of information in violation of a specific obligation, with the same effect
- the misapplication of such funds for purposes other than those for which they were originally granted.

The EU Funding System in Malta has a zero-tolerance policy to fraud and corruption. It is committed to prevent and detect cases of fraud and to maintain high legal, ethical, and moral standards, to adhere to the principles of integrity, objectivity and honesty and is opposed to fraud and corruption in the way that it conducts its business.

For this reason, the programmes have robust control systems, measures, and procedures to managing risk of fraud, corruption and conflict of interest risk, and the competent authorities will follow-up on all cases of suspected fraud. Of course, apart from the management controls and internal control measures, the EU Funding System in Malta, falls under and is also aided through the National Anti-Fraud and Corruption Strategy<sup>6</sup>, particularly the various anti-fraud and anti-corruption measures, both

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<sup>3</sup> Article 2 (31) of Regulation (EU) 2021/1060 of the European Parliament and of the Council

<sup>4</sup> ECA Special Report 1/2019 <https://www.eca.europa.eu/en/publications?did=48858>

<sup>5</sup> The Convention drawn up based on Article K.3 of the Treaty on European Union, on the protection of the European Communities' financial interests

<sup>6</sup> [https://parlament.mt/media/112436/national-anti-fraud-and-corruption-strategy\\_en.pdf](https://parlament.mt/media/112436/national-anti-fraud-and-corruption-strategy_en.pdf)

legal and institutional which were set-up over the years by the Maltese Government to fight fraud and corruption.

Furthermore, a more focused **Anti-Fraud Strategy**<sup>7</sup>, available on [fondi.eu](https://fondi.eu) website, outlines the approach of the Coordinating Body, Line Ministries and Implementing Bodies to tackle fraud and corruption in line with the provisions of the EU regulatory framework and National rules. **The Implementing Bodies are encouraged to do their utmost to prevent fraud, to put in place proportionate measures to detect it, and to come forward with any suspicion of fraud in relation to the programmes.** The Implementing Bodies should pay particular attention to Section 4 'The anti-fraud cycle' of the Anti-Fraud Strategy, which highlights their responsibility to *prevent / deter* but also to *detect and report* fraud.

#### 4.1.1. Prevention / deterrence

The Implementing Bodies must be committed to maintaining high legal, ethical and moral standards, to adhere to the principles of integrity, objectivity and honesty and actively oppose fraud and corruption in their projects. They are responsible to put in place an effective internal control system which aims at deterring potential fraudsters and in maximising the commitment of staff to combat fraud bearing in mind also that fraud and corruption are costly in terms of investigative costs, financial losses, and reputational risk.

For this purpose, the Implementing Body should endeavour to:

- **Raise awareness through formal training of all its staff** complement involved in the management of the EU Funds about preventative and detective control measures, awareness of the specific roles and responsibilities of all stakeholders, and of reporting mechanisms;
- Put in place an effective **separation of duties**, particularly with respect to financial and control units, and rotate staff (when possible);
- **Promote an ethical culture** among staff to act honestly and with integrity to safeguard all national and Community resources;
- Ensure that **staff** involved in the management and implementation of EU funds **is aware of possible conflict of interest or fraudulent behaviour at every stage of implementation**;
- **Encourage its staff** complement **to report any case of suspected fraud** concerning EU Funds to the Coordinating Body, either through their respective hierarchy or directly if necessary;
- **Conduct regular checks** and ensure that staff in charge is aware of the European Commission and any national guidance on fraud indicators.

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<sup>7</sup> <https://fondi.eu/important-documentation/reference-documents/anti-fraud-policy-and-strategy/>

Further information on how to prevent fraud and corruption in public procurement is also available in Section 5 of this MoP.

#### 4.1.2. Detection and Reporting

Effectively implemented robust control systems can considerably reduce the fraud risk but cannot eliminate fraud completely from occurring or in remaining undetected. Therefore, the systems must also ensure that procedures are in place to detect fraud and to take appropriate measures once a suspected case of fraud is detected.

An Implementing Body is responsible for the first level of oversight and for the accountable, proper, transparent, and effective management of reforms and investments which are to be designed, implemented, and executed with the relevant Line Ministry. During implementation of a reform or investment, an Implementing Body needs to pay attention to, amongst others, the main fraud and corruption risks identified by the respective risk assessment/s.<sup>8</sup> The following are some of the potential fraud and corruption inherent risks identified in the National Risk Assessment and which are detailed in the Anti-Fraud Strategy:

- occurrence of unlawful use of resources and information systems
- occurrence of procurement processes not in line with standing regulations
- intentional act of effecting improper payment/s to third parties
- disclosure of sensitive information to third parties
- failure to declare a direct or indirect conflict of interest by an employee
- active corruption (e.g. the act of promising or giving the bribe) / passive corruption (e.g. act of receiving a bribe).

Timely intervention in weeding out the involvement of conflicted persons on official boards involved with the design, award, implementation of procurement processes which are co-financed through EU funds and the processing of payments which fall within projects co-financed by EU funds is a must. Furthermore, the Implementing Body needs to report to the Coordinating Body at the earliest opportunity any fraud or suspected fraud they identify in their project. The Implementing Body should take note of section 4.1.4 which provides the responsibilities for action and reporting lines established in the event of suspicion of fraud.

Anyone detecting an irregularity should report it immediately to PPCD copying the Audit Authority. Anyone detecting an irregularity has the option to report via the usual hierarchy of the organisation or directly to PPCD.

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<sup>8</sup> Circular No 1/2016 published by the Office of the Prime Minister guides and solicits Ministries and Entities to develop a risk register that identifies, assesses, and manages risks inherent to their operations.

With reference to administrative and legal proceedings related to severe irregularities, i.e. involving a case of fraud, conflict of interest, double funding, corruption, the PPCD will follow the procedure as described below and the Anti Fraud Strategy.

#### 4.1.3. Effective implementation of proportionate anti-fraud and anti-corruption measures

The Implementing Body should note that the Coordinating Body adopt the EC-developed specific risk-scoring tool, ARACHNE, which helps to identify areas (operations, projects, Implementing Bodies, and contracts or contractors) where there is a higher risk that might warrant additional attention. The information will be made available also to the Audit Authority and to the Commission on their request in relation to specific reforms or investments.

Furthermore, besides the regular checks, controls, verifications, on-the-spot checks, and periodical assessment of risks through the risk register, the Coordinating Body will use a fraud risk self-assessment tool to assess the impact and likelihood of common fraud risks occurring. The tool identifies specific fraud risks in relation to three processes, namely:

- a. Selection of Implementing Bodies;
- b. Implementation of projects by Implementing Bodies, focusing on public procurement and staff costs;
- c. Certification of expenditure by the Coordinating Body and payments.

For each of the specific risks, the first step is to quantify the risk that a given fraud type would occur, by assessing impact and likelihood, ignoring the current mitigating internal controls (**gross risk**). The second step is to factor in the current controls in place and assess the effectiveness of these controls to mitigate the gross risk. The resulting risk (the **residual risk**) should then be assessed on whether it is tolerable or not. If it is not tolerable, additional controls would have to be introduced till the risk level is considered by the Coordinating Body to be tolerable (**target risk**).

Thus, the output of the fraud risk assessment identifies those specific risks with respect to which not enough measures are in place to reduce the combined likelihood and impact of potentially fraudulent activity to an acceptable level. The team carrying out the assessment should then come up with further corresponding anti-fraud measures, mostly in the form of mitigating internal controls. The Coordinating Body will be vigilant to assess the effectiveness of its anti-fraud measures and guidelines, with a view to adapt timely modifications or tightening in procedures should the need arises.

The Implementing Bodies should note that the Audit Authority as well as the EU auditors may also carry out targeted verifications to identify potential risks of irregularities or fraud and these verifications may also be performed through the ARACHNE.

