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InvestEU Programme ***I

Amendments adopted by the European Parliament on 13 November 2020 on the proposal for a regulation of the European Parliament and of the Council establishing the InvestEU Programme (COM(2020)0403 — C9-0158/2020 — 2020/0108(COD)) ([1])

(Ordinary legislative procedure: first reading)

Amendment 1

(2021/C 415/18)

AMENDMENTS BY THE EUROPEAN PARLIAMENT (*)

to the Commission proposal

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

establishing the InvestEU Programme

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 173 and the third paragraph of Article 175 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee ([1]),

Having regard to the opinion of the Committee of the Regions ([2]),

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) The Covid-19 pandemic is a major ***symmetric*** shock to the global and Union economy ***with a major asymmetric social and economic impact across Member States and regions***. Due to the necessary containment measures, economic activity in the EU dropped significantly. ***According to the Commission's Summer 2020 European Economic Forecast,*** the contraction in EU GDP in 2020 is expected to be around ***8,3 %***, ***deeper even than the Commission's Spring 2020 European Economic Forecast and*** far deeper than during the financial crisis in 2009***, with the contraction in certain sectors being greater still***. The outbreak of the pandemic has shown the interconnectivity of global supply chains and exposed some vulnerabilities such as the over-reliance of strategic industries on non-diversified external supply sources ***and a lack of critical infrastructure***. Such vulnerabilities need to be addressed, ***in particular for small and medium-sized enterprises, including micro-enterprises,*** to improve the Union's emergency response as well as the resilience of the entire economy, while maintaining its openness to fair competition and fair trade in line with its rules. Investment activity is expected to have dropped significantly. Even before the pandemic, while a recovery in investment-to-GDP ratios in the Union could be observed, it remained below what might be expected in a strong recovery and was insufficient to compensate for years of underinvestment

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([1]) The matter was referred back for interinstitutional negotiations to the committees responsible, pursuant to Rule 59(4), fourth subparagraph (A9-0203/2020).

(*) Amendments: new or amended text is highlighted in bold italics; deletions are indicated by the symbol ▌.

([1]) OJ C […], […], p. […].

([2]) OJ C […], […], p. […].

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following the 2009 crisis. More importantly, the current investment levels and forecasts do not cover the Union's needs for structural investment to restart and sustain long-term growth in the face of technological change and global competitiveness, including for innovation, skills, infrastructure, small and medium-sized enterprises (SMEs) and the need to address key societal challenges such as sustainability or population ageing. Consequently, in order to achieve the Union's policy objectives***, including the communications of the Commission of 11 December 2019 on the European Green Deal and of 14 January 2020 on the Sustainable Europe Investment Plan, of 10 March 2020 on a New Industrial Strategy for Europe and of 10 March 2020 on an SME Strategy for a sustainable and digital Europe,*** and to support a swift, ***sustainable***, inclusive, ***lasting*** and healthy economic recovery, support is necessary to address market failures and sub-optimal investment situations and to reduce the investment gap in targeted sectors.

(2) Evaluations have underlined that the variety of financial instruments delivered under the 2014-2020 Multiannual Financial Framework period has led to some overlaps in their scope. That variety has also produced complexity for intermediaries and final recipients who were confronted with different eligibility and reporting rules. The absence of compatible rules also hampered the combination of several Union funds, although such combinations would have been beneficial in order to support projects in need of different types of funding. Therefore, a single fund, the InvestEU Fund, which builds on the experience of the European Fund for Strategic Investments (EFSI) set up under the Investment Plan for Europe, should be set up in order to provide more efficiently functioning support to final recipients by integrating and simplifying the financing offered under a single budgetary guarantee scheme, thereby improving the impact of Union support while reducing the cost to the Union payable from the budget.

(3) In the last years, the Union has adopted ambitious strategies ***and texts*** to complete the Single Market and to stimulate sustainable and inclusive growth and jobs, such as 'Europe 2020 — A strategy for smart, sustainable and inclusive growth' of 3 March 2010, 'Action Plan on Building a Capital Markets Union' of 30 September 2015, 'A new European Agenda for Culture' of 22 May 2018, ***The Digital Education Action Plan 2021-2027',*** 'Clean Energy for all Europeans' of 30 November 2016, 'Closing the loop — An EU action plan for the Circular Economy' of 2 December 2015, 'A European Strategy for Low-Emission Mobility' of 20 July 2016, 'European Defence Action Plan' of 30 November 2016, 'Launching the European Defence Fund' of 7 June 2017, 'Space Strategy for Europe' of 26 October 2016, the Interinstitutional Proclamation on the European Pillar of Social Rights of 13 December 2017, ***the 2050 long-term strategy 'A Clean Planet for all' of 28 November 2018,*** the 'European Green Deal' of 11 December 2019, the 'European Green Deal Investment Plan' of 14 January 2020, the 'Strong Social Europe for Just Transitions' of 14 January 2020, the 'Strategy for shaping Europe's digital future', the 'Data Strategy' and the 'Artificial Intelligence Communication' of 19 February 2020, ***[Regulation establishing the framework for achieving climate neutrality and amending Regulation (EU) 2018/1999 (European Climate Law)],*** 'A New Industrial Strategy for Europe' of 10 March 2020 and 'SME Strategy for a sustainable and digital Europe' of 10 March 2020***, the EU Biodiversity Strategy for 2030 of 20 May 2020, Regulation (EU) 2020/852 of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088, the Energy System Integration Strategy and the Hydrogen Strategy of 8 July 2020***. The InvestEU Fund should exploit and reinforce synergies between those mutually reinforcing strategies through providing support to investment and access to financing.

(4) At Union level, the European Semester of economic policy coordination is the framework to identify national reform priorities and monitor their implementation. Member States, where appropriate in cooperation with local and regional authorities, develop their own national multiannual investment strategies in support of those reform priorities. Those strategies should be presented alongside the yearly national reform programmes as a way of outlining and coordinating priority investment projects that are to be supported by national funding, Union funding, or both. Those strategies should also use Union funding in a coherent manner and maximise the added value of the financial support to be received notably from the European structural and investment funds, the Recovery and Resilience Facility and the InvestEU Programme.

(5) The InvestEU Fund should contribute to improving the competitiveness and socio-economic convergence and cohesion of the Union, including in the fields of innovation and digitisation, to the efficient use of resources in accordance with the circular economy, to the sustainability and inclusiveness of the Union's economic growth and to

the social resilience and integration of the Union capital markets, including through solutions that address the fragmentation of Union capital markets and that diversify sources of financing for Union enterprises. To that end, the InvestEU Fund should support projects that are technically and economically viable by providing a framework for the use of debt, risk sharing and equity ***and quasi-equity*** instruments ***(such as hybrid debt, subordinated debt or convertible equity)*** backed up by a guarantee from the Union budget and by financial contributions from implementing partners as relevant. The InvestEU Fund should be demand-driven, while at the same time it should focus on providing strategic, long-term benefits in relation to key areas of Union policy which otherwise would not be funded or would be insufficiently funded, thereby contributing to meeting policy objectives of the Union. Support under the InvestEU Fund should cover a wide range of sectors and regions, but should avoid excessive sectoral or geographical concentration and should facilitate ▌ projects composed of partner entities ***and projects that foster the development of networks, clusters and digital innovation hubs*** in ▌ regions across the EU.

(6) The cultural and creative sectors are key and fast growing sectors in the Union ***that can play an important part in ensuring a sustainable recovery***, generating both economic and cultural value from intellectual property and individual creativity. However, restrictions on social contacts ***and the organisation of events*** put in place ***at the outset of*** the Covid-19 crisis ***continue to evolve and have*** had a significantly negative economic impact on these sectors ***and those working in them, with potential long-term structural damage as regards access to the Cultural and Creative Sectors Guarantee Facility established under Regulation (EU) No 1295/2013 of the European Parliament and of the Council ([3]) or complex financial instruments***. Moreover, the intangible nature of the assets in those sectors limits the access of SMEs and organisations from those sectors to private financing which is essential to be able to invest, scale up and compete at an international level. The InvestEU Programme should continue to facilitate access to finance for SMEs and organisations from the cultural and creative sectors. The cultural and creative, audiovisual and media sectors are essential for our cultural diversity and ***for building democratic and cohesive societies*** in the digital age, and an intrinsic part of our sovereignty and autonomy, and strategic investments in audiovisual and media content and technology will determine the ***sectors' competitiveness and their*** long-term capacity to produce and distribute ***high-quality*** content to wide audiences across national borders***, with respect for pluralism and freedom of speech***.

(7) With a view to fostering sustainable and inclusive growth, investment and employment, and thereby contributing to improved well-being, to fairer income distribution and to greater economic, social and territorial cohesion in the Union, the InvestEU Fund should support investments in tangible and intangible assets, including in cultural heritage. Projects funded by the InvestEU Fund should meet Union environmental and social standards, including standards on labour rights. Interventions through the InvestEU Fund should complement Union support delivered through grants.

(8) The Union endorsed the objectives set out in the United Nations 2030 Agenda for Sustainable Development (the '2030 Agenda'), its Sustainable Development Goals (SDGs) and the Paris Agreement adopted under the United Nations Framework Convention on Climate Change ([4]) ('Paris Agreement on Climate Change') as well as the Sendai Framework for Disaster Risk Reduction 2015-2030. To achieve those objectives, as well as those set out in the environmental policies of the Union, action pursuing sustainable development is to be stepped up significantly. Therefore, the principles of sustainable development should feature prominently in the design of the InvestEU Fund.

(9) The InvestEU Programme should contribute to building a sustainable finance system in the Union which supports the reorientation of private capital towards sustainable investments in accordance with the objectives set out in the ***communications*** of the Commission of 8 March 2018 'Action Plan: Financing Sustainable Growth'***, of 10 March 2020 on a New Industrial Strategy for Europe, of 10 March 2020 on an SME Strategy for a sustainable and digital Europe*** and ▌ of 14 January 2020 on the European Green Deal Investment Plan.

([3]) Regulation (EU) No 1295/2013 of the European Parliament and of the Council of 11 December 2013 establishing the Creative Europe Programme (2014 to 2020) and repealing Decisions No 1718/2006/EC, No 1855/2006/EC and No 1041/2009/EC (OJ L 347, 20.12.2013, p. 221).

([4]) OJ L 282, 19.10.2016, p. 4.

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(10) Reflecting the importance of tackling climate change in line with the Union's commitments to implement the Paris Agreement on Climate Change and the SDGs, the InvestEU Programme will contribute to mainstream climate actions and to the achievement of an overall target of at ***least 30 %*** of the Union budget expenditures supporting climate objectives. Actions under the InvestEU Programme are expected to contribute ***at least*** 30 % of the overall financial envelope of the InvestEU Programme to climate objectives. Relevant actions will be identified during the InvestEU Programme's preparation and implementation and reassessed in the context of the relevant evaluations and review processes.

(11) The contribution of the InvestEU Fund to the achievement of the climate target will be tracked through a Union climate tracking system to be developed by the Commission in cooperation with potential implementing partners, appropriately using the criteria established by [Regulation on the establishment of a framework to facilitate sustainable investment ([5])] for determining whether an economic activity is environmentally sustainable. The InvestEU Programme should also contribute to the implementation of other dimensions of the SDGs.

(12) According to the 2018 Global Risks Report issued by the World Economic Forum, half of the ten most critical risks threatening the global economy relate to the environment. Such risks include the pollution of air, soil, inland waters and oceans, extreme weather events, biodiversity losses and failures of climate-change mitigation and adaptation. Environmental principles are strongly embedded in the Treaties and many of the Union's policies. Therefore, the mainstreaming of environmental objectives should be promoted in operations related to the InvestEU Fund. Environmental protection and the prevention and management of related risks should be integrated in the preparation and implementation of investments. The Union should also track its biodiversity-related and air pollution control-related expenditures in order to fulfil the reporting obligations under the Convention on Biological Diversity ([6]) and under Directive (EU) 2016/2284 of the European Parliament and of the Council ([7]). Investment allocated to environmentally sustainability objectives should therefore be tracked using common methodologies that are consistent with methodologies developed under other Union programmes that apply to climate, biodiversity and air pollution management in order to allow the assessment of the individual and combined impact of investments on the key components of natural capital, including air, water, land and biodiversity.

