

## **4.0 Additional Ex-Ante Assessment information**

### **Implementation Arrangement – Article 37 (2) (e)**

In order to comply with Article 38(4) of the Common Provision Regulations and the Selection Guidance, LCRCA will follow the 'In-House' route set out in the Selection Guidance which corresponds to option 2, the hybrid model, presented in the ex-ante report prepared by PWC.

This is an approach put forward by the European Commission that involves the LCRCA (as a contracting authority) forming a special purpose vehicle ("SPV") which is controlled and treated as part of LCRCA. This SPV draws upon the services of a procured 'Fund Adviser', who shall work alongside the fund project manager and fund accountant roles.

The 'Fund Adviser' referred to in the LCRCA application and accompanying documentation is responsible for assessing the commercial viability of investments (i.e. is equivalent to the European Commission understanding of a fund manager).

LCRCA will be capable of delivering the fund in line with State aid law. The transfer of funding to LCRCA and to the SPV shall be no aid. At the level of investment in eligible undertakings, LCRCA shall put in place appropriate measures to ensure that every investment is either compliant with the so-called Market Economy Investor Principle ("MEIP") or Article 16 (Regional Urban Development Aid) of the General Block Exemption Regulation No. 651/2014 as amended ("GBER"). In respect of the latter, a scheme shall be set up through the online programme, State aid notification interactive.

To comply with Article 16 of GBER, a 'Fund Adviser' will be selected by way of an open, transparent and non-discriminatory call. Although the route used depends upon the value of the procurement (which we do not know at this time), it would appear highly likely that this will be above the relevant Public Procurement contract value threshold and therefore require a tender process in line with the Public Contracts Regulations 2015.

The roles and responsibilities which apply to the 'Fund Adviser' role are not expressly defined within Regulation 1303/2013 or the Selection Guidance. Some useful clarification is provided by the European Commission in the GBER FAQs which shows that the fund adviser's role is focussed upon establishing "*the ex-ante financial viability and their expected impact on urban development*", i.e. the fund adviser role in the investment decision making process is directed towards identifying the commercial viability of the investment and how this aids urban development. Therefore the fund adviser has a crucial role in the investment decision making process, but there also remains scope for LCRCA to also play an active role in other aspects of the due diligence and investment process.