Furthermore, Implementing Bodies are reminded that, as detailed in MEFL/EFL Circular No 1/2023 (available from the Management and Information System <https://sfd.gov.mt/sfd1420/Dashboard.aspx>),

they also need to ensure that a fraud risk assessment for EU funded projects is in place identifying those aspects of the reforms and investments that are being implemented that are most prone to fraud and corruption. As clarified above, this fraud risk assessment is the process that leads to the compilation of a Fraud Risk Register whereby the former is essential to develop a comprehensive Fraud Risk Register as requested in OPM Circular No.1/2016. Annex II to MEFL/EFL Circular No 1/2023 (available from the Management and Information System <https://sfd.gov.mt/sfd1420/Dashboard.aspx>) explains in detail how to conduct the fraud risk assessment and how to draw up the fraud risk register.

#### **4.1.4. Reporting lines established in the event of suspicion of fraud**

“Suspected fraud” give rise to the initiation of administrative or judicial proceedings at national level to establish the presence of intentional behaviour, in particular fraud.

Malta shall take all necessary measures, including legislative, regulatory, and administrative measures, to protect the Union's financial interests, by preventing, detecting and correcting irregularities and fraud. The last three elements and ‘prosecution’ constitute the four key elements of the anti-fraud cycle as also detailed in the Anti-Fraud Strategy.

The Coordinating Body have a clear commitment to combat fraud and corruption both through preventive and detective control mechanisms and it is determined to transmit cases to the competent authorities for investigation and sanction.

The below procedure highlights the authority levels, responsibilities for action, and reporting lines established in the event of suspicion of fraud.

#### ***Reporting***

- When any relevant authority or Implementing Body, or their members of staff, suspects that fraud has occurred, they must notify their immediate superior. If it is inappropriate to raise the matter with the immediate superior, the concern should be raised with the Head of the Implementing Body / Ministry / Coordinating Body. The official with whom the report was filed must immediately relay the message to the Head of the Coordinating Body;
- Timeliness plays a crucial role when addressing suspected cases of fraud. Consequently, when identifying cases of potential fraud, the officers' immediate action is to alert his/her direct superior verbally. The case, which is treated with confidentiality (subject to legal obligations), is followed up by a written report so that the relevant authorities can be informed and asked to investigate further;
- The Body reporting the suspicion of fraud must act with caution in dubious situations which might lead to fraudulent transactions. In the case of detection of possible forged documents, the EU Payments Unit/Treasury is advised to temporarily stop all payments addressed to the supplier/contractor in question;

- The body identifying/reporting the irregularity/suspected fraud should inform in writing the Permanent Secretary and/or Head of the Implementing Body, and the Internal Audit and Investigations Department, as per Article 16 of the Internal Audit and Financial Investigations Act (Chapter 461 of the Laws of Malta), which states that *“If an entity has reason to suspect any irregularity and, or a suspected case of fraud of public funds, it shall refer the matter forthwith to the Director (of IAID), and shall supply to the Director all information in his possession relating thereto”*.
- Fraud may also be reported through the channels established by way of the Whistleblower Act (Chapter 527 of the Laws of Malta). A Government Official has been appointed within every Ministry to serve as a Whistleblowing Reporting Officer detailed to receive reports. Furthermore, an External Whistleblowing Officer has been appointed within the Cabinet Office for public sector employees. The contact details of the Whistleblowing Reporting Officer appointed within the Ministry responsible for the management of EU funds and of the External Whistleblowing Officer, and specific information on how a Whistleblower is protected under the said Act and the reporting obligations of the appointed Whistleblowing Officer, is available from the following link:  
<https://fondi.eu/wp-content/uploads/2023/01/Whistle-Blower-Act.pdf>
- Implementing Bodies should also note that the European Public Prosecutor’s Office (EPPO) became operational in 2021. This Office is the EU’s first independent and decentralised prosecution office with the power to investigate and bring to judgement crimes affecting the financial interests of the EU. Further information on how to report a crime through this Office is available from the following link: <https://www.eppo.europa.eu/en/reporting-crime-eppo>

### ***Investigation and Prosecution***

- In terms of Article 18 of the Internal Audit and Financial Investigations Act, *“whenever, and as soon as the Director firmly establishes the existence of suspected cases of irregularities and, or suspected cases of fraud concerning the responsibilities of the auditee under review, the Director shall, if he is of the opinion that the irregularity, if proved, would constitute a criminal offence immediately inform the Attorney General”*.
- The Attorney General will evaluate the case in question and determine whether:
  - To forward the case to the Malta Police for a criminal investigation; or
  - Terminate proceedings of the case at that juncture.
- The Commissioner of Police forwards to the body reporting the case a copy of the report of the investigation, including any court action to be taken by the Police.

- Where the investigation report concludes that no criminal proceedings are required (i.e. it is prima facie confirmed that the suspicion of fraud is not correct), the Coordinating Body advises the EU Payments Unit/Treasury to proceed with the payment of pending invoices.
- On the other hand, where the investigation report concludes that criminal proceedings are required (i.e. it is confirmed that the suspicion of fraud is factual), the Coordinating Body shall seek to recover amounts unduly paid or misused and report such Irregularities to the Anti-Fraud Co-ordinating Service (AFCOS) Malta.

#### **4.2. Preventing, Detecting, Mitigating and Addressing Conflict of Interest**

The First Schedule of the Public Administration Act (Chapter 595 of the Laws of Malta) titled 'Codes of Ethics for public employees and Board Members' provides that 'public employees and board members shall ensure that no conflict, real or apparent, arises between their official duties and any other occupations, activities or interests (financial or otherwise) that they or their close relations may have'.

Section 6.2 of the Public Service Management Code stipulates that a conflict of interest arises 'when a public employee, or their close relations, have a private or personal interest, sufficient enough to influence the objective exercise of the public employee's duties.' The Code also stipulates that it is the responsibility of the employee to inform one's Permanent Secretary, in writing, and within a week from assuming office or upon a change in duties/circumstances.

Furthermore, according to Article 61 of the Financial Regulation 2018, a conflict of interest exists where the *'impartial and objective exercise of the functions of a financial actor or other person' involved in budget implementation 'is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other direct or indirect personal interest'*. This Article which applies to all funds stemming from the EU budget, obliges Member States to prevent and address conflicts of interest as set out in the Article. In view of this, the Commission also issued Notice C(2021) 2119 as Guidance on the avoidance and management of conflicts of interest under the Financial Regulation, which is available from the following link:

[https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52021XC0409\(01\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52021XC0409(01)&from=EN)

This Commission's Guidance acknowledges that situations involving conflicts of interest can happen at any time. To mitigate this type of risk, it is of paramount importance to either prevent them or manage them appropriately when they occur. That requirement is crucial for upholding the transparency, reputation and impartiality of the public sector and the credibility of the rule of law principles as a fundamental value of the EU.

A multi-tiered approach is being adopted in Malta's internal control system to prevent, detect and properly mitigate and address conflicts of interest. The first tier lies within the Implementing Body for which they are to ensure that the project team has signed the Declaration of Conflict of Interest and carry out verifications on the veracity and correctness of the declarations of non-conflict of interest for



both the project team and personnel involved throughout the procurement process. In addition, the first level of control is expected to adopt data mining practices to identify Ultimate Beneficial Owners as per the detailed policies and rules specified by the respective Line Ministry.

While developing/updating their detailed policies and rules, the Implementing Bodies and Line Ministries, are to be guided by the information provided in this Manual, MA Circular 02/2021 and MA Circular 04/2022 (available from [FONDI.eu | ERDF, ESF & CF Circulars - FONDI.eu](https://fondi.eu)) and MEFL/EFL Circular 01/2023, and any further guidance and/or circular which may be issued by the Coordinating Body or the Ministry responsible for the management of EU funds.