(13) Investment projects that receive substantial Union support, in particular in the area of infrastructure, should be screened by the implementing partner to determine whether they have an environmental, climate or social impact. Investment projects that have such an impact should be subject to sustainability proofing in accordance with guidance that should be developed by the Commission in close cooperation with potential implementing partners under the InvestEU Programme. This guidance should appropriately use the criteria established by [Regulation on establishment of a framework to facilitate sustainable investment] for determining whether an economic activity is environmentally sustainable and consistent with the guidance developed for other programmes of the Union. Consistent with the principle of proportionality, such guidance should include adequate provisions for avoiding undue administrative burdens, and projects below a certain size as to be defined in the guidance should be excluded from the sustainability proofing. Where the implementing partner concludes that no sustainability proofing is to be carried out, it should provide a justification to the Investment Committee established for the InvestEU Fund. Operations that are inconsistent with the achievement of the climate objectives should not be eligible for support under this Regulation.

(14) Low infrastructure investment rates in the Union during the financial crisis and again during the Covid-19 crisis ***have*** undermined the Union's ability to boost sustainable growth, ***efforts towards climate neutrality,*** competitiveness***, upward*** convergence ***of living conditions in the Union, and the creation of jobs***. It also creates risk of ***growing divergences and inequalities within and between Member States,*** and impacts regions' development long-term***, affecting the convergence and cohesion of the Union, which is visible in particular with***

([5]) COM(2018)0353.
([6]) OJ L 309, 13.12.1993, p. 3.
([7]) Directive (EU) 2016/2284 of the European Parliament and of the Council of 14 December 2016 on the reduction of national emissions of certain atmospheric pollutants, amending Directive 2003/35/EC and repealing Directive 2001/81/EC (OJ L 344, 17.12.2016, p. 1).

regard to digital infrastructure. It is crucial to support fast and ultra-fast broadband connectivity in all rural and urban regions of the Union, provide support to digital start-ups and innovative SMEs to enable them to better compete and scale up, and accelerate the digital transformation of the entire economy in order to increase both long-term competitiveness and the resilience of the Union economy. Sizeable investments in Union infrastructure, in particular with regard to interconnection and energy efficiency and to creating a Single European Transport Area, are essential to meeting the Union's sustainability targets, including the Union's commitments towards the SDGs, and the 2030 energy and climate targets. Accordingly, support from the InvestEU Fund should target investments into transport, energy, including energy efficiency and renewable energy sources and other safe and sustainable low-emission energy sources, environmental infrastructure, infrastructure related to climate action, maritime infrastructure and digital infrastructure. The InvestEU Programme should prioritise areas that are under-invested, and in which additional investment is required. To maximise the impact and added value of Union financing support, it is appropriate to promote a streamlined investment process that enables visibility of the project pipeline and maximises synergies across relevant Union programmes in areas such as transport, energy and digitisation. Bearing in mind threats to safety and security, investment projects receiving Union support should include measures for infrastructure resilience, including infrastructure maintenance and safety, and should take into account principles for the protection of citizens in public spaces. This should be complementary to the efforts made by other Union funds that provide support for security components of investments in public spaces, transport, energy and other critical infrastructure, such as the European Regional Development Fund.

(15) Where appropriate, the InvestEU Programme should contribute to the objectives of Directive (EU) 2018/2001 of the European Parliament and of the Council ([8]) and the Governance Regulation ([9]), as well as promote energy efficiency in investment decisions.

(16) Genuine multimodality is an opportunity to create an efficient and environmentally friendly transport network that uses the maximum potential of all means of transport and generates synergy between them. The InvestEU Programme should support investments in multimodal transport hubs, which — in spite of their significant economic potential and business cases — carry a significant risk for private investors. The InvestEU Programme should also contribute to the development and deployment of Intelligent Transport Systems (ITS). The InvestEU Programme should help to boost efforts to design and apply technologies that help to improve the safety of vehicles and road infrastructure.

(17) The InvestEU Programme should contribute to Union policies concerning seas and oceans through the development of projects and enterprises in the area of the blue economy, and the Sustainable Blue Economy Finance Principles. This may include interventions in the area of maritime entrepreneurship and industry, an innovative and competitive maritime industry, as well as renewable marine energy and circular economy.

(18) Although the level of overall investment in the Union was increasing before the Covid-19 crisis, investment in higher-risk activities such as research and innovation was still inadequate and is now expected to have suffered a significant hit with the crisis. ***Research and innovation will have a crucial role in overcoming the crisis, consolidating the resilience of the Union to tackle future challenges, and creating the necessary technologies to achieve Union policies and goals. That is why it is necessary to achieve the target of investing at least 3 % of Union GDP in research and innovation, as agreed by Member States as part of the Europe 2020 Strategy. The InvestEU Fund should help remedy inadequate levels of investment by substantially contributing to increasing public and private investment in research and innovation in Member States, thereby helping to reach the overall***

([8]) Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 328, 21.12.2018, p. 82).

([9]) Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, amending Regulations (EC) No 663/2009 and (EC) No 715/2009 of the European Parliament and of the Council, Directives 94/22/EC, 98/70/EC, 2009/31/EC, 2009/73/EC, 2010/31/EU, 2012/27/EU and 2013/30/EU of the European Parliament and of the Council, Council Directives 2009/119/EC and (EU) 2015/652 and repealing Regulation (EU) No 525/2013 of the European Parliament and of the Council (OJ L 328, 21.12.2018, p. 1).

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target of at least 3 % of Union GDP. The achievement of that target would require Member States and the private sector to complement the InvestEU Fund with their own and reinforced investment actions in research, development and innovation, to avoid underinvestment in research and innovation***, which*** is damaging to the industrial and economic competitiveness of the Union and the quality of life of its citizens. The InvestEU Fund should provide appropriate financial products to cover different stages of the innovation cycle and a wide range of stakeholders, in particular to allow the upscaling of and deployment of solutions at a commercial scale in the Union in order to make such solutions competitive on world markets and to promote Union excellence in sustainable technologies at a global level, in synergy with Horizon Europe, including the European Innovation Council. In that regard, the experience gained from the financial instruments, such as InnovFin — EU Finance for Innovators, deployed under Horizon 2020 to facilitate and accelerate access to finance for innovative businesses should serve as a strong basis to deliver this targeted support.

(19) Tourism***, including the hospitality industry,*** is an ▌area ***of strategic importance*** for the Union economy and the sector ***is experiencing*** a particularly severe contraction as a result of ***the*** COVID-19 pandemic ***and the restrictions on social contacts and closures of borders put in place. That contraction is particularly damaging for SMEs and family businesses and has caused large-scale unemployment affecting, in particular, women, young people, seasonal workers and those in vulnerable situations, and heavy losses of revenue for many businesses.*** The InvestEU Programme should contribute to strengthening ***the recovery,*** long-term competitiveness ***and sustainability of the sector, and its value chains,*** by supporting operations promoting sustainable, innovative and digital tourism***, including innovative measures to reduce the climate and environment footprint of the sector, as it responds to the COVID-19 crisis. The sustainable recovery of tourism should contribute to the creation of numerous permanent, local, quality jobs, allowing regions heavily dependent on tourism and with specific challenges related to their economic development to attract investment that would not be possible without the firepower of InvestEU Programme and its capacity to attract private investors as a result of the EU guarantee and the crowding-in effect produced by it.***

(20) A significant effort is urgently needed to invest in and boost the digital transformation and to distribute the benefits of it to all Union citizens and businesses. The strong policy framework of the Digital Single Market Strategy should now be matched by investment of a similar ambition, including in artificial intelligence in line with the Digital Europe programme.

(21) SMEs represent over 99 % of businesses in the Union and their economic value is significant and crucial. However, they face difficulties when accessing finance because of their perceived high risk and lack of sufficient collateral. Additional challenges arise from the need for SMEs and social economy enterprises to stay competitive by engaging in digitisation, internationalisation, transformation in a logic of circular economy, innovation activities and skilling up their workforce. ***SMEs have been particularly badly hit by the COVID-19 crisis, notably those in the services, manufacturing, construction, tourism, cultural and creative sectors.*** Moreover, SMEs and social economy enterprises have access to a more limited set of financing sources than larger enterprises, because they typically do not issue bonds, and have only limited access to stock exchanges and large institutional investors. Innovative solutions such as the acquisition of a business or ownership stake in a business by employees are also increasingly common for SMEs and social economy enterprises. The difficulty in accessing finance is even greater for those SMEs whose activities focus on intangible assets. SMEs in the Union rely heavily on banks and on debt financing in the form of bank overdrafts, bank loans or leasing. Supporting SMEs that face the above challenges by making it easier for them to gain access to finance and by providing more diversified sources of funding is necessary to increase the ability of SMEs to finance their creation, growth, innovation and sustainable development, ensure their competitiveness and withstand economic shocks to make the economy and the financial system more resilient during economic downturns and to maintain SMEs' ability to create jobs and social well-being. This Regulation is also complementary to the initiatives already undertaken in the context of the Capital Markets Union. The InvestEU Fund should therefore build on successful Union programmes such as the Programme for the Competitiveness of enterprises and SMEs (COSME) and should provide working capital and investment throughout the life cycle of a company, should provide financing for leasing transactions and should provide an opportunity to focus on

specific, more targeted financial products. It should also maximise firepower of public/private fund vehicles, such as the SME IPO (Initial Public Offering) Fund, seeking to support SMEs through channelling both more private and public equity in particular in strategic companies.

(22) As set out in the Commission's Reflection paper on the social dimension of Europe of 26 April 2017, the Communication on European Pillar of Social Rights, the Union framework for the UN Convention on the Rights of Persons with Disabilities and the Communication on 'Strong Social Europe for Just Transitions' of 14 January 2020, building a more inclusive and fair Union is a key priority for the Union to tackle inequality and foster social inclusion policies in Europe. Inequality of opportunities affects in particular access to education, training, culture, employment, health and social services. Investment in the social, skills and human capital-related economy, as well as in the integration of vulnerable populations in the society, can enhance economic opportunities, especially if coordinated at Union level. ***The COVID-19 crisis has demonstrated that such investment helps build societal resilience to crises and has revealed a significant need for investment in social infrastructure and projects in the fields of social services, healthcare services, education, care and social housing.*** The InvestEU Fund should be used to support investment in education and training, including the re-skilling and upskilling of workers, inter alia in regions depending on a carbon intensive economy and affected by the structural transition to a low-carbon economy. It should be used to support projects that generate positive social impacts and enhance social inclusion by helping to increase employment across all regions, in particular among the unskilled and long-term unemployed, and to improve the situation with regard to gender equality, equal opportunities, non-discrimination, accessibility, intergenerational solidarity, the health and social services sector, social housing, homelessness, digital inclusiveness, community development, the role and place of young people in society as well as vulnerable people, including third country nationals. The InvestEU Programme should also support European culture and creativity that has a social goal.

(22a) The COVID-19 crisis has had a disproportionate impact on women, from both a social and an economic perspective, including through job losses and the unpaid care burden and a rise in domestic violence. Bearing that in mind, and taking fully into account Article 8 of the Treaty, the InvestEU Programme should contribute to the achievement of the Union's policies on gender equality and the promotion and empowerment of women, inter alia through addressing the gender digital gap, helping to encourage female creativity and entrepreneurial potential and supporting the development of care infrastructure and infrastructure for victims of violence.

(23) To counter the negative effects of profound transformations of societies in the Union and of the labour market in the coming decade, it is necessary to invest in human capital, social infrastructure, microfinance, ethical and social enterprise finance and new social economy business models, including social impact investment and social outcomes contracting. The InvestEU Programme should strengthen nascent social market eco-system to increase the supply of and access to finance to micro- and social enterprises and social solidarity institutions, in order to meet the demand of those who need it the most. The report of the High-Level Task Force on Investing in Social Infrastructure in Europe of January 2018 entitled 'Boosting Investment in Social Infrastructure in Europe' has identified a total investment gap of at least EUR 1,5 trillion in social infrastructure and services for the period between 2018 and 2030, including education, training, health and housing. This calls for support, including at the Union level. Therefore, the collective power of public, commercial and philanthropic capital, as well as support from foundations and from alternative types of finance providers such as ethical, social and sustainable actors, should be harnessed to support the development of the social market value chain and a more resilient Union.