The Coordinating Body, as the second level of control, will apply a risk-based methodology and undertake a detailed check on the Ultimate Beneficial Owner, the project team and the personnel involved throughout the procurement process.

The Financial Control Unit, as the third level of control, will exercise oversight due diligence over the workings of the Coordinating Body and ascertain that the different Managing Authorities work in tandem and along the established internal procedure.

All checks carried out need to be documented, and the results thereof communicated to the Coordinating Body and/or Financial Control Unit. Furthermore, the Implementing Body is reminded that should checks identify suspicion of fraud it shall be reported as detailed in section 4.1.4 of this Manual.

#### **Implementing Bodies – What to take note of:**

- Implementing Bodies should adhere to the detailed policies and rules on the avoidance and management of conflicts of interest circulated by the Ministry responsible for the management of EU Funds, the Coordinating Body, and their respective Line Ministry.
- Implementing Bodies should establish internal measures to avoid conflict of interest and adopt internal standard operating procedures on conflict of interest in line with MA Circular 02/2021, MA Circular 04/2022, and MEFL/EFL Circular 01/2023.
- Members on selection boards appointing officials on EU funded projects are to sign a Declaration of Conflict of Interest.
- A Declaration of Conflict of Interest is also to be signed by the project team.
- Evaluation Committee members are to sign the Declaration of Conflict of Interest as soon as the members have enough information on the competing tenders to allow a complete and full assessment on the existence or otherwise of a situation of conflict of interest.<sup>9</sup> Technical consultants/External Experts appointed to assist an evaluation committee need also to sign a Declaration of Conflict of Interest.

<sup>9</sup> Not Applicable for call for quotations/tenders which are issued through the *etendering system*, where this confirmation is carried out electronically through the system following unlocking of offers.

- It is of utmost importance that when a possible conflict of interest is disclosed or where a third party reports a possible conflict of interest, the officer concerned is instructed to refrain from dealing with the relevant assignment.
- As specified in the Public Service Management Code, public officers within the Implementing Body's organisation who work or are involved in EU Funded projects in Malta and intend to perform private work or private investments, need to submit a request for permission in this regard. This request for permission should be processed through the Director responsible for People Management of the Ministry concerned, who shall retain records of all these cases. The Ministry shall ascertain that the request of ancillary or part time employment submitted by the staff does not constitute a case of conflict of interest with their current tasks/ employment before the approval is granted.
- Implementing Bodies, especially those implementing large operations, are to ensure that professionals such as Engineers, Architects etc., working on a project with the role of certification of works etc., are independent from the Contractor implementing the works they are certifying.
- Implementing Bodies are to carry out checks on the project team and personnel involved throughout the procurement process. In addition, they are expected to adopt data mining practices to identify Ultimate Beneficial Owners, as per the detailed policies and rules specified by the respective Line Ministry and in line with the Circulars issued by the Coordinating Body / Ministry responsible for the management of EU funds.

### 4.3. Double funding and Complementarity

Member States are under an obligation to avoid “double funding” when implementing the RRF. Nonetheless, measures (reforms and investments) supported by the RRF can receive additional support by other EU funds. Article 9 of the RRF Regulation stipulates that “Support under the Facility shall be additional to the support provided under other Union programmes and instruments. **Reforms and investment projects may receive support from other Union programmes and instruments provided that such support does not cover the same cost**”. This is also reflected in Article 22 on the protection of financial interests of the Union and in the provisions of other EU programmes with respect to actions (co)financed through those programmes.

At design stage, the programming of EU funded plans and programmes is coordinated in a centralised manner, ensuring that synergies and possibilities for complementarities across funds are embedded in the programming process, avoiding overlaps between the interventions financed under different EU funded instruments. Whilst it is acknowledged that the risk of double funding in Malta is minimised through the assurances provided at the level of the respective programme design, controls at project/ implementation stage are still required to ensure the absence of double funding.

At implementation stage, **an Implementing Body is to ensure that in no circumstances the same costs are financed twice under any budget. Such obligation is also reflected in grant agreements.**

For all measures included in Malta's RRP, as part of the control on complementarity and funding, the Implementing Bodies are requested to submit a filled-in checklist on other funding and avoidance of double funding, on a bi-annual basis, every April and October. Any cases of double funding as well as complementarities are reported on FENIX.

Although there cannot be double funding in relation to reform measures vis-a-vis the Recovery and Resilience Facility because reforms are not costed in Malta's RRP, checks are carried out on all measures, including investments and reforms, due to the reporting requirement on complementarities. The Checklist is circulated by the PPCD ahead of every reporting period.

The veracity of feedback provided by the respective stakeholders is further checked by the Coordinating Body through the lifetime of the measures. This is particularly done through:

- the outcome of the Inter-Ministerial Coordination Structure – This Structure includes feedback provided by the *Inter-Ministerial Consultative Committee (IMCC)*<sup>10</sup> and outcome provided through the *Intra-Ministerial Coordination (IMC) meetings*<sup>11</sup> wherein through the latter meetings the Managing Authorities, together with the Coordinating Body, will coordinate the parallel implementation of their respective operations considering the activities involved and any feedback provided by the IMCC on possible overlaps at fund and programme level.
- checks carried out through the Arachne registered risks.

Furthermore, the Implementing Body ought to note that, should the above controls identify high risk projects, the Coordinating Body will be carrying out additional checks to ensure that the same cost item has not been claimed under different operations, but also to inform stakeholders of the potential risk.

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<sup>10</sup> The Inter-Ministerial Consultative Committee (referred to as IMCC) brings together stakeholders responsible for EU funds under direct, indirect, and shared management Funds, to discuss complementarities between possible actions under different EU Funds. The Committee also mandates the Managing Authorities / Coordinating Body / Implementing Bodies to establish further delineation parameters where overlaps at Programme / Plan level are identified. Information on the IMCC may be found [here](#). This mechanism further solidifies Malta's efforts to improve synergies, prevent possibilities for double funding and further enable a holistic use of EU Funds across different programmes and regulatory regimes.

<sup>11</sup> Whenever overlaps at fund and programme level is identified by the IMCC, the MAs, through the IMC (Coordination Meetings held at the level of Chief Coordinators), will be responsible, together with the sub-committees created under the IMCC structure, to establish further demarcation parameters and monitoring mechanisms and to report back to the IMCC on action taken to address overlaps and avoid double funding. Furthermore, through this Coordination Meeting, the Managing Authorities and the Coordinating Body will also discuss developments in terms of projects selected for funding, wherein the supported projects and Beneficiaries per Fund are circulated to the different Managing Authorities for assessment and to identify any potential risk of double funding.

## 5. Public Procurement and Contracting

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### 5.1 Public Procurement

In accordance with Article 22 of the RRF Regulation, Implementing Bodies are to “ensure that the use of funds in relation to measures supported by the Facility complies with the applicable Union and national law”. This includes public procurement.

During the lifetime of an investment measure, virtually all Implementing Bodies will buy goods and services externally. Whenever purchases are made and contracts are awarded to Contractors, the Implementing Bodies must be able to demonstrate the good use of public funds. When envisaging such procurement, they will therefore need to consider the below sources of rules:

- EU Public Procurement Directives
- National Regulations as well as Circulars, Guidance Notes, Procurement Policy Notes, Standard Operating Procedures and Procurement Templates issued by the Department of Contracts
- Internal Rules of the Implementing Body – *As a matter of principle, the strictest rules must always be applied.*

**Implementing Bodies are also encouraged to follow up matters and seek the necessary guidance from the Department of Contracts in terms of planning, interpreting, and applying regulations, and carrying out the procurement procedures.**

The EU Public Procurement Directives, which are transposed as the National Regulations, define the tendering and publicity procedures applicable to different threshold values. Each contract, irrespective of its value, should be awarded based on objective criteria which ensure compliance with the principles of transparency, non-discrimination, and equal treatment and guarantee that tenders are assessed under conditions of effective competition. Essentially, the main difference for public contracts of being below or above the threshold values will be the degree of publicity and formality of the tendering procedure: in certain cases, a minimum of three quotations might be sufficient, whereas for others it may be necessary to publish the tender on the etenders.gov.mt website or also on an EU wide website (EU TED).