(24) In the economic crisis caused by the Covid-19 pandemic, market allocation of resources is not fully efficient and perceived risk impairs private investment flow significantly. Under such circumstances, the key feature of the InvestEU Fund of de-risking economically viable projects to crowd in private finance is particularly valuable and should be reinforced, inter alia in order to counteract the risk of an asymmetric recovery ***and reduce the gaps between Member States***. The InvestEU Programme should be able to provide crucial support to companies***, especially SMEs,*** in the recovery phase and at the same time ensure a strong focus of investors on the Union's

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medium- and long-term policy ***and legislative*** priorities such as the European Green Deal, the European Green Deal Investment Plan, ***[the European Climate law],*** the Strategy on shaping Europe's digital future***, the New Industrial Strategy for Europe, Horizon Europe ambitions, the Renovation Wave, the European Pillar of Social Rights,*** and the Strong Social Europe for Just Transitions***, taking account of the principle of 'do no significant harm'***. It should significantly increase the risk-taking capacity of the European Investment Bank (EIB) Group and national promotional banks and institutions and other implementing partners in support of ***projects that would otherwise become missed opportunities, thereby aiding*** economic recovery.

(25) The Covid-19 pandemic is a major shock to the global and Union economy. The contraction in EU GDP is expected to be far deeper than during the financial crisis in 2009 and adverse social effects will be inevitable. The outbreak of the pandemic has shown the need for strategic vulnerabilities to be ***urgently and efficiently*** addressed in order to improve the Union's emergency response as well as the resilience ***and sustainability*** of the entire economy. Only a resilient, ***sustainable***, inclusive and integrated European economy can preserve the ***integrity of the*** Single Market and the level playing field also to the benefit of the hardest-hit Member States ***and regions***.

(26) The InvestEU Fund should operate through ***six*** policy windows that mirror the key Union policy priorities, namely: sustainable infrastructure; research, innovation and digitisation; SMEs; social investment and skills; strategic European investment***; and solvency support***.

(27) Although the SME policy window should primarily focus on benefitting SMEs, small mid-cap companies should also be eligible under this policy window. Mid-cap companies should also be eligible for support under the other ***five*** policy windows.

(28) The primary focus of the strategic European investment window should be on support to those final recipients established in a Member State and operating in the Union whose activities are of strategic importance to the Union***, in line with the priorities described in the New Industrial Strategy for Europe, which aims for a globally competitive,*** green and digital ***Europe, with a development model based on industrial ecosystems. The window should also enhance the competitiveness of the Union economy, including the need to rebuild Member States' productive capacity and create future-oriented investments promoting entrepreneurship and job creation,*** and ***enhance*** resilience***, including by decreasing dependence on vulnerable supply chains. Projects should bring Union added value and should either be cross-border or generate real added value in more than one Member State or region through spill-over effects. No support should flow directly into the national budgets or substitute national budgetary expenditure, such as social benefits.*** Areas of ***strategic importance are as follows*** (i) critical healthcare provision, manufacturing and stockpiling of ***medicinal products, including vaccines, and their intermediates, active pharmaceutical ingredients and raw materials;*** medical devices***, hospital*** and medical ***equipment, such as ventilators, protective clothing and equipment, diagnostic materials and tools; personal protective equipment, disinfectants and their intermediary products and raw materials necessary for their production;*** strengthening ***the resilience of healthcare and*** health ***systems in preparation for future*** crisis response capacity***, including the performance of stress tests of national and regional healthcare systems,*** and of the civil protection system ***based on the principles of wide availability and affordability of products vital in health emergencies*** (ii) critical infrastructure, whether physical***, analogue*** or ***digital, including infrastructure elements and mobile assets identified as critical in the fields of energy, transport, including public transport and active mobility, logistics, environment, water, health, secure digital communication and networks, 5G and very high-speed electronic communication networks, internet of things, online service platforms, secure edge and cloud computing, data processing or storage, payments and financial infrastructure, aerospace, security and defence, communications, media, audio-visual, culture and creativity, education and training, electoral infrastructure and sensitive facilities, public administration, security, housing, as well as land and real estate crucial for the use of such critical infrastructure;*** (iii) provision of ***know-how,*** goods***, technologies*** and services instrumental to the operation and maintenance of such infrastructure ***and mobile assets***; (iv) key enabling, transformative, green and digital technologies and game-changing innovations where the investment is strategically important for the ***Union economy, and the sustainable and innovative*** industrial future ***of the Union***, including artificial intelligence, blockchain ***and distributed ledger technologies***, software, robotics, semiconductors, microprocessors, edge ***and*** cloud technologies, high-performance computing, cybersecurity, quantum technologies, photonics, industrial

biotechnology, ***technologies for safe, sustainable, smart and automated mobility and logistics in all modes of transport,*** renewable ***and other*** energy technologies ***which contribute to the achievement of climate neutrality by 2050***, energy storage technologies including ***sustainable*** batteries, sustainable transport technologies, clean hydrogen and fuel cell applications, decarbonisation technologies for industry, ***such as the production of CO_2 free steel, and infrastructure for*** carbon capture and storage ***in industrial processes, bioenergy plants and manufacturing facilities towards the energy transition***, circular economy technologies ***and supply chains***, biomedicine, nanotechnologies, pharmaceuticals and advanced***, renewable and circular*** materials***, space systems and technologies including critical space components, as well as space-based services and applications, and tourism*** (v) ***recycling and*** manufacturing facilities for mass production of nformation Communication and Technology components and devices in the ***Union, including energy or raw materials, except if already covered by legislative requirements, or food security, having regard to resource efficiency and circularity in strategic value chains and strategic eco-systems***; (vi) supply and stockpiling of critical inputs to public actors, businesses or consumers in the Union; (vii) critical technologies, inputs ***and applications*** for the security of the Union and its Member States, such as ***security and*** defence and space sectors and cybersecurity, ***including 5G network security,*** and dual use items as defined in point 1 of Article 2 of Council Regulation (EC) No 428/2009; ***(viia) investment and technical assistance to companies, in particular SMEs, start-ups and family businesses to increase the resilience of their value chains and business models, to foster entrepreneurial skills as well as supporting the conditions for boosting entrepreneurship, including by developing networks of clusters and digital innovation hubs, and technological and sustainable sectoral development (viib) critical early detection, and coordinated institutional and economic response capabilities in order to react to the risk of crises, as well as advancing business and service continuity solutions for essential public and private institutions and sectors (viic) investment in New Space activities, both upstream and downstream, in order to bring the most promising technologies and applications to the market, thus ensuring the competitiveness of the Union space industry (viid) strategic investment in renewable energy and energy efficiency projects, including building renovation, with a high potential to significantly contribute to meeting the targets set out in Directives (EU) 2018/2001, (EU) 2018/2002 and (EU) 2018/844 and to contribute to achieving a climate neutral and energy efficient building sector as part of the European Green Deal as laid out in the [renovation wave strategy], or actions under the Union Renewable energy financing mechanism.*** Final recipients should have their registered office in a Member State and they should be active in the Union in the sense that they have substantial activities in terms of staff, manufacturing, research and development or other business activities in the Union. ***No final recipient should have a subsidiary that carries on activities with no real economic substance in a country on the Union list of non-cooperative jurisdictions for tax purposes.*** Projects which contribute to diversification of strategic supply chains in the Single Market through operations in multiple locations across the ***Union*** should be able to benefit.

(29) The strategic European investment window should also target suppliers established and operating in the Union whose activities are of strategic importance to the Union and that would need long term investment or are covered by the Foreign Direct Investment Screening mechanism. In addition, important projects of common European interest should in particular be able to benefit from the strategic European investment window. ***The window should also support strategic collaboration between industry partners and research players, thereby reinforcing synergies between InvestEU and Horizon Europe.***

(29a) The purpose of the solvency support window is to help companies to overcome this difficult period so that they are in a position to carry the recovery, to safeguard employment levels, and to counter-balance the expected distortions in the single market, given that not all companies have the same level of access to market financing and certain Member States may not have sufficient budgetary means available to provide adequate support to companies in need. The possibility of national solvency support measures for companies may therefore differ substantially across Member States and lead to an uneven playing field. Furthermore, as there is a considerable risk that the impact of the COVID-19 outbreak will be long-lasting, such lack of capacity to help viable companies can lead to systemic distortions, creating new disparities or cementing existing ones. Given the strong interconnectedness of the Union economy, an economic downturn in one part of the Union would have negative spill-over effects on cross-border supply chains and the Union economy as a whole. Conversely, for the same reason, support in one part of the Union would also have positive spill-over effects on cross-border supply chains and the Union economy as a whole.

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(29b) In order to avoid abuse and maximize the effect on the real economy and on employment, companies that benefit from EUR 30 million or more through the solvency support window should be subject to temporary payout limitations, such as restrictions on dividend payments, senior pay and share buy-backs during the period of the guarantee.

(30) ***As proposed in the European Green Deal and the European Green Deal Investment Plan, a Just Transition Mechanism should be established in order to address the social, economic and environmental challenges of reaching the Union's 2030 climate target and its target of achieving climate neutrality by 2050. That mechanism which is composed of three pillars, namely a Just Transition Fund (pillar 1), a dedicated Just Transition Scheme under InvestEU (pillar 2) and a Public Sector Loan Facility (pillar 3), should focus on the regions that are most affected by the green transition and have less capacity to finance the necessary investments. As such,*** the InvestEU should also provide support to financing to generate investment to the benefit of just transition regions ***as well as the possibility for the respective regions to benefit from dedicated technical assistance through the InvestEU Advisory Hub***.

(30a) To implement pillar 2 under the Just Transition Mechanism, a dedicated Just Transition Scheme under InvestEU should be established horizontally across all policy windows. That scheme should provide funding to additional investment needs to support the regions identified in the territorial just transitions plans, prepared by Member States, and approved by the Commission, in accordance with Regulation [JTF Regulation].

(31) Each policy window should be composed of two compartments, that is to say an EU compartment and a Member State compartment. The EU compartment should address Union-wide or Member State specific market failures or sub-optimal investment situations in a proportionate manner. Operations supported should have a clear Union added value. The Member State compartment should give Member States as well as regional authorities via their Member State the possibility of contributing a share of their resources from the funds under shared management ***or contributions from recovery and resilience plans under the Recovery and Resilience Facility*** to the provisioning for the EU guarantee and of using the EU guarantee for financing or investment operations in order to address specific market failures or sub-optimal investment situations in their own territories, including in vulnerable and remote areas such as the outermost regions of the Union, as to be set out in the contribution agreement, in order to achieve objectives of the funds under shared management ***or of national recovery and resilience plans. In addition, recovery and resilience plans under the Recovery and Resilience Facility might include contributions to the Member States compartment. Amongst other things, this could allow support to be given for the solvency of companies established in the Member States concerned.*** Operations supported by the InvestEU Fund through either EU or Member State compartments should not duplicate or crowd out private financing or distort competition in the internal market.

(32) The Member State compartment should be specifically designed to allow the use of funds under shared management ***or contributions from recovery and resilience plans under the Recovery and Resilience Facility*** to provision a guarantee issued by the Union. That possibility would increase the value added of the EU guarantee by providing support under it to a wider range of financial recipients and projects and diversifying the means of achieving the objectives of the funds under shared management ***or of national recovery and resilience plans,*** while ensuring a consistent risk management of the contingent liabilities by implementing the EU guarantee under indirect management. The Union should guarantee the financing and investment operations provided for in the guarantee agreements concluded between the Commission and implementing partners under the Member State compartment. The funds under shared management ***or the contributions from recovery and resilience plans under the Recovery and Resilience Facility*** should provide the provisioning for the guarantee, following a provisioning rate determined by the Commission and set out in the contribution agreement concluded with the Member State, based on the nature of the operations and the resulting expected losses. The Member State would assume losses above the expected losses by issuing a back-to-back guarantee in favour of the Union. Such arrangements should be concluded in a single contribution agreement with each Member State that voluntarily chooses such option. The contribution agreement should encompass the one or more specific guarantee agreements to be implemented within the Member State concerned on the basis of the rules of the InvestEU Fund, and any regional ring-fencing. The setting out of the provisioning rate on a case-by-case basis requires a derogation from Article 211(1) of Regulation (EU, Euratom)

2018/1046 of the European Parliament and of the Council ([10]) (the Financial Regulation). This set-up provides also a single set of rules for budgetary guarantees supported by funds that are managed centrally or by ***contributions from recovery and resilience plans under the Recovery and Resilience Facility,*** which would facilitate their combination.