Implementing Bodies are reminded that procurement documents should be drafted in a manner that clearly sets the specifications / terms of reference of the contract and the way that offers are to be evaluated. Given that the drafting of a call for tenders is a very complex, time consuming and expensive process, it is highly recommended that Implementing Bodies check with the Department of Contracts whether there are (administrative or legal) planned changes PRIOR to the commencement of the drafting, to avoid unnecessary waste of resources and time. Tender Evaluation Committees are to

ensure that offers are administratively, technically, and financially compliant with the tender conditions. Furthermore, in line with green and social public procurement principles, investments measures are encouraged to include relevant sustainability criteria in their tender documents, whenever relevant, according to the type of services, supplies, and works being procured.

### **Preventing fraud in public procurement**

As highlighted in Chapter 4 of this Manual, the Implementing Bodies are recommended to pay particular attention to fraud risks in public procurement.

To prevent and detect potential fraud in this area, it is recommended that Implementing Bodies:

- ensure the proper application of their internal conflict of interest policy (e.g., through conflict-of-interest declarations, conflict registers)
- perform checks on companies participating in a call for tenders, to prevent conflicts of interest,<sup>12</sup> detect interlinked companies submitting tenders (e.g., checking general websites, online companies registers, etc.)
- have measures in place to detect persistently high offers or unusual offer data (e.g., bid evaluators who have a knowledge of the marketplace) and verify the plausibility of the price of activities/services (e.g., comparison with similar contracts, online price comparison tools)
- perform checks on the goods and services provided to verify compliance with tender specifications, the prices quoted, and the actual delivery of activities / services

In addition, for all public procurement above the lowest applicable threshold, Implementing Bodies should implement a robust internal control system, in line with the proportionality principle, with a view to avoiding errors or fraud related to:

- irregular split purchases
- unjustified direct awards
- irregular extensions of contract
- irregular amendments of existing contracts
- the leaking of bid data
- specifications which are too narrow
- not following of the procurement procedures

<sup>12</sup> According to article 61(3) of the Financial Regulation (EU) 2018/1046, "a conflict of interest exists where the impartial and objective exercise of the functions of a financial actor or other person, is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other direct or indirect personal interest."

### Points to note

The below points aim to facilitate the implementation of an investment measure and to encourage good practice in line with the procurement principles.

#### **Procurement General Issues:**

1. Implementing Bodies are to ensure that contracting is in line with the approved investment measure and as reflected in the Grant Agreement, and the Council Implementing Decision.
2. Procurement procedures are initiated by the Implementing Body's organisation as the Contracting Authority.
3. Implementing Bodies are to ensure consistency and compliance with the Recovery and Resilience Fund's publicity requirements when drafting or using procurement and contract templates (issued by the Department of Contracts), and when issuing adverts relating to the Recovery and Resilience Fund.
4. When preparing the procurement document, the Implementing Body must observe the European Union requirements on equal opportunities, do no significant harm (DNSH) and sustainable development, including environmental and climate performance.
5. The Implementing Body should seek to consolidate the number of procurement procedures. In the first instance, this reduces administrative burden. Moreover, unjustifiable splitting of tenders is not in line with Public Procurement Regulations and the EU Directives on Public Procurement.
6. The applicable tendering procedure will vary depending on the contract value. When calculating the value of a contract, the maximum total amount that may be paid during the entire contract period (incl. renewal periods and possible modifications) needs to be estimated.
7. Publication on the European Union Official Journal is compulsory for call for tenders exceeding certain thresholds, as defined in the European Directives and National Regulations. Since these thresholds may change from time to time, it is advisable that the Implementing Bodies regularly consult the relevant Directives/Regulations or contact the Department of Contracts for possible revisions to the thresholds.
8. Selection and Award criteria must be stipulated in advance in the procurement document and offers are to be evaluated only on those pre-established criteria. No other criteria can be used for the evaluation of the offers.
9. If a direct award procedure/negotiated procedure is used for reasons of urgency, it must be proven that the urgency is due to unforeseeable circumstances. Insufficient planning by the Implementing Body does not justify a direct award.

10. If a direct award procedure/negotiated procedure is used for technical/ exclusivity reasons, it must be possible to prove that no supplier, other than the one being contracted, can provide the requested services. The process of excluding other suppliers must be based on objective criteria. If objective proofs do not exist, an open procurement procedure must be organised. Its outcome will then prove if there is no equivalent alternative on the market.
11. Offers must be evaluated by an evaluation committee as per the published selection, specifications, and award criteria. The Committee shall be guided by the Manual for Evaluation Committees issued by the Department of Contracts.
12. To fulfil the regulatory requirements, the Implementing Body is to ensure the correct and timely inputting of data in relation to the implementation of interventions under its responsibility in the Management and Information System, including data on Final Recipients as per Article 22(d) of the RRF Regulation (2021/241/EU), where applicable. The Implementing Body is responsible for the collection of such data necessary for monitoring, evaluation, financial management, verification, and audit.

***Implementation General Issues:***

1. The Implementing Body is responsible for the implementation of the contract.
2. In executing the contract, the Implementing Body must ensure that the Contractor observes the Contract Agreement and any European Union & national legislation in relation to environment, and equal opportunities.
3. Payments are to be affected as per the payment schedule stated in the special conditions of the contract.
4. The invoice should be addressed to the Implementing Body and/or Project Leader. Contractors are to note that invoices must be issued by the company that was awarded the contract. Payments are made via a bank credit transfer only.
5. Evidence needs to be kept that the payments made match the contract (invoices and proof of payment).
6. Proof of delivery of goods or services needs to be requested and retained.
7. Amendments to the contract necessitate a justification and approval. The evidence needs to ensure that the amendment/s did not distort competition in the relevant market' and that there was no modification of the object of the initial contract.

***Procurement of Assets:***

1. When purchasing fixed assets through the Recovery and Resilience Fund, it is important that the items are used for the specific reasons for which they were bought and in accordance with the conditions of the Grant Agreement.
2. All documentation in relation to purchase and use of fixed assets (including guarantees / warranties), has to be filed. The Project Leader should ensure that all relevant documents are handed over by the supplier and are filed for ease of reference, in line with the principle of sound financial management and transparency.
3. It is obligatory to keep a filed inventory of the fixed assets and their location. The Implementing Body is required to fill in an Inventory of the fixed assets list (template available from the Management and Information System <https://sfd.gov.mt/sfd1420/Dashboard.aspx>). The Inventory List / Fixed Asset Register should be frequently updated to include the relevant details of the purchased assets.
4. It is imperative that fixed assets are kept in good working order throughout and after the life of the investment measure, in accordance with Article 24(3) of the RRF Regulation, which provides that the satisfactory fulfilment of milestones and targets shall presuppose that measures related to previously satisfactorily fulfilled milestones and targets have not been reversed by the Member State.
5. If any fault results to the asset, all documentation in relation to the repair must be kept and should the asset need to be replaced, it is important that all documentation is filed.
6. If the asset is replaced, both the old and new serial numbers must be retained. In case the assets being replaced were purchased with funds allocated through an aid scheme, the Implementing Body must inform the Intermediate Body responsible for the aid scheme.
7. If the asset is faulty and/or damaged and is replaced by the supplier / Implementing Body – whether under guarantee or not; the replacement must carry out the same function and be of the same or higher specifications as the asset being replaced.
8. If the asset is moved, such shifts need to be reflected in the Inventory List.
9. The Implementing Body shall ensure that the relevant publicity<sup>13</sup> appears on the asset purchased, as well as on relevant documentation, where applicable (proportionality should apply in the case of infrastructural investment measures where the whole building or area is being financed through the Recovery and Resilience Fund, and other instances as may apply).