(33) A partnership between the Commission and the EIB Group should be established, drawing on the relative strengths of each partner to ensure maximum policy impact, deployment efficiency, and appropriate budgetary and risk management oversight, which should support effective and inclusive direct access to the EU guarantee.

(34) In order to be able to channel support to the European economy through the European Investment Fund (EIF), the Commission should be in a position to participate in one or more possible capital increases of the EIF in order to allow it to continue supporting the European economy and its recovery. The Union should be able to maintain its overall share in the EIF capital, with due consideration of the financial implications. A sufficient financial envelope to this effect should be foreseen in the Multiannual Financial Framework for 2021-2027.

(35) The Commission should seek the views of other potential implementing partners along with the EIB Group on investment guidelines, the climate tracking system, the sustainability proofing guidance documents and common methodologies, as appropriate, with a view to ensuring inclusiveness and operationality until the governance bodies have been set up, after which the involvement of implementing partners should take place within the framework of the Advisory Board and the Steering Board of the InvestEU Programme.

(36) The InvestEU Fund should be open to contributions from third countries that are members of the European Free Trade Association, acceding countries, candidates and potential candidates, countries covered by the European Neighbourhood Policy and other countries, in accordance with the conditions laid down between the Union and those countries. This should allow continuing cooperating with the relevant countries, where appropriate, in particular in the fields of research and innovation as well as SMEs.

(37) This Regulation lays down a financial envelope for other measures of the InvestEU Programme than the provisioning of the EU guarantee, which is to constitute the prime reference amount, within the meaning of [*reference to be updated as appropriate according to the new inter-institutional agreement:* point 16 of the Proposal for an Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management as adopted by the said Institutions ([11])], for the European Parliament and the Council during the annual budgetary procedure.

(38) The EU guarantee of EUR ***91 773 320 000*** (current prices) at Union level is expected to mobilise more than EUR ***1 200 000 000 000*** of additional investment across the Union and should be indicatively allocated between the policy windows. However, the strategic European investment window should have a dedicated portion of the EU guarantee.

(39) On 18 April 2019, the Commission declared that ***'[w]ithout*** prejudice to the prerogatives of the Council in the implementation of the Stability and Growth Pact (SGP), one-off contributions by Member States, ***either*** by a Member State or by national promotional banks classified in the general government sector or acting on behalf of a Member State, ***into*** thematic or multi-country investment platforms should in principle qualify as one-off measures within the meaning of Articles 5(1) and 9(1) of Council Regulation (EC) No 1466/97 ([12]) and Article 3(4) of Council Regulation (EC) No 1467/97 ([13]). In addition, without prejudice to the prerogatives of the Council in the implementation of the SGP, the Commission ***will*** consider to what extent the same treatment as for the EFSI in the

([10]) Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

([11]) COM(2018)0323 final.

([12]) Council Regulation (EC) No 1466/97 of 7 July 1997 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies (OJ L 209, 2.8.1997, p. 1).

([13]) Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure (OJ L 209, 2.8.1997, p. 6).

context of the Commission communication on flexibility can be applied to the InvestEU Programme as the successor instrument to the EFSI with regard to one-off contributions provided by Member States in cash to finance an additional amount of the EU guarantee for the purposes of the Member State compartment.'

(40) The EU guarantee underpinning the InvestEU Fund should be implemented indirectly by the Commission relying on implementing partners with outreach to financial intermediaries, where applicable, and final recipients. The selection of the implementing partners should be transparent and free from any conflict of interest. The Commission should conclude a guarantee agreement allocating guarantee capacity from the InvestEU Fund with each implementing partner to support its financing and investment operations that meet the InvestEU Fund eligibility criteria and contribute to meeting its objectives. The management of the risk related to the EU guarantee should not hamper direct access to the EU guarantee by the implementing partners. Once the EU guarantee is granted under the EU compartment to implementing partners, they should be fully responsible for the whole investment process and the due diligence related to the financing or investment operations. The InvestEU Fund should support projects that typically have a higher risk profile than the projects supported by the normal operations of the implementing partners and that could not have been carried out during the period in which the EU guarantee could be used, or could not have been carried out to the same extent, by other public or private sources without InvestEU support. However, specific conditions may apply to the additionality criterion in relation to the financing and investment operations under the strategic European investment window stemming from its objective.

(41) The InvestEU Fund should be provided with a governance structure, the function of which should be commensurate with its sole purpose of ensuring the appropriate use of the EU guarantee, in line with ensuring the political independence of investment decisions. That governance structure should be composed of an Advisory Board, a Steering Board and a fully independent Investment Committee. The overall composition of the governance structure should strive to achieve gender balance. The governance structure should not encroach upon or interfere with the decision-making of the EIB Group or other implementing partners, and should not be a substitute for their respective governing bodies.

(42) An Advisory Board consisting of representatives of the implementing partners, representatives of Member States, one expert appointed by the European Economic and Social Committee and one expert appointed by the Committee of the Regions should be established in order to exchange information and exchange views on the take-up of the financial products deployed under the InvestEU Fund and to discuss evolving needs and new products, including specific territorial market gaps.

(43) In order to be able to constitute the Advisory Board from the start, the Commission should appoint the representatives of the potential implementing partners for a temporary period of one year, thereafter the implementing partners having signed guarantee agreements would take over this responsibility.

(44) A Steering Board composed of representatives of the Commission, representatives of implementing partners and one non-voting expert appointed by the European Parliament should determine the strategic and operational guidance for the InvestEU Fund.

(45) The Commission should assess the compatibility of investment and financing operations submitted by the implementing partners with all Union law and policies. The decisions on financing and investment operations should ultimately be taken by an implementing partner.

(46) An Investment Committee composed of independent experts should conclude on the granting of the support from the EU guarantee to financing and investment operations fulfilling the eligibility criteria, thereby providing external expertise in investment assessments in relation to projects. The investment committee should have different configurations to cover different policy areas and sectors in the best way possible.

(47) The Investment Committee should become responsible as of its constitution also for granting the benefit of the EU guarantee for financing and investment operations under Regulation (EU) 2015/1017 in order to avoid parallel similar structures assessing proposals for the use of the EU guarantee.

(48) An independent secretariat hosted by the Commission and answerable to the chairperson of the Investment Committee should assist the investment committee.

(49) In selecting implementing partners for the deployment of the InvestEU Fund, the Commission should consider the counterparty's ability to fulfil the objectives of the InvestEU Fund and to contribute its own resources, in order to ensure adequate geographical coverage and diversification, to crowd in private investors and to provide sufficient risk diversification and solutions to address market failures and sub-optimal investment situations. Given its role under the Treaties, its capacity to operate in all Member States and the existing experience under the current financial instruments and the EFSI, the EIB Group should remain a privileged implementing partner under the InvestEU Fund's EU compartment. In addition to the EIB Group, national promotional banks or institutions should be able to offer a complementary financial product range, given that their experience and capabilities at national and regional level could be beneficial for the maximisation of the impact of public funds on the whole territory of the Union, and for ensuring a fair geographical balance of projects. The InvestEU Programme should be implemented in such a way as to promote a level playing field for smaller and younger promotional banks and institutions. Moreover, it should be possible for other international financial institutions to become implementing partners, in particular when they present a comparative advantage in terms of specific expertise and experience in certain Member States and when they present a Union majority of shareholding. It should also be possible for other entities fulfilling the criteria laid down in the Financial Regulation to become implementing partners.

(50) With a view to promoting improved geographic diversification, investment platforms may be established to combine the efforts and expertise of implementing partners with other national promotional banks or institutions that have limited experience in the use of financial instruments. Such structures should be encouraged, including with available support from the InvestEU Advisory Hub. It is appropriate to bring together co-investors, public authorities, experts, education, training and research institutions, relevant social partners and representatives of the civil society and other relevant actors at Union, at national and regional levels to promote the use of investment platforms in relevant sectors.

(51) The EU guarantee under the Member State compartment should be allocated to any implementing partner eligible in accordance with point (c) of Article 62(1) of the Financial Regulation, including national or regional promotional banks or institutions, the EIB, the European Investment Fund and other international financial institutions. When selecting implementing partners under the Member State compartment, the Commission should take into account the proposals made by each Member State, as reflected in the contribution agreement. In accordance with Article 154 of the Financial Regulation, the Commission is to carry out an assessment of the rules and procedures of the implementing partner to ascertain that they provide a level of protection of the financial interest of the Union equivalent to the one provided by the Commission.

(52) Financing and investment operations should ultimately be decided by the implementing partner in its own name, implemented in accordance with its internal rules, policies and procedures, and accounted for in its own financial statements or, where applicable, disclosed in the notes to the financial statements. Therefore, the Commission should exclusively account for any financial liability arising from the EU guarantee and should disclose the maximum guarantee amount, including all relevant information concerning the guarantee provided.

(53) Where appropriate, the InvestEU Fund should allow for the smooth, seamless and efficient blending of grants, financial instruments or both, funded by the Union budget or by other funds, such as the EU emissions trading system (ETS) Innovation Fund with the EU guarantee in situations where this is necessary to best underpin investments to address particular market failures or sub-optimal investment situations.

(54) Projects submitted by implementing partners for support under the InvestEU Programme, which include blending support under InvestEU Fund with support from other Union programmes, should as a whole be consistent with the objectives and eligibility criteria of the relevant other Union programmes. The use of the EU guarantee should be decided under the InvestEU Programme.

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(55) The InvestEU Advisory Hub should support the development of a robust pipeline of investment projects in each policy window through advisory initiatives that are implemented by the EIB Group or other advisory partners, or are implemented directly by the Commission. The InvestEU Advisory Hub should promote geographic diversification with a view to contributing to the Union objectives of economic, social, and territorial cohesion and reducing regional disparities. The InvestEU Advisory Hub should pay particular attention to the aggregation of small-sized projects into larger portfolios. The Commission, the EIB Group and the other advisory partners should cooperate closely with a view to ensuring efficiency, synergies and effective geographic coverage of support across the Union, taking into account the expertise and local capacity of local implementing partners, as well as the European Investment Advisory Hub established under Regulation (EU) 2015/1017 of the European Parliament and of the Council ([14]). In addition, the InvestEU Advisory Hub should provide a central entry point for project development assistance delivered under the InvestEU Advisory Hub to public authorities and for project promoters.

(56) The InvestEU Advisory Hub should be established by the Commission with the EIB Group as the main partner, building on the experience acquired through the European Investment Advisory Hub. The Commission should be responsible for the policy steer of the InvestEU Advisory Hub and for the management of the central entry point. The EIB Group should deliver advisory initiatives under the policy windows. In addition, the EIB Group should provide operational services to the Commission, including by providing input to the strategic and policy guidelines regarding advisory initiatives, mapping existing and emerging advisory initiatives, assessing advisory needs and advising the Commission on optimal ways to address these needs through existing or new advisory initiatives.

(57) In order to ensure a wide geographic outreach of the advisory services across the Union and to successfully leverage local knowledge about the InvestEU Fund, a local presence of the InvestEU Advisory Hub should be ensured, where needed, taking into account existing support schemes and the presence of local partners, with a view to provide tangible, proactive, tailor-made assistance on the ground. In order to facilitate the provision of advisory support at local level and to ensure efficiency, synergies and effective geographic coverage of support across the Union, the InvestEU Advisory Hub should cooperate with national promotional banks or institutions, and should benefit from and make use of their expertise.

(58) The InvestEU Advisory Hub should provide advisory support to small-sized projects and projects for start-ups, especially when start-ups seek to protect their research and innovation investments by obtaining intellectual property titles, such as patents, taking into account the existence of other services able to cover such actions and seeking synergies with those services.

(59) In the context of the InvestEU Fund, there is a need to provide support for project development and capacity building to develop the organisational capacities and market development activities needed to originate quality projects. Such support should also target financial intermediaries that are key to help ***SMEs and other actors*** access financing and realise their full potential***, and should include technical assistance***. Moreover, the aim of the advisory support is to create the conditions for the expansion of the potential number of eligible recipients in nascent market segments, in particular where the small size of individual projects considerably raises the transaction cost at the project level, such as for the social finance ecosystem, including philanthropic organisations, or for the cultural and creative sectors. The capacity-building support should be complementary and in addition to actions taken under other Union programmes that cover specific policy areas. An effort should also be made to support the capacity building of potential project promoters, in particular local organisations and authorities.

(60) The InvestEU Portal should be established to provide for an easily accessible and user-friendly project database to promote visibility of investment projects searching for financing with enhanced focus on the provision of a possible pipeline of investment projects, compatible with Union law and policies, to the implementing partners.

([14]) Regulation (EU) 2015/1017 of the European Parliament and of the Council of 25 June 2015 on the European Fund for Strategic Investments, the European Investment Advisory Hub and the European Investment Project Portal and amending Regulations (EU) No 1291/2013 and (EU) No 1316/2013 — the European Fund for Strategic Investments (OJ L 169, 1.7.2015, p. 1).

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(61) In accordance with Regulation [European Union Recovery Instrument] and within the limits of resources allocated therein, recovery and resilience measures under ▌InvestEU should be carried out to address the unprecedented impact of the Covid-19 crisis ***and to strengthen the Union economy in the long term***. Such additional resources should be used in such a way as to ensure compliance with the time limits provided for in Regulation [EURI]. ***That requirement would be met by the conclusion of the relevant guarantee agreements with the implementing partners by 31 December 2023.***

(62) Pursuant to paragraphs 22 and 23 of the Interinstitutional agreement for Better Law-Making of 13 April 2016 ([15]), there is a need to evaluate the InvestEU Programme on the basis of information collected through specific monitoring requirements, while avoiding overregulation and administrative burdens, in particular on Member States. These requirements, where appropriate, can include measurable indicators, as a basis for evaluating the effects of the InvestEU Programme on the ground.

(63) A solid monitoring framework that is based on output, outcome and impact indicators should be implemented to track progress towards the Union's objectives. In order to ensure accountability to the Union's citizens, the Commission should report annually to the European Parliament and the Council on the progress, impact and operations of the InvestEU Programme.

(64) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 of the Treaty on the Functioning of the European Union (TFEU) apply to this Regulation. These rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes, indirect implementation, and provide for checks on the responsibility of financial actors. Rules adopted on the basis of Article 322 TFEU also concern the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States, as the respect for the rule of law is an essential precondition for sound financial management and effective EU funding.

(65) The Financial Regulation applies to the InvestEU Programme. It lays down rules on the implementation of the Union budget, including the rules on budgetary guarantees.

(66) In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council ([16]), Council Regulation (EC, Euratom) No 2988/95 ([17]), Council Regulation (Euratom, EC) No 2185/96 ([18]) and Council Regulation (EU) 2017/1939 ([19]), the financial interests of the Union are to be protected through proportionate measures, including the prevention, detection, correction and investigation of irregularities, including fraud, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, the imposition of administrative sanctions. In particular, in accordance with Regulation (EU, Euratom) No 883/2013 and Regulation (Euratom, EC) No 2185/96 the European Anti-Fraud Office (OLAF) may carry out administrative investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. In accordance with Regulation (EU) 2017/1939, the European Public Prosecutor's Office ('the EPPO') may investigate and prosecute offences against the Union's financial interests as provided for in Directive (EU) 2017/1371 of the European Parliament and of the

([15]) OJ L 123, 12.5.2016, p. 1.

([16]) Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

([17]) Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p. 1).

([18]) Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

([19]) Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

Council ([20]). In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the Union's financial interests, to grant the necessary rights and access to the Commission, OLAF, the EPPO in respect of those Member States participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939, and the European Court of Auditors and to ensure that any third parties involved in the implementation of Union funds grant equivalent rights.

(67) Third countries which are members of the European Economic Area (EEA) may participate in Union programmes in the framework of the cooperation established under the EEA agreement, which provides for the implementation of the programmes by a decision under that agreement. Third countries may also participate on the basis of other legal instruments. A specific provision should be introduced in this Regulation to grant the necessary rights for and access to the authorising officer responsible, the OLAF as well as the European Court of Auditors to comprehensively exert their respective competences.

(68) Pursuant to Article 83 of the [Proposal for a Council Decision on the Association of the Overseas Countries and Territories with the European Union including relations between the European Union on the one hand, and Greenland and the Kingdom of Denmark on the other ('Overseas Association Decision')] ([21]), persons and entities established in the overseas countries and territories (OCTs) are eligible for funding subject to the rules and objectives of InvestEU Programme and possible arrangements applicable to the Member State to which the relevant overseas country or territory is linked.

(69) In order to supplement the non-essential elements of this Regulation with investment guidelines and with a scoreboard of indicators, to facilitate the prompt and flexible adaptation of the performance indicators and to adjust the provisioning rate, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of ***establishing indicators to be used by the Steering Board to determine the Member States and sectors economically most hit by the COVID-19 pandemic and the Member States where the possibility of State solvency support is more limited and the methodology for the application of those indicators and*** drawing-up the investment guidelines for the financing and investment operations under different policy windows, the scoreboard, the amendment of Annex III to this Regulation to review or complement the indicators and the adjustment of the provisioning rate. In line with the principle of proportionality, such investment guidelines should include adequate provisions to avoid undue administrative burden. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

(69a) It is necessary to ensure that InvestEU is implemented as promptly as possible after its entry into force. It would therefore be appropriate to allow implementing partners to submit financing and investment operations to the Commission before the Investment Committee is up and running or before the conclusion of the relevant guarantee agreement. In such cases, the Commission should be responsible for approving the operations. It should also be possible to merge both financial instruments established by programmes referred to in Annex IV to this Regulation and the EU guarantee established by Regulation (EU) 2015/1017 with financial instruments under this Regulation, if applicable and subject to a prior evaluation.

(70) The InvestEU Programme should address Union-wide and Member State specific market failures and sub-optimal investment situations and should provide for Union-wide market testing of innovative financial products and systems to spread them, for addressing new or complex market failures. Therefore, action at Union level is warranted,

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([20]) Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

([21]) SEC(2018)0310; SWD(2018)0337.

HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

1. This Regulation establishes the InvestEU Fund, which shall provide for an EU guarantee to support financing and investment operations carried out by the implementing partners that contribute to objectives of the Union's internal policies.

2. This Regulation also establishes an advisory support mechanism to provide support for the development of investable projects and access to financing and to provide related capacity building assistance (the 'InvestEU Advisory Hub'). It further establishes a database granting visibility to projects for which project promoters seek financing and which provides investors with information about investment opportunities (the 'InvestEU Portal').

3. This Regulation establishes the objectives of the InvestEU Programme, its budget and the amount of the EU guarantee for the period 2021 to 2027, the forms of Union funding and the rules for providing such funding.

Article 2

Definitions

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

(1) 'InvestEU Programme' means the InvestEU Fund, the InvestEU Advisory Hub, the InvestEU Portal and blending operations, collectively;

(2) 'EU guarantee' means an overall irrevocable, unconditional and on demand budgetary guarantee provided by the Union budget under which the budgetary guarantees in accordance with Article 219(1) of the Financial Regulation take effect through the entry into force of individual guarantee agreements with implementing partners;

(3) 'policy window' means a targeted area for support by the EU guarantee as laid down in Article 7(1);

(4) 'compartment' means a part of the EU guarantee defined in terms of the origin of the resources backing it;

(5) 'blending operation' means an operation supported by the Union budget that combines non-repayable forms of support, repayable forms of support, or both, from the Union budget with repayable forms of support from development or other public finance institutions, or from commercial finance institutions and investors; for the purposes of this definition, Union programmes financed from sources other than the Union budget, such as the EU Emissions Trading System (ETS) Innovation Fund, may be assimilated to Union programmes financed by the Union budget;

(6) 'EIB' means the European Investment Bank;

(7) 'EIB Group' means the EIB, its subsidiaries and other entities established in accordance with Article 28(1) of Protocol No 5 on the Statute of the European Investment Bank, annexed to the Treaty on European Union and the TFEU (the EIB Statute);

(8) 'financial contribution' means a contribution from an implementing partner in the form of own risk-taking capacity that is provided on a pari passu basis with the EU guarantee or in another form that allows an efficient implementation of the InvestEU Programme while ensuring appropriate alignment of interest;

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(9) 'contribution agreement' means a legal instrument whereby the Commission and one or more Member States specify the conditions of the EU guarantee under the Member State compartment, as laid down in Article 9;

(10) 'financial product' means a financial mechanism or arrangement under the terms of which the implementing partner provides direct or intermediated financing to final recipients using any of the types of financing referred to in Article 15;

(11) 'financing and/or investment operations' means operations to provide finance directly or indirectly to final recipients through financial products, carried out by an implementing partner in its own name, provided by the implementing partner in accordance with its internal rules, policies and procedures and accounted for in the implementing partner's financial statements or, where applicable, disclosed in the notes to those financial statements;

(12) 'funds under shared management' means funds that provide for the possibility of allocating a portion of those funds to the provisioning for a budgetary guarantee under the Member State compartment of the InvestEU Fund, namely the European Regional Development Fund (ERDF), the European Social Fund Plus (ESF+), the Cohesion Fund, the European Maritime and Fisheries Fund (EMFF), the European Agriculture Fund for Rural Development (EAFRD) and the [Just Transition Fund (JTF)] ([22]);

(13) 'guarantee agreement' means a legal instrument whereby the Commission and an implementing partner specify the conditions for proposing financing or investment operations in order for them to be granted the benefit of the EU guarantee, for providing the EU guarantee for those operations and for implementing them in accordance with the provisions of this Regulation;

(14) 'implementing partner' means an eligible counterpart such as a financial institution or other financial intermediary with whom the Commission has concluded a guarantee agreement;

(15) 'Important Project of Common European Interest' means a project that fulfils all the criteria laid down in Commission Communication on Criteria for the analysis of the compatibility with the internal market of State aid to promote the execution of important projects of common European interest (OJ C 188, 20.6.2014, p. 4) or any subsequent revision;

(16) 'InvestEU Advisory Hub' means the technical assistance defined in Article 24;

(17) 'advisory agreement' means a legal instrument whereby the Commission and the advisory partner specify the conditions for the implementation of the InvestEU Advisory Hub;

(18) 'advisory initiative' means technical assistance and advisory services that support investment, including capacity building activities, provided by advisory partners, by external service providers contracted by the Commission or by executive agencies;

(19) 'advisory partner' means an eligible counterpart such as a financial institution or other entity with whom the Commission has concluded an advisory agreement for the purpose of implementing one or more advisory initiatives, other than advisory initiatives implemented through external service providers contracted by the Commission or by executive agencies;

(20) 'InvestEU Portal' means the database defined in Article 25;

(21) 'investment guidelines' means the guidelines established by a delegated act referred to in Article 7(7);

(22) 'investment platform' means a special purpose vehicle, managed account, contract-based co-financing or risk-sharing arrangement or an arrangement established by any other means by which entities channel a financial contribution in order to finance a number of investment projects, and which may include:

(a) a national or sub-national platform that groups together several investment projects on the territory of a given Member State;

([22]) COM(2020)0022 final.