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<sup>13</sup> Refer to the Visual Identity Guidelines and/or consult the responsible officer within the Coordinating Body in case of difficulties/particular cases.



## 6. Financial Management

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### 6.1. Implementation Agreement/Grant Agreement

The Council Implementing Decision includes the approved set of milestones and targets associated to the implementation of each investment and reform measure. The provisions of the respective milestones and targets for each of the investment and reform are included as an integral part of the Grant / Implementation Agreement since this document formalises the obligations of the Implementing Body (the responsible institution) in implementing the measure (milestones and targets) assigned under its responsibility as emanating from the Plan.

The Implementation Agreement / Grant Agreement signed between the Coordinating Body and the Implementing Body formalise the obligations by the Implementing Bodies including reference to the Manual of Procedures, Guidance documents issued by the PPCD as well as the applicable EU and National rules that should govern the implementation of the operation in accordance with the terms and conditions of the said agreement. Any requests for changes shall be notified to the desk officer within the Coordinating Body within good time to allow for an assessment by the Coordinating Body of the request and its relevant approval (or rejection). Any changes to a grant or implementation agreement can be formalised by way of an addendum which is agreed and signed by both parties.

### 6.2. Eligibility of Costs

A set of eligibility rules is available on the [fondi.eu](https://fondi.eu) website<sup>14</sup>. In the case of aid schemes, information on the eligible costs of aid schemes is available from the respective guidance notes issued by the Implementing Body (grantor of aid) and any *ad hoc* guidance duly issued.

As per Recital 24 of the RRF Regulation “Member States should be able to use all forms of financial contributions, including simplified cost options.”

### 6.3. Treatment of Value Added Tax

Value Added Tax is not eligible for funding.

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<sup>14</sup> Implementing Bodies should ensure that they have the latest version as the list is reviewed from time to time.

#### **6.4. Payments and related supporting documentation**

Payments in relation to investment measures are processed through the Management and Information System (MIS).

MA Circular 7/2020 provides guidance to Implementing Bodies on what documents are to be uploaded on the MIS.

The paid invoices are stored in the Recovery and Resilience Facility Database and undergo a verification process by the Coordinating Body / Intermediate Body.

#### **6.5. Accounting System**

In accordance with the RRF Regulation, Member States should be able to rely on their regular national budget management systems.

In accordance with the RRP, Implementing Bodies are to ensure that in the implementation of operations they maintain either a separate accounting system or an adequate accounting code for all transactions.

A proper audit trail should be kept in all cases in line with the Coordinating Body's circular and the documentation uploaded on the Recovery and Resilience Facility Database.

## 7. Monitoring and Reporting

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### 7.1. Monitoring

The monitoring requirements for the Recovery and Resilience Facility are set in Article 4 of Regulation (EU) No. 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility. Monitoring is an on-going process which entails examining the progress on the implementation of measures, in relation to milestones and targets to be achieved to ensure the attainment of results at Programme level. Although the Coordinating Body has the overall responsibility for monitoring at Programme level, the monitoring and reporting systems rely on a bottom-up approach and it is important that all actors give their input in a timely and coherent manner.

The implementation system has several tools and structures that support the monitoring process. These are mainly the:

- RRF Database which is updated on a regular basis;
- Regular updates requested from the Implementing Bodies;
- High Level Meetings organised by the Coordinating Body with individual Line Ministries and/or Implementing Bodies
- Updates to Cabinet.

#### 7.1.1. Monitoring of Results - Use of Common Indicators

The Recovery and Resilience Scoreboard includes a set of common indicators related to the objectives of the RRF. The common indicators show the progress of the implementation of the recovery and resilience plans towards common objectives and the overall performance of the RRF. Member States collect the common indicators data and report their numbers to the European Commission twice a year, by the end of February and the end of August.

In total, the Commission, the Member States and the European Parliament have identified 14 common indicators across all six policy pillars in the [Delegated Regulation EU 2021/2106](#).

The reporting shall cover the full period of implementation of the plan. The reporting shall cover the period as from 1 February 2020 onwards, semi-annually using the cut-off dates of 31 December and 30 June each year. All Member States with a Council implementing decision (CID) adopted before the respective cut-off dates are required to report on the measures included in this CID during the corresponding reporting round. e.g. a Member state with a CID adopted in November 2021 means that the Member State is required to report in the February 2022 round on the impact of the measures included in this CID. For further updates/amendments of the plans, the latest plan that has been adopted by CID by the respective cut-off dates is the basis for the reporting.

The Commission issues 'Guidance on the common indicators of the Recovery and Resilience Facility'. A mapping exercise carried out in line with this guidance showed that there are 11 out of 14 indicators that are applicable to Malta's RRP.

As stated earlier on, to monitor the indicators at Programme level, a bottom-up approach is adopted whereby each measure has a set of indicators which are formalised in the Grant / Implementation Agreement. The Implementing Body is responsible to ensure the collection and submission of relevant data which the Coordinating Body verifies and builds its report upon.

## **7.2. Reporting Requirements by the Implementing Bodies**

Implementing Bodies are expected to provide regular updates on the progress achieved in relation to the Milestones and Targets.

- **Monthly Status Updates on Milestones and Targets**
- **Interim Reports**
- **Biannual Reporting on Common Indicators**
- **Reporting on Double Funding**
- **Reporting on Non-Reversibility of Concluded Milestones/Targets**

*This does not exclude the need for the Coordinating Body to ask ad hoc information from the Implementing Body as part of its day-to-day monitoring, and to fulfil its reporting requirements.*

- **Summary Note on the completion of Milestones and Targets**

Upon completion of the Milestone/Target, the Implementing Body compiles a Summary Note and provides supporting documentation in line with the verification mechanism outlined for each Milestone and Target in the Council Implementing Decision Annex and Annex I of Operational Arrangements.

A template for each target / milestone will be prepared by the Coordinating Body including the appropriate referencing for the description of the milestone / target as well as the respective verification mechanism.

Taken together, the summary document (cover note) and the attached documentary evidence should address the requirements of:

- Commission Implementing Decision (CID) Annex: a) all elements of the milestone or target as contained in the table in Section 1; b) all elements of the description of the measure in the text of the CID Annex which are directly or indirectly linked to the milestone or target in question;
- further specifications provided in the Operational Arrangements.

According to Guidance issued by the Commission, the evidence accompanying the cover note should (the points below are indicative and may apply depending on the context):

- demonstrate satisfactory fulfilment of the milestone or target (no need to provide evidence beyond what is required);
- have brief but clear and unique file names, ideally numbering each file and allowing a unique reference and show a clear indication of its content;
- include the relevant identifiers, such as the reference to the Official Journal, the date of publication and articles indicating entry into force (the same format for citing legal texts should be used in all cases);
- include the identification of the signatory/ies (function, not names) and the authority they represent, any identifying string of numbers and/or characters and the protocol number, if given (for non-legal documents) and bear the registration number (for instance cadastre documents, companies' registry, boat registry etc.) if they figure in any kind of registry.

The draft Summary Note must be submitted to the Coordinating Body for review, allowing the necessary lead time for technical consultations with the Commission. Final approved reports and supporting documentation are uploaded to FENIX and the RRFD and form part of the documentation required for the Payment Request.

In accordance with Article 24 of the Recovery and Resilience Facility Regulation, upon completion of the relevant agreed milestones and targets indicated in Malta's Recovery and Resilience Plan (RRP), Malta shall submit a duly justified request for payment of the financial contribution.

## 8. Audit and Control

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### 8.1. Introduction

This section provides an overview of financial control procedures applied for expenditure relating to the implementation of the Recovery and Resilience Plan. The framework for proper financial management, control and audit is set out in Chapter IV of Regulation (EU) No. 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility.