(b) a cross-border, multi-country, regional or macro-regional platform that groups together partners from several Member States, regions or third countries interested in investment projects in a given geographic area;

(c) a thematic platform that groups together investment projects in a given sector;

(23) 'microfinance' means microfinance as defined in Article [2(11)] of Regulation [[ESF+] number];

(24) 'national promotional bank or institution' or 'NPBI' means a legal entity that carries out financial activities on a professional basis which has been given mandate by a Member State or a Member State's entity at central, regional or local level to carry out development or promotional activities;

(25) 'small and medium-sized enterprise' or 'SME' means a micro, small or medium-sized enterprise within the meaning of the Annex to Commission Recommendation 2003/361/EC ([23]);

(26) 'small mid-cap company' means an entity that is not an SME and that employs up to 499 employees;

(26a) 'companies' means, for the purposes of the solvency support window companies, project companies, public-private partnerships ***and other legal structures;***

(27) 'social enterprise' means a social enterprise as defined in Article [2(15)] of Regulation [[ESF+] *number*];

(28) 'third country' means a country that is not a Member State of the Union;

Article 3

Objectives of the InvestEU Programme

1. The general objective of the InvestEU Programme is to support the policy objectives of the Union by means of financing and investment operations that contribute to:

(a) the competitiveness of the Union, including research, innovation and digitisation;

(b) growth and employment in the Union economy, the sustainability of the Union economy and its environmental and climate dimension contributing to the achievement of the SDGs and the objectives of the Paris Agreement on Climate Change and to the creation of high-quality jobs;

(c) the social resilience, inclusiveness and innovativeness of the Union;

(d) the promotion of scientific and technological advances, of culture, education and training;

(e) the integration of Union capital markets and the strengthening of the Single Market, including solutions to address the fragmentation of Union capital markets, diversify sources of financing for Union enterprises and promote sustainable finance;

(f) the promotion of economic, social and territorial cohesion; or

(g) the sustainable and inclusive recovery of the Union economy***, and in particular of SMEs,*** after the crisis caused by the Covid-19 pandemic, upholding and strengthening ***existing*** strategic value chains ***of tangible or intangible assets, and developing new such value chains,*** and maintaining and reinforcing activities of strategic importance to the Union in relation to critical infrastructure, ***whether physical or virtual or based on intellectual property,*** transformative technologies, game-changing innovations and inputs to businesses and consumers***, and supporting a sustainable transition in accordance with the Union's 2030 and 2050 climate targets and taking account of the principle of 'do no significant harm'.***

([23]) Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

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2. The InvestEU Programme has the following specific objectives:

(a) supporting financing and investment operations related to sustainable infrastructure in the areas referred to in point (a) of Article 7(1);

(b) supporting financing and investment operations related to research, innovation and digitisation, including support for the scaling up of innovative companies and the rolling out of technologies to market, in the areas referred to in point (b) of Article 7(1);

(c) increasing the access to and the availability of finance for SMEs and for small mid-cap companies and to enhance the global competitiveness of such SMEs;

(d) increasing access to and the availability of microfinance and finance for social enterprises, to support financing and investment operations related to social investment, competences and skills, and to develop and consolidate social investment markets, in the areas referred to in point (d) of Article 7(1);

(e) to support financing and investment operations in sectors referred to in point (e) of Article 7(1) in order to maintain and reinforce the strategic autonomy ***and the sustainability*** of the Union and ***the inclusiveness and convergence*** of its economy***, as well as to reinforce resilience to economic shocks***.

(ea) to support the solvency of companies established in a Member State and operating in the Union.

Article 4

Budget and amount of the EU guarantee

1. The EU guarantee for the purposes of the EU compartment referred to in point (a) of Article 8(1) shall be EUR ***91 773 320 000*** (current prices). It shall be provisioned at the rate of ***40 %***. The amount referred to in point (a) of the first subparagraph of Article 34(3) shall be also taken into account for contributing to the provisioning resulting from this provisioning rate.

An additional amount of the EU guarantee may be provided for the purposes of the Member State compartment referred to in point (b) of Article 8(1), subject to the allocation by Member States, pursuant to [Article 10(1)] of Regulation [[CPR] *number*] [24], Article [75(1)] of Regulation [[CAP Strategic Plan] *number*] [25], ***and in accordance with the implementation of the relevant measures in recovery and resilience plans under Regulation [Recovery and Resilience Facility]***, of the corresponding amounts.

An additional amount of the EU guarantee may also be provided in the form of cash by Member States for the purposes of the Member State compartment. Such amount shall constitute an external assigned revenue in accordance with the second sentence of Article 21(5) of the Financial Regulation.

The contributions from third countries referred to in Article 5 shall also increase the EU guarantee referred to in the first subparagraph, providing a provisioning in cash in full in accordance with Article 218(2) of the Financial Regulation.

2. An amount of EUR 31 153 850 000 (current prices) of the amount referred to in the first subparagraph of paragraph 1 shall be allocated for operations implementing measures referred to in Article 2 of Regulation [EURI] for the objectives referred to in point (e) of Article 3(2).

An amount of EUR ***19 850 000 000*** (current prices) of the amount referred to in the first subparagraph of paragraph 1 shall be allocated for operations implementing measures referred to in Article 2 of Regulation [EURI] for the objectives referred to in point (a) ***and (ea)*** of Article 3(2).

An amount of EUR ***40 769 470 000*** (current prices) of the amount referred to in the first subparagraph of paragraph 1 shall be allocated for the objectives referred to in ***points (a) to (d)*** of Article 3(2).

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[24] …
[25] …

The amounts referred to in the first and second subparagraph shall only be available as of the date referred to in Article 4(3) of Regulation [EURI].

The indicative distribution of the EU guarantee for the purpose of the EU compartment is set out in Annex I to this Regulation. Where appropriate, the Commission may ***depart from*** the amounts referred to in Annex I ▌ by up to 15 % for each objective. The Commission shall inform the European Parliament and the Council of any such ***departure***.

3. The financial envelope for the implementation of the measures provided in Chapters VI and VII shall be EUR ***824 733 000*** (current prices).

4. The amount referred to in paragraph 3 may also be used for technical and administrative assistance for the implementation of the InvestEU Programme, such as preparatory, monitoring, control, audit and evaluation activities, including for corporate information technology systems.

4a. Where the grants referred to in Article 3(2)(a) of Regulation [EURI], have not been used in their entirety by 31 December 2023, or where the loans to Member States referred to in Article 3(2)(b) of Regulation [EURI], have not been granted by 31 December 2023, part of the unused amount or the unallocated headroom, up to a maximum amount of EUR 16 000 000 000 (in current prices), shall be made available automatically to the InvestEU Fund, for the provisioning of the EU guarantee for the period 2024-2027, in accordance with Article X of Regulation [EURI]. The amount of the EU guarantee as referred to in the first subparagraph of paragraph 1 of this Article and the distribution of the EU guarantee set out in Annex I to this Regulation shall be adjusted upwards accordingly.

Article 5

Third countries associated to the InvestEU Fund

The EU compartment of the InvestEU Fund referred to in point (a) of Article 8(1) and each of the policy windows referred to in Article 7(1), except the strategic European investment window, may receive contributions from the following third countries for the purpose of participation in certain financial products pursuant to Article 218(2) of the Financial Regulation:

(a) European Free Trade Association (EFTA) members which are members of the European Economic Area (EEA), in accordance with the conditions laid down in the Agreement on the European Economic Area;

(b) acceding countries, candidate countries and potential candidates, in accordance with the general principles and general terms and conditions for their participation in Union programmes established in the respective framework agreements and Association Council decisions or similar agreements, and in accordance with the specific conditions laid down in agreements between the Union and such third countries;

(c) third countries covered by the European Neighbourhood Policy, in accordance with the general principles and general terms and conditions for the participation of those countries in Union programmes established in the respective framework agreements and Association Council decisions or similar agreements, and in accordance with the specific conditions laid down in agreements between the Union and such third countries;

(d) third countries, in accordance with the conditions laid down in a specific agreement covering the participation of the third country to any Union programme, provided that the agreement:

(i) ensures a fair balance as regards the contributions and benefits of the third country participating in the Union programmes;

(ii) lays down the conditions of participation in the Union programmes, including the calculation of financial contributions to individual programmes and their administrative costs. These contributions shall constitute external assigned revenues in accordance with the second sentence of Article 21(5) of the Financial Regulation;

(iii) does not confer to the third country a decisional power on the Union programme;

(iv) guarantees the rights of the Union to ensure sound financial management and to protect its financial interests.

Article 6

Implementation and forms of Union funding

1. The EU guarantee shall be implemented in indirect management with bodies referred to in points (c)(ii), (c)(iii), (c)(v) and (c)(vi) of Article 62(1) of the Financial Regulation. Other forms of Union funding under this Regulation shall be implemented in direct or indirect management in accordance with the Financial Regulation, including grants implemented in accordance with Title VIII of the Financial Regulation and blending operations implemented in accordance with this Article as smoothly as possible, in a manner that ensures efficient and coherent support for Union policies.

2. Financing and investment operations covered by the EU guarantee which form part of the blending operation combining support under this Regulation with support provided under one or more other Union programmes or covered by the EU ETS Innovation Fund shall:

(a) be consistent with the policy objectives and comply with the eligibility criteria set out in the rules of the Union programme under which the support is decided;

(b) comply with this Regulation.

3. Blending operations that include a financial instrument that is fully financed by other Union programmes or by the EU ETS Innovation Fund without the use of the EU guarantee under this Regulation shall be consistent with the policy objectives and comply with the eligibility criteria set out in the rules of the Union programme under which the support is provided.

4. In accordance with Article 6(2), the non-repayable forms of support and financial instruments from the Union budget forming part of the blending operation referred to in paragraphs 2 and 3 of this Article shall be decided under the rules of the relevant Union programme and shall be implemented within the blending operation in accordance with this Regulation and with Title X of the Financial Regulation.

The reporting relating to such blending operations shall also cover the consistency of them with the policy objectives and eligibility criteria set out in the rules of the Union programme under which the support is decided as well on the compliance of them with this Regulation.

CHAPTER II

InvestEU Fund

Article 7

Policy windows

1. The InvestEU Fund shall operate through the following ***six*** policy windows that shall address market failures or sub-optimal investment situations within their specific scope:

(a) a sustainable infrastructure policy window which comprises sustainable investment in the areas of transport, including multimodal transport, road safety, including in accordance with the Union objective of eliminating fatal road accidents and serious injuries by 2050, the renewal and maintenance of rail and road infrastructure, energy, in particular renewable energy, energy efficiency in accordance with the 2030 energy framework, buildings renovation projects focused on energy savings and the integration of buildings into a connected energy, storage, digital and transport systems, improving interconnection levels, digital connectivity and access, including in rural areas, supply and processing of raw materials, space, oceans, water, including inland waterways, waste management in accordance with the waste hierarchy and the circular economy, nature and other environment infrastructure, cultural heritage, tourism, equipment, mobile assets and the deployment of innovative technologies that contribute to the environmental or climate resilience or social sustainability objectives of the Union and that meet the environmental or social sustainability standards of the Union;

(b) a research, innovation and digitisation policy window which comprises research, product development and innovation activities, the transfer of technologies and research results to the market to support market enablers and cooperation between enterprises, the demonstration and deployment of innovative solutions and support for the scaling up of innovative companies, as well as digitisation of Union industry;

(c) an SME policy window which comprises access to and the availability of finance primarily for SMEs, including for innovative SMEs and SMEs operating in the cultural and creative sectors, as well as for small mid-cap companies;

(d) a social investment and skills policy window, which comprises microfinance, social enterprise finance, social economy and measures to promote gender equality, skills, education, training and related services, social infrastructure, including health and educational infrastructure and social and student housing, social innovation, health and long-term care, inclusion and accessibility, cultural and creative activities with a social goal, and the integration of vulnerable people, including third country nationals;

(e) a strategic European investment policy window which comprises strategic***, future-oriented*** investment to support final recipients***, including SMEs and start-ups,*** that are established in a Member State and that operate in the Union, and whose activities are of strategic importance to the Union, in particular in view of the ***climate*** and digital transitions***, in accordance with the priorities described in the New Industrial Strategy for Europe, which aims for a globally competitive, green and digital Europe, with a development model based on industrial ecosystems and the Union climate neutrality goal, [as enshrined in the European climate law] and the 2030 target. The window shall support projects that enhance the competitiveness of the Union's economy, rebuild productive capacity, decrease dependence on vulnerable supply chains, and promote entrepreneurship, job creation, and*** enhanced resilience, in one of the following areas:

i) critical healthcare provision, manufacturing and stockpiling of ***medicinal products, including vaccines, and their intermediates, active pharmaceutical ingredients and raw materials;*** medical devices***; hospital*** and ***medical equipment, such as ventilators, protective clothing and equipment, diagnostic materials and tools; personal protective equipment; disinfectants and their intermediary products and raw materials necessary for their production;*** strengthening ***the resilience of healthcare and*** health ***systems in preparation for future*** crisis response capacity***, including the performance of stress tests of national and regional healthcare systems,*** and of the civil protection system; ***based on the principle of availability and affordability of products vital in health emergencies;***

ii) critical infrastructure, whether physical***, analogue or digital,*** including infrastructure elements ***and mobile assets*** identified as critical in the fields of energy, transport, ***including public transport and active mobility, logistics,*** environment***, water***, health, secure digital communication ***and networks,*** 5G ***and very high-speed electronic communication networks***, internet of things, online service platforms, secure ***edge and*** cloud computing, data processing or storage, payments and financial infrastructure, aerospace, ***security and*** defence, communications, media, ***audio-visual, culture and creativity,*** education and training, electoral infrastructure and sensitive facilities, ***public administration, security, housing,*** as well as land and real estate crucial for the use of such critical infrastructure;

iii) the provision of ***know-how,*** goods***, technologies*** and services instrumental to the operation and maintenance of the critical infrastructure ***and mobile assets*** under point ii);

iv) key enabling, transformative, green and digital technologies and game-changing innovations where the investment is strategically important for the ***Union economy, and the sustainable and innovative*** industrial future ***of the Union***, including ***reindustrialisation, having regard to the principle of just transition and broad societal benefits, including***

(a) artificial intelligence, blockchain ***and distributed ledger technologies***, software, robotics, semiconductors, microprocessors, edge cloud technologies, high-performance computing, cybersecurity, quantum technologies, photonics, industrial biotechnology***, technologies for safe, sustainable, smart and automated mobility and logistics in all modes of transport,***

(b) renewable ***and other*** energy technologies ***which contribute to the achievement of climate neutrality by 2050***, energy storage technologies including ***sustainable*** batteries, sustainable transport technologies, clean hydrogen and fuel cell applications, decarbonisation technologies for industry, ***infrastructure for*** carbon capture and storage ***in industrial processes, bioenergy plants and manufacturing facilities towards the energy transition***, circular economy technologies ***and supply chains***,

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(ba) space systems and technologies including critical space components, as well as space-based services and applications,

(c) biomedicine, nanotechnologies, ***biotechnologies***, pharmaceuticals and advanced***, renewable and circular*** materials;

(ca) tourism;

v) ***recycling and*** manufacturing facilities for mass production of Information Communication and Technology components and devices in the ***Union***;

vi) supply and stockpiling of critical inputs to public actors, businesses or consumers in the ***Union***, including energy or raw materials***, except if already covered by legislative requirements,*** or food security, having regard to resource efficiency and circularity in strategic value chains ***and strategic eco-systems***;

vii) critical technologies, inputs ***and applications*** for the security of the Union and its Member States, such as ***security and*** defence and space sectors and cybersecurity, and dual use items as defined in point 1 of Article 2 of Council Regulation (EC) No 428/2009 ***and related legislation***. ***Moreover, final recipients shall not export defence-related technology to third countries that threaten the territorial integrity of the Member States, systematically violate international law or undermine regional or global security and stability***;

(viia) investment and technical assistance to companies, in particular SMEs, start-ups, family businesses and communities to increase the resilience of their value chains and business models, to foster entrepreneurial skills as well as supporting the conditions for boosting entrepreneurship, including by developing networks of clusters and digital innovation hubs, and technological and sustainable sectoral development;

(viib) critical early detection, and coordinated institutional and economic response capabilities in order to react to the risk of crises, as well as advancing business and service continuity solutions for essential public and private institutions and sectors;

(viic) investment in New Space activities, both upstream and downstream, in order to bring the most promising technologies and applications to the market, thus ensuring the competitiveness of the Union space industry;

(viid) strategic investment in renewable energy and energy efficiency projects, including building renovation, with a high potential to significantly contribute to meeting the targets set out in Directives (EU) 2018/2001, (EU) 2018/2002 and (EU) 2018/844 and to contribute to achieving a climate neutral and energy efficient building sector as part of the European Green Deal as laid out in the [renovation wave strategy], or actions under the Union Renewable energy financing mechanism, eligible under the InvestEU programme.

In addition, ***final recipients that receive funding under this window*** shall not be controlled by a third country or third country entities and shall have their executive management in the Union with a view to protect the security of the Union and its Member States.

The Steering Board shall set any necessary requirements relating to the control and executive management of final recipients for other areas under the strategic European investment window, and to the control of intermediaries under that window, in the light of any applicable public order or security considerations.

(ea) a solvency support window, which comprises solvency support for companies that were not already in difficulty in State aid terms at the end of 2019, but since then have faced significant solvency risks due to the COVID-19 crisis, or for companies created on or before 31 December 2020 that have acquired or are managing either the assets or branches of a company that was already in difficulty in State aid terms at the end of 2019, provided that their management is not the same as the management of the company in difficulty in State aid terms.

The solvency support window shall be open to all Member States and to the areas referred to in Annex II. The majority of InvestEU financing under the solvency support window shall be used to support:

(a) eligible companies in Member States and sectors economically most hit by the Covid-19 crisis;

(b) eligible companies in Member States where the possibility of State solvency support is more limited.

The Commission shall establish, by delegated acts in accordance with Article 33, both the indicators to be used by the Steering Board to determine the Member States and sectors economically most hit by the COVID-19 crisis and the Member States where the possibility of State solvency support is more limited, and the methodology for the application of those indicators.

Companies receiving support under the solvency support window shall comply, to the extent possible, with minimum high-level social and environmental safeguards in line with guidance provided by the Steering Board. Such guidance shall include adequate provisions for avoiding undue administrative burdens, taking into account the size of companies and including lighter provisions for SMEs. Such companies shall be encouraged to put in place green transition plans, advance in their digital transformation and safeguard employment. Technical assistance shall be available to assist companies for the purpose of these transitions.

Implementing partners and financial intermediaries under the solvency support window shall be established in a Member State and operate in the Union. The Steering Board shall set any necessary requirements relating to the control of those intermediaries in the light of any applicable public order or security considerations.

1a. A Just Transition Scheme, the second pillar of the Just Transition Mechanism, shall be established horizontally across all policy windows. This scheme shall comprise investments which address social, economic and environmental challenges deriving from the transition process towards the achievement of the Union's 2030 climate target and its target of achieving climate neutrality by 2050.

2. Where a financing or investment operation proposed to the Investment Committee referred to in Article 23 falls under more than one policy window, it shall be attributed to the policy window under which its main objective or the main objective of most of its sub-projects falls, unless the investment guidelines provide otherwise.

3. Financing and investment operations shall be screened to determine whether they have an environmental, climate or social impact. If those operations have such an impact they shall be subject to climate, environmental and social sustainability proofing with a view to minimising detrimental impacts and to maximising benefits to the climate, environment and social dimensions. For that purpose, project promoters that request financing shall provide adequate information based on the guidance referred to in paragraph 4. Projects below a certain size specified in the guidance shall be excluded from the proofing. Projects that are inconsistent with the climate objectives shall not be eligible for support under this Regulation. In case the implementing partner concludes that no sustainability proofing is to be carried out, it shall provide a justification to the Investment Committee.

4. The Commission shall develop sustainability guidance that, in accordance with Union environmental and social objectives and standards, allows to:

(a) as regards adaptation, ensure resilience to the potential adverse impacts of climate change through a climate vulnerability and risk assessment, including through relevant adaptation measures, and, as regards mitigation, integrate the cost of greenhouse gas emissions and the positive effects of climate mitigation measures in the cost-benefit analysis;

(b) account for the consolidated impact of projects in terms of the principal components of the natural capital relating to air, water, land and biodiversity;

(c) estimate the social impact of projects, including on gender equality, on the social inclusion of certain areas or populations and on the economic development of areas and sectors affected by structural challenges such as the need to decarbonise the economy;

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(d) identify projects that are inconsistent with the achievement of climate objectives;

(e) provide implementing partners with guidance for the purpose of the screening provided for under paragraph 3.

5. Implementing partners shall provide the information necessary to allow the tracking of investment that contributes to meeting the Union objectives on climate and environment, on the basis of guidance to be provided by the Commission.

6. Implementing partners shall apply a target of at least 60 % of the investment under the sustainable infrastructure policy window contributing to meeting the Union objectives on climate and environment.

The Commission, together with implementing partners, shall seek to ensure that the part of the EU guarantee used for the sustainable infrastructure policy window is distributed with the aim of achieving a balance between the different areas referred to in point (a) of paragraph 1.

7. The Commission is empowered to adopt delegated acts in accordance with Article 33 in order to supplement this Regulation by defining the investment guidelines for each of the policy windows***. The investment guidelines shall also set out the arrangements for the implementation of the Just Transition Scheme, as referred to in paragraph 1a.*** The investment guidelines shall be prepared in close dialogue with the EIB Group and other potential implementing partners.

8. For financing and investment operations under the strategic European investment window in ***security and*** defence and space sectors and in cybersecurity, the investment guidelines may set out limitations with respect to transfer and licensing of intellectual property rights to critical technologies and technologies instrumental to safeguarding the security of the Union and its Member States.

9. The Commission shall make the information on the application and interpretation of the investment guidelines available to the implementing partners, the Investment Committee and the advisory partners.

Article 8

Compartments

1. The policy windows referred to in Article 7(1) shall consist of an EU compartment and a Member State compartment. Those compartments shall address market failures or sub-optimal investment situations as follows:

(a) the EU compartment shall address any of the following situations:

(i) market failures or sub-optimal investment situations related to Union policy priorities;

(ii) Union-wide or Member State specific market failures or sub-optimal investment situations; or

(iii) market failures or sub-optimal investment situations, which require the development of innovative financial solutions and market structures, in particular new or complex market failures or sub-optimal investment situations;

(b) the Member State compartment shall address specific market failures or sub-optimal investment situations in one or several regions or Member States to deliver the policy objectives of the contributing funds under shared management or of the additional amount provided by a Member State under the third subparagraph of Article 4(1), in particular to strengthen economic, social and territorial cohesion in the Union by addressing imbalances between its regions.

2. Where appropriate, the compartments referred to in paragraph 1 shall be used in a complementary manner to support a given financing or investment operation, including by combining support from both compartments.

Article 9

Specific provisions applicable to the Member State compartment

1. Amounts allocated by a Member State on a voluntary basis under Article [10(1)] of Regulation [[CPR] number] or Article [75(1)] of Regulation [[CAP Strategic Plan] number] ***or in accordance with the implementation of the relevant measures in the recovery and resilience plans established under Regulation [Recovery and Resilience Facility]*** shall be used for the provisioning for the part of the EU guarantee under the Member State compartment covering financing and

investment operations in the Member State concerned or for the possible contribution from funds under shared management ***or from contributions made in accordance with the implementation of the relevant measures in the recovery and resilience plans established under Regulation [RRF]*** to the InvestEU Advisory Hub. Those amounts shall be used to contribute to the achievement of the policy objectives specified in the Partnership Agreement referred to in Article 7 of Regulation [[CPR] number], in the programmes or in the CAP Strategic Plan ***or in the recovery and resilience plan of the Member State concerned,*** which contribute to InvestEU.

An additional amount allocated by a Member State under the third subparagraph of Article 4(1) shall be used for the provisioning for the part of the EU guarantee under the Member State compartment.

2. The establishment of the part of the EU guarantee under the Member State compartment shall be subject to the conclusion of a contribution agreement between a Member State and the Commission.

The fourth subparagraph of this paragraph and paragraph 5 of this Article shall not apply to the additional amount provided by a Member State under the third subparagraph of Article 4(1).

The provisions in this Article relating to amounts allocated under Article 10(1) of Regulation [CPR number] or Article 75 (1) of Regulation [CAP Strategic Plan] ***or in accordance with the implementation of the relevant measures in the recovery and resilience plans drawn up under Regulation [RRF]*** are not applicable to a contribution agreement concerning an additional amount by a Member State, referred to in the third subparagraph of Article 4(1).