For the purpose of audit and control and to provide assurance on progress on indicators / milestones and targets under the RRP, the PPCD will record on the existent management information system, RRFD, which will store, collect and record data in a computerised form on each intervention, data on final recipients as per Article 22 of the RRF Regulation, necessary for monitoring, evaluation, financial management, verification and audit. Access to the data included in the system is also possible for all stakeholders involved in the implementation of the Plan based on the role and the responsibility assigned to the organisation and the role of the person requesting access. The personnel involved in the recording of the achievements of indicators is made up of three categories:

1. Project implementation team within the Implementing Body that provides twice yearly updates to the PPCD on the progress towards the achievement of milestones and targets, together with backing documentation and evidence;
2. Officers within the units tasked with the direct monitoring of the Programme Implementation (Implementing Units), who review the reporting received from the Implementing Bodies and inputs the indicators in the MIS following second level verifications by the Horizontal Unit; and
3. Officers within the Horizontal unit who are tasked with verifying the progress being reported with respect to the indicators, milestones and targets and the evidence submitted, and who lead the evaluation and assessment process of macro level indicators that are measured at Programme and National level.

The Management Information System, RRFD, stores, collects and records data in a computerised form on each action, including data on final recipient of fund (the names of final recipients but also contractors, sub-contractors, beneficial owners) as well as the list of any measures for the implementation of reforms and investment projects and data fields as required under Article 22. Although Implementing Bodies can insert the data on financial and physical progress on a continuous basis, they will be required, for verification purposes, to ensure input in the MIS within the assigned timeframes (i.e. bi-annually) of the financial data and physical data on each project, including data on final recipients as per Article 22(2d) of RRF Regulation, progress on milestones and targets necessary for monitoring, evaluation, financial management, verification and audit.

The system will retain and maintain records, in a computerised form, of the controls and audits undertaken, including those referred in the summary of the audits. Documentation must show that necessary checks have been carried out by the different authorities in respect of an individual investment, plan or the system and must also contain evidence of actions taken as a result of the checks. The control and audit mechanisms also apply to initiatives foreseen under the REPowerEU Chapter.

## 8.2. Payment Requests

In preparation for the Payment Request, following preliminary checks by the officers within the RRP Unit, the Financial Control Unit would carry out its own verification checks on the reported achievement of milestones and targets. Once the Financial Control Unit is satisfied that the recorded information is correct, the PPCD will raise the payment request taking into consideration the obligation to draw up a management declaration which will include a summary of the audit work carried out by the AA in the period prior to the drawing up of the payment claim. The work of the AA will be carried out based on the draft payment claim that the PPCD would have drafted.

### 8.2.1. Management Verifications (First Level of Control)

1. In accordance with Article 22 of Regulation (EU) No. 2021/241, the Coordinating Body shall take appropriate steps:
  - (a) to regularly check that the financing provided for Investment measures has been properly used in accordance with all applicable rules and that any measure for the implementation of reforms and investment projects under the Recovery and Resilience Plan has been properly implemented in accordance with all applicable rules in particular regarding the prevention, detection and correction of fraud, corruption and conflicts of interests;
  - (b) to take appropriate measures to prevent, detect and correct fraud, corruption, and conflicts of interests as defined in Article 61(2) and (3) of the Financial Regulation affecting the financial interests of the Union and to take legal actions to recover funds that have been misappropriated, including in relation to any measure for the implementation of reforms and investment projects under the recovery and resilience plan;
2. The verifications carried out by the Coordinating Body include the following procedures:
  - administrative verifications in respect of each application for reimbursement presented by Implementing Bodies;
  - on-the-spot verifications of milestones and targets.
3. The **administrative verifications** are based on an examination of the claim for reimbursement and relevant supporting documentation, such as procurement processes, contracts, invoices, delivery

notes, and bank statements. The administrative verifications aim at ensuring that expenditure is carried out in line with the Grant Agreement and that the relevant procedures have been followed, whilst ensuring that measures and expenditure comply with EU and national rules. The administrative verifications are also based on the examination of different procurement process stages, ensuring a clear audit trail and a transparent evaluation process, in line with the tender document.

4. The Coordinating Body will also carry out **physical on-the-spot checks**. These checks focus on the physical deliverables of the measure.
5. Administrative and physical verifications may be carried out throughout the lifetime of the measure. The Coordinating Body shall inform the Department of Contracts / Implementing Body that an administrative/physical check will take place at least one day in advance. The check-list template/s<sup>15</sup> used is sent together with the visit notification. The reports for both administrative and physical checks will be uploaded on the RRF Database. All stakeholders can view the relevant reports on RRF Database.
6. The Coordinating Body will also carry out verifications through the online public procurement system - ePPS. Most Contracting Authorities have transitioned from traditional procurement to e-Procurement being the standard e-Procurement solution. E-Procurement is regulated and governed by public procurement legislation, being: Legal Notice 352/2016 (and subsequent amendments), European Directive 2014/24/EU for Classic Procurement, Legal Notice 351/2016 (and any subsequent amendments), and European Directive 2014/25/EU for Utilities.
7. Finally, the Implementing Body is to note that the objectives of the Coordinating Body's checks are not intended to offer the Implementing Body any comfort/guarantees regarding audits but are merely management verifications ahead of payment requests in line with the relevant legislation.

### **8.2.2. Follow-up Action to the Management Verifications**

1. Following a management verification, the Coordinating Body shall communicate with the Implementing Body on issues detected during the management verification. The Implementing Body will be given adequate time to reply, after which the Coordinating Body will proceed to close the report and include any follow-ups that may be deemed necessary. If the Project Leader responsible for the measure fails to reply to the Coordinating Body's queries or to endorse the report within the stipulated deadlines, the final report may still be considered closed, and the Coordinating Body may upload the final report on RRF Database for the benefit of the relevant stakeholders.
2. Any follow-up action required by the Implementing Body (as identified by the Coordinating Body) will be recorded in the report, so that action is undertaken within a stipulated timeframe. Failure to

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<sup>15</sup> The Coordinating Body records its management verifications in line with specific templates however in addition ad hoc templates would be created as required.



abide by the set deadline may result in the Coordinating Body taking any necessary action to close off the report, and to record its findings accordingly.

### **8.2.3. Management Verifications (Second Level of Control)**

Following the first level of control, the Financial Control Unit will carry out the second level of control on a sample basis on the Milestones/ Targets included in the relevant payment request.

Furthermore, once a sample of expenditure on an investment measure is extracted, the Unit will also check that the management verification reports, and administrative checks presented are complete, consistent, clear, comprehensive, and final and that there is coherence between the checks carried out, recommendations made, conclusions reached, and follow-ups inserted.

### **8.2.4. Systems Audits and Audits on Operations (Milestones/Targets)**

Systems audits and audits on operations are carried out by local and foreign audit institutions. The Internal Audit and Investigations Department (IAID) is the designated Audit Authority.

The audit authority's strategy comprises:

- system audits carried out on the main Implementing Bodies and other horizontal stakeholders. These audits focus on the system in place for the reporting of the milestones and targets, and on the system to prevent, detect and correct serious irregularities, including the IT system, as well as;
- substantive testing based on an adequate sampling.

It is pertinent to note that:

1. The Audit Authority will inform the Implementing Body that is to be audited, at least one day in advance.
2. The Implementing Body must ensure that all relevant documentation is made available to the auditors. The Project Leader should ensure that the necessary support is provided to the auditors in carrying out their work.
3. The Audit Authority will send all audit reports to the Coordinating Body, for onward submission to the respective auditee, as it deems necessary.
4. The Implementing Body is in the first instance responsible to follow up any recommendations in any audit report prepared by the Audit Authority. The Coordinating Body is responsible to coordinate the replies on feedback and comments to be provided to the Audit Authority. These replies are submitted within stipulated timeframes.