The Member State and the Commission shall conclude a contribution agreement or an amendment to it within four months following the Commission Decision approving the Partnership Agreement pursuant to Article 9(4) of Regulation [CPR] or the CAP Strategic Plan under Regulation [CAP] or ***a recovery and resilience plan established under Regulation [RRF] or*** simultaneously to the Commission Decision amending a programme according to Article 10 of Regulation [CPR] or a CAP Strategic Plan according to Article 107 of Regulation [CAP] ***or a recovery and resilience plan in accordance with Article 18 of Regulation [RRF]***.

Two or more Member States may conclude a joint contribution agreement with the Commission.

By derogation from Article 211(1) of the Financial Regulation the provisioning rate of the EU guarantee under the Member State compartment shall be set at 40 % and may be adjusted downwards or upwards in each contribution agreement to take account of the risks attached to the financial products intended to be used.

3. The contribution agreement shall at least contain the following elements:

(a) the overall amount of the part of the EU guarantee under the Member State compartment pertaining to the Member State, its provisioning rate, the amount of the contribution from funds under shared management ***or contributions from recovery and resilience plans as established under Regulation [RRF]***, the constitution phase of the provisioning in accordance with an annual financial plan and the amount of the resulting contingent liability to be covered by a back-to-back guarantee provided by the Member State concerned;

(b) the Member State strategy, consisting of the financial products and their minimum leverage, the geographical coverage, including regional coverage if necessary, types of projects, the investment period and, where applicable, the categories of final recipients and of eligible intermediaries;

(c) the potential implementing partner or partners proposed in accordance with fourth subparagraph of Article 14(1) and the obligation of the Commission to inform the Member State concerned of the implementing partner or partners selected;

(d) any contribution from funds under shared management ***or contributions from recovery and resilience plans established under Regulation [RRF]*** to the InvestEU Advisory Hub;

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(e) the obligations to provide annual reports to the Member State, including reporting on the relevant indicators related to the policy objectives covered in the Partnership Agreement, programme or CAP Strategic Plan ***or the recovery and resilience plan*** and referred to in the contribution agreement;

(f) provisions on the remuneration for the part of the EU guarantee under the Member State compartment;

(g) any combination with resources under the EU compartment in accordance with Article 8(2), including in a layered structure to achieve better risk coverage.

4. The contribution agreements shall be implemented by the Commission through guarantee agreements concluded with implementing partners in accordance with Article 16 and advisory agreements concluded with advisory partners in accordance with the second subparagraph of Article 24(1).

Where no guarantee agreement has been concluded within nine months from the conclusion of the contribution agreement, the contribution agreement shall be terminated or prolonged by mutual agreement. Where the amount of a contribution agreement has not been fully committed under one or more guarantee agreements within nine months from the conclusion of the contribution agreement, that amount shall be amended accordingly. The unused amount of provisioning attributable to amounts allocated by Member States under Article [10(1) of Regulation [[CPR]] or Article [75 (1)] of Regulation [[CAP]] ***or in accordance with the implementation of the relevant measures in the recovery and resilience plans drawn up under Regulation [RRF]*** shall be re-used in accordance with [Article 10(5)] of Regulation [[CPR] number] and Article [75(5)] of Regulation [[CAP Strategic Plan] number***] and Article [X] of Regulation [RRF***]. The unused amount of provisioning attributable to amounts allocated by a Member State under the third subparagraph of Article 4(1) of this Regulation shall be paid back to the Member State.

Where a guarantee agreement has not been duly implemented within a period specified in Article [10(6)] of Regulation [[CPR] number] or in Article [75(6)] of Regulation [[CAP Strategic Plan] number***] or in Article [X] of Regulation [RRF***], the contribution agreement shall be amended. The unused amount of provisioning attributable to amounts allocated by Member States under Article [10(1) of Regulation [[CPR]] or Article [75(1)] of Regulation [[CAP]] ***or Article [X] of Regulation [RRF]*** shall be re-used in accordance with [Article 10(6)] of Regulation [[CPR] number] and Article [75(6)] of Regulation [[CAP Strategic Plan] number***] and Article [X] of Regulation [RRF***]. The unused amount of provisioning attributable to amounts allocated by a Member State under the third subparagraph of Article 4(1) of this Regulation shall be paid back to the Member State.

5. The following rules shall apply to the provisioning for the part of the EU guarantee under the Member State compartment established by a contribution agreement.

(a) After the constitution phase referred to in point (a) of paragraph 3 of this Article, any annual surplus of provisions, calculated by comparing the amount of provisions required by the provisioning rate set in the contribution agreement and the actual amount of provisions, shall be re-used pursuant to [Article 10(7)] of the [CPR] and to Article [75(7)] of the [[CAP Strategic Plan] *number]* ***and to Article [X] of Regulation [RRF]***.

(b) By way of derogation from Article 213(4) of the Financial Regulation, after the constitution phase referred to in point (a) of paragraph 3 of this Article, the provisioning shall not give rise to annual replenishments during the availability of that part of the EU guarantee under the Member State compartment.

(c) The Commission shall immediately inform the Member State where the level of provisions for that part of the EU guarantee falls below 20 % of the initial provisioning as a result of calls on that part of the EU guarantee under the Member State compartment.

(d) If the level of provisions for that part of the EU guarantee under the Member State compartment reaches 10 % of the initial provisioning, the Member State concerned shall provide up to 5 % of the initial provisioning to the common provisioning fund referred to in Article 212 of the Financial Regulation upon request by the Commission.

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CHAPTER III

PARTNERSHIP BETWEEN THE COMMISSION AND THE EIB GROUP

Article 10

Scope of the partnership

1. The Commission and the EIB Group shall form a partnership under this Regulation with the objective of supporting the implementation of the InvestEU and fostering consistency, inclusivity, additionality, and efficient deployment. In accordance with this Regulation and as further specified in the agreements referred to in paragraph 3, the EIB Group:

(a) shall implement the portion of the EU guarantee specified in Article 12(4);

(b) shall support the implementation of the EU compartment of the InvestEU Fund, and, where applicable, the Member State compartment, in particular by:

(i) contributing, together with potential implementing partners, to the investment guidelines in accordance with Article 7(7), contributing to the design of the scoreboard in accordance with Article 21 and contributing to other documents that set out the operational guidance of the InvestEU Fund;

(ii) defining, together with the Commission and potential implementing partners, the risk methodology and risk mapping system that relate to the financing and investment operations of the implementing partners in order to allow such operations to be assessed on a common rating scale;

(iii) at the request of the Commission and in agreement with the potential implementing partner concerned, carrying out an assessment of the systems of that potential implementing partner and providing targeted technical advice on those systems, where and to the extent required by the conclusions of the audit of the pillar assessment in view of the implementation of the financial products envisaged by that potential implementing partner;

(iv) providing a non-binding opinion on the banking-related aspects, in particular on the financial risk and financial terms related to the portion of the EU guarantee to be allocated to the implementing partner, other than to the EIB Group, as defined in the guarantee agreement to be concluded with that implementing partner;

(v) carrying out simulations and projections of the financial risk and remuneration of the aggregate portfolio on the basis of assumptions agreed with the Commission;

(vi) measuring the financial risk of the aggregate portfolio and providing financial reports on the aggregate portfolio; and

(vii) providing restructuring and recovery services as set out in the agreement referred to in point (b) of paragraph 3 to the Commission at the request of the Commission and in agreement with the implementing partner in accordance with point (g) of Article 16(2) where that implementing partner is no longer responsible for pursuing restructuring and recovery activities under the relevant guarantee agreement;

(c) may provide capacity building as referred to in point (h) of Article 24(2) to a national promotional bank or institution and other services, in relation to the implementation of financial products supported by the EU guarantee if requested by that national promotional bank or institution;

(d) shall, in relation to the InvestEU Advisory Hub:

(i) be allocated an amount of up to EUR 525 000 000 for the advisory initiatives referred to in Article 24 and operational tasks referred to in point (ii) of this point (d) out of the financial envelope referred to in Article 4(3);

(ii) advise the Commission and perform operational tasks set out in the agreement referred to in point (c) of paragraph 3, by:

— providing support to the Commission in the design, the establishment and operation of the InvestEU Advisory Hub;

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— providing an assessment of requests for advisory support that the Commission does not consider to fall under existing advisory initiatives, with a view to supporting the allocation decision of the Commission in relation to advisory requests received under the central point of entry defined in point (a) of Article 24(2);

— providing support to national promotional banks or institutions by providing capacity building referred to in point (h) of Article 24(2) in relation to the development of their advisory capabilities to enable them to participate in advisory initiatives, at the request of such banks or institutions;

— at the request of the Commission and of a potential advisory partner, and subject to the agreement of the EIB Group, concluding on behalf of the Commission an agreement with the advisory partner for the delivery of advisory initiatives.

The EIB Group shall ensure that its tasks as referred to in point (d)(ii) of the first subparagraph are conducted entirely independently from its role as an advisory partner.

As appropriate, the Commission shall engage with the implementing partner on the basis of the findings of the opinion of the EIB Group referred to in point (b)(iv) of the first subparagraph of this paragraph. The Commission shall inform the EIB Group of the outcome of its decision making.

2. The banking-related information transmitted to the EIB Group by the Commission in accordance with points (b)(ii), (b)(iv), (b)(v) and (b)(vi) of paragraph 1 shall be limited to information strictly necessary for the EIB Group to fulfil its obligations under those points. The Commission, in close dialogue with the EIB Group and potential implementing partners, shall define the nature and scope of that banking-related information, taking into account the requirements for the sound financial management of the EU guarantee, the legitimate interests of the implementing partner regarding commercially sensitive information and the needs of the EIB Group in meeting its obligations under those points.

3. The terms of the partnership shall be laid down in agreements, including:

(a) on the granting and implementation of the portion of the EU guarantee specified in Article 12(4):

(i) a guarantee agreement between the Commission and the EIB Group; or

(ii) separate guarantee agreements between the Commission and the EIB and its subsidiaries or other entities established in accordance with Article 28(1) of the EIB Statute, as applicable;

(b) an agreement between the Commission and the EIB Group in relation to points (b) and (c) of paragraph 1;

(c) an agreement between the Commission and the EIB Group in relation to the InvestEU Advisory Hub;

(d) service agreements between the EIB Group and national promotional banks and institutions concerning capacity building and other services provided under point (c) of paragraph 1.

4. Without prejudice to Articles 17(3) and 24(4) of this Regulation, the costs incurred by the EIB Group in the performance of tasks referred to in points (b) and (c) of paragraph 1 of this Article shall be in accordance with the terms of the agreement referred to in point (b) of paragraph 3 of this Article and may be covered from the repayments or revenues attributable to the EU guarantee, or from the provisioning, in accordance with Article 211(4) and (5) of the Financial Regulation, or may be charged to the financial envelope referred to in Article 4(3) of this Regulation, upon justification of those costs by the EIB Group, subject to an overall cap of EUR 10 000 000.

5. The costs incurred by the EIB Group for the performance of the operational tasks referred to in point (d)(ii) of paragraph 1 shall be fully covered by and paid from the amount referred to in point (d)(i) of paragraph 1, upon justification of those costs by the EIB Group, subject to an overall cap of EUR 15 000 000.

Article 11

Conflicts of interest

1. Within the framework of the partnership as referred to in Article 10, the EIB Group shall take all necessary measures and precautions to avoid conflicts of interest with other implementing partners, including by putting in place a dedicated and independent team for the tasks referred to in points (b)(iii) to (vi) of Article 10(1). That team shall be subject to strict confidentiality rules, which shall continue to apply to members of the team after they have left the team.

2. The EIB Group and other implementing partners shall inform the Commission without delay of any situation that constitutes a conflict of interest or is likely to lead to a conflict of interest. In case of doubt, the Commission shall determine whether a conflict of interest exists and shall inform the EIB Group of its conclusion. In the event of a conflict of interest, the EIB Group shall take appropriate measures. The Steering Board shall be informed of