5. Within a reasonable time, the Coordinating Body is to ensure that remedial action is taken on the findings and recommendations included in the final audit report. The actions taken are to be communicated to the Audit Authority through the Coordinating Body. The Audit Authority reserves the right to organise follow-up audits, if necessary.
6. Implementing Bodies should note that other organisations, including the National Audit Office as well as the European Commission and the European Court of Auditors, may undertake audits.

### **8.3. EU Audit Missions**

1. Officials from the European Commission and the European Court of Auditors carry out audits (both on systems, protection of the financial interests of the EU and substantive testing, as applicable).
2. Auditors generally inform the Maltese counterparts of the mission in advance. In cases where Implementing Bodies are informed directly by the European Commission, the Implementing Bodies shall inform the Coordinating Body to ensure full co-ordination and support.
3. It is the practice for the Coordinating Body and/or the Audit Authority (as the case may be) to co-ordinate a timetable for the audit mission and to inform stakeholders accordingly.
4. Implementing Bodies and other stakeholders (whether public or not) shall grant the European Union auditors (and/or their delegated contractors) full access to the documentation tied to the selected sample.

### **8.4. Preparing for Audit Visits (applicable to all audits)**

1. It is common practice for the auditors to request documentation in relation to the selected sample and to spend a few days examining documentation held by the Implementing Body, the Coordinating Body, and the Department of Contracts. Auditors may also ask to be taken on-site to see the Measure (operation's implementation) on the ground.
2. In preparation of an audit mission, Implementing Bodies should:
  - Ensure that all persons (including technical {possibly contracted} personnel) within the organisation who are involved in the implementation of the selected Milestones/Targets being audited, are available during the audit mission. Priority must be given to the audit by all those involved. It is important that such persons are appropriately briefed by the Project Leader on the scope of the audit mission. The Coordinating Body will also support the Project Leader in this regard.
  - Ensure that all the documentation tied to the selected Milestones/Targets is made available and has been filed in accordance with the requirements on data retention contained in this Manual, to facilitate easy access to the necessary documentation during the audit.

- Provide a spacious meeting room for the audit mission.
- Ensure that photocopy facilities are readily available, as auditors may ask for copies of filed documents. The Implementing Body is to take note of any copies of documentation that is given to the auditors and is to submit this list to the Coordinating Body upon completion of the audit.
- Ensure that the actual site where the operation is being implemented is in accordance with the conditions stipulated in the Grant Agreement, as applicable. The technical supervisor should also be available for site visits, as applicable. It is important to note that auditors may give no prior notice regarding site visits and may ask the Implementing Body at short notice for an ad-hoc site visit.

### **8.5. Follow-up to an Audit Mission**

Once the audit mission is complete, the auditors submit a report with their findings and recommendations (where necessary). If there is the need, the auditors may ask any of the stakeholders for clarifications. In case of European Commission audits, the replies will be co-ordinated by the Coordinating Body/Audit Authority, and a co-ordinated reply will be given on behalf of the Member State.

### **8.6. Audits after Closure of the Plan**

Implementing Bodies should note that Milestones/Targets can be audited even after the Measure has been deemed as fully implemented. In this regard, **all documentation tied to the measure must be retained by the Implementing Body, as specified under the data retention section of this manual.**

### **8.7. Ex-Post Management Control**

Implementing Bodies are to declare that Milestones/Targets achieved and deemed satisfactorily fulfilled have not been reversed. Such reversal is considered to include substantial changes affecting the nature, objectives or implementation conditions of the Milestone/Target which would result in undermining its original objectives.

All Implementing Bodies are to inform the Coordinating Body immediately of any such changes to the operation. Changes may require that financial corrections be made, which could result in the cancellation of all or part of the European Union contribution to the Plan.

## 9. Information and Publicity

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### 9.1 Introduction

Communication Strategy is based on the criteria set in Article 17 (3)(i) of COM(2018) 375 which encompasses the legal framework, defined objectives, experience in communicating EU Funds in previous programming periods, the existing framework, target audiences, key communication channels and messages, information and publicity measures, relevant indicators for monitoring and evaluation, budgetary allocation, and timeframes. More details can be found in Section 3.7 of Malta's Recovery and Resilience Plan found [here](#).

### 9.2 Role of the Coordinating Body (Programme Level information and publicity)

The Coordinating Body provides guidance while ensuring compliance with the information and publicity regulations and requirements at Plan and measure level. The Coordinating Body undertakes this function through both written guidance and through training and information sessions which are organised from time-to-time.

### 9.3 Role of the Implementing Body (Operation Level information and publicity)

Article 34 of the RRF Regulation provides that:

“2. The recipients of Union funding shall acknowledge the origin and ensure the visibility of the Union funding, including, where applicable, by displaying the emblem of the Union and an appropriate funding statement that reads ‘funded by the European Union – NextGenerationEU’, in particular when promoting the actions and their results, by providing coherent, effective and proportionate targeted information to multiple audiences, including the media and the public.”

Against this background, the Implementing Body has several responsibilities which need to be adhered to, including:

- Implementing publicity and information measures in line with the Grant Agreement and the latest Visual Identity Guidelines (including compliance in the insertion of the European Union Funds logos, European Union Emblem and National Flag of Malta and the compulsory text);
- Participating in information and publicity measures organised by the Coordinating Body at Plan level when required;
- Reporting on information and publicity actions to the Coordinating Body when required and through the regular progress reporting on individual measures (where applicable at milestone and target level). Samples/proofs of publicity actions will also be requested for record keeping and verification by the Coordinating Body;

- Participating in publicity and information measures as well as networks and / or exchanges of experience organised at European Union, national or programme level.

#### 9.4 Publicity and Information Measures at European Union or Plan Level

Final recipients must be aware that acceptance of funding is also an acceptance of their inclusion in online or other published lists and databases the Coordinating Body and / or Implementing Body, including the reporting and publication of the **100 largest final recipients according to Article 25a of the RRF Regulation** (following the entry into force of the amended RRF Regulation (1 March 2023)). This feeds a bi-annual reporting cycle in April and October of each year.

The information includes<sup>16</sup>:

- name and details of the Implementing Body organisation;
- operation name;
- operation summary;
- operation start and end date;
- total eligible expenditure allocation to the operation; and
- postcode.

This information may also be uploaded on websites, including those hosted by the Commission and / or other European Union institutions where information is collated and presented to show activities across Member States. The Implementing Body shall collaborate with the Coordinating Body (during the organisation of events or promotional activities, including networks and exchanges of experience at both national and European level.

#### 9.5 Visual Identity Guidelines

The Visual Identity Guidelines provide the technical specifications for logos and the graphical guidelines with layouts/templates for information and publicity measures. These guidelines are an additional tool for the Implementing Bodies to abide comprehensively by all the relevant European Union regulations and other national rules and policies.

The Coordinating Body has made available a tool kit for use by Implementing Bodies whereby publicity templates can be generated and downloaded from this link: <https://fondi.eu/publicity-online-generator/>

Furthermore, the Visual Identity Guidelines are based on Articles 3, 4 and 5 of Commission Implementing Regulation (EU) 821/2014 which explains the instructions for creating the emblem and a definition of the standard colour, technical characteristics for displaying the Union emblem and the

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<sup>16</sup> This list is indicative and not comprehensive of the information that can be published.

reference to the Fund or Funds supporting the operation and technical characteristics of permanent plaques and temporary or permanent billboards respectively.

The full version of these visual identity guidelines can be found in this link: <https://fondi.eu/visual-identity-guidelines-2021-20>

## 10. Delegation of Authority

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### 10.1. Delegating Authority

1. The Implementing Body is responsible for the entire implementation of the investment or reform measure.
2. The Project Leader represents the Implementing Body on all matters related to this.
3. In cases where the Implementing Body opts for external project management, the Implementing Body is expected to explain to the Coordinating Body the internal checks and balances introduced within the Implementing Body to ensure that it retains full control and decision-making rights on the operation. The Implementing Body should not be represented by external project management for any meetings concerning the measure.
4. To ensure that the Implementing Body retains full control of the measures, it is advisable to nominate another person, preferably from the Line Ministry in addition to the Project Leader.
5. In cases where tight deadlines are involved, such as during the finalisation of payment requests, preparation for technical and quarterly meetings, and other important deadlines, the Project Leader may delegate his/her authority to the above-mentioned person or other officials. This option should only be exercised in exceptional circumstances, namely:
  - when the Project Leader is abroad, on sick leave or vacation leave; and
  - Authority may be delegated to such selected persons to perform specific tasks for a definite period.
6. In cases approved by the Coordinating Body, the Implementing Body / Project Leader may assign a delegation of authority to a designated person/s within the Project Leader's office to:
  - i. certify a payment as correct;
  - ii. insert and confirm payment details in the MIS;
  - iii. complete the electronic checklist at payment level on the MIS ; and/or
  - iv. upload a scanned copy of the reimbursement request, invoice, proof of payment, and any other necessary supporting documentation on the Recovery and Resilience Facility Database. In such circumstances, it is the responsibility of the Project Leader and the Implementing Body to ensure that the delegation of authority is adequately documented, covers a definite period and is supervised.

Only one person shall perform all actions outlined in (i) to (iv) above.
7. In circumstances where the Project Leader delegates duties to officers within the Implementing Body, the Project Leader must complete the necessary delegation of authority form (available from the Management and Information System <https://sfd.gov.mt/sfd1420/Dashboard.aspx>) authorising

the officer/s concerned to carry out specific tasks on his/her behalf. The template must be completed and signed by both parties.

8. It should be noted that while the function can be delegated, responsibility remains with the Project Leader.

The provisions of this section also apply to the Line Ministry function. The Director Programme Implementation may delegate authority to another officer within the Directorate to certify payments on her/his behalf. A specific or general delegation may be applied, but the ultimate responsibility remains with the Director Programme Implementation. The Line Ministry should fill in the ad hoc Delegation of Authority Forms provided by the Coordinating Body and send it to the Coordinating Body before the delegate executes the assigned duties.

## **10.2. Termination & Change of Project Leader**

1. Should there be a change in the Project Leader, the current Project Leader and the newly appointed Project Leader should draft a letter (template available from the Management and Information System <https://sfd.gov.mt/sfd1420/Dashboard.aspx>) informing the Coordinating Body that the current Project Leader will be terminating his/her leadership on the measure, milestone, or target. The letter should specify the name and designation of the officer who will be taking over the leadership and the date of the effective handover.
2. Where both parties are available, the letter should be signed by both outgoing and newly appointed project leaders and endorsed by the Permanent Secretary / legal representative of the Organisation<sup>17</sup>, as per specific form. This procedure also applies for Project Leaders who will be retiring from their post within the Implementing Body organisation. In the case of public sector operations, the respective Line Ministry shall ensure that the above procedure has been undertaken in time and that an effective handing over has been given to the new Project Leader to ensure the smooth continuation of the operation.
3. Implementing Bodies should ensure that the post of the Project Leader remains occupied until the end of the document retention period as indicated in Chapter 11 of this Manual. Implementing Bodies can be required to report to the Coordinating Body, and Audit Authority (amongst others) even after termination / completion of components and their respective measures and underlying milestones and targets, and possible *ad hoc* audits by European institutions or Maltese Authorities.



## 11. Retention of Documents

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### 11.1. General Remarks

The Responsible Institution is to keep supporting documents regarding the satisfactory fulfilment of the milestones and targets. All documents relating to the Plan and its implementation and financing are retained as necessary to demonstrate compliance with RRF Regulation, the RRP, any applicable State Aid law, and the obligations under the Grant Agreement.

All supporting documentation is to be made available to the Coordinating Body, the Auditors, the European Commission and the European Court of Auditors and any other stakeholders involved in the implementation and control of the Plan for a period of not less than five years starting from the date of the final payment and may cover but not limited to the information provided through MIS used to justify the completion of milestones and targets.

The period shall be interrupted either in the case of legal proceedings or by a duly justified request of the competent Authorities responsible for RRP in Malta. Documents should be kept in an easy-to access format so that they can be made available as required to the Coordinating Body, the Programme auditors, the Certifying Authority, the European Commission, and the Court of Auditors.

### 11.2. Records to be retained

The Implementing Bodies must ensure that the following are available:

- All documents relating to the selected Milestones/Targets.
- Reports and documents relating to checks carried out:
  - by the Implementing Body;
  - through reports on verifications carried out by the Coordinating Body and audits carried out by the Audit Authority.

The rules regarding document retention apply to all stakeholders involved in delivering and administering the RRP, including the Department of Contracts, EU Payment Unit, Line Ministry, etc. In this regard, in relation to procurement of Contracting Authorities who fall under Schedule 2 and Schedule 16 of LN 352 of 2016 (and subsequent amendments), and whose value exceed the threshold; originals of documents should be retained directly by the Department of Contracts. The Implementing body will still be asked to maintain documents that originate from its end.

1. Implementing Bodies and other stakeholders are required to maintain documents in their original format, while others would be required to keep copies of these originals. Copies of the original documents must be kept on commonly accepted data carriers, by a competent officer, which

include:

- ✓ Photocopies of original documents;
  - ✓ Microfiches of original documents;
  - ✓ Electronic versions of original documents on data carriers (such as hard-disks, DVDs, USB sticks);
  - ✓ Documents existing in electronic version only.
2. It is the sole responsibility of the Implementing Body to ensure easy and quick access to the documentation, also following completion of a measure. This is particularly the case when project management is contracted either outside the organisations, or to persons with contracts which may finalise at the completion of the measure.
  3. Where originals are required, and these cannot be kept in files, copies of original documents must be certified as true copies of originals. The person certifying such copies, is dependent on the documents being copied (i.e. which stakeholder in the implementation system). In the case of the Implementing Body, documents should be signed by the Project Leader (or delegate) and, in the case of the Line Ministry, by the Director Programme Implementation / Director Corporate Services (or delegate).

### **11.3. Records to be uploaded in the Recovery and Resilience Facility Database**

1. Specific Guidance on the documents to be uploaded on MIS has been provided in MA circular 05/2018 'Documents to be uploaded in the Structural Funds Database 2014-2020'. The circular continues to apply in relation to the RRP. These documents are NOT intended to reduce the scope of the retention of documents outlined in this Chapter. They are only intended to ensure consistency and availability of information in the conduct of first-level desk-based controls, to provide clear guidance to eliminate unnecessary duplication of work, and to reduce administrative burdens and mitigate the impact on Recovery and Resilience Facility Database (RRFD) hardware capacity.
2. Documents are to be uploaded only in Portable Document Format (PDF). Assistance on how to upload the documents on the database can be sought from the 'Structural Funds Database' tutorials available in each module.

### **11.4. Data Protection**

All Implementing Bodies are being reminded to always comply with the General Data Protection Regulation (EU) No. 2016/679 and the Data Protection Act, and any applicable data protection laws in force including relevant provisions in the RRF Regulation.

The Responsible Institution agrees to allow PPCD access to all data necessary for the latter to be able to carry out its duties in line with EU Regulation 2021/241, in particular data as per Article 22 (d) of Regulation 2021/241. Access to this data will also include storage and processing thereof as evidence of the management verifications undertaken for auditing purposes. It is the responsibility of the Implementing Bodies to advise implementing partners, as applicable, of these requirements as detailed in Grant / Implementation Agreements and ensure their adherence thereto.

This data will be retained for a period of not less than three years following the submission and approval of the accounts in which the final expenditure of the completed measure is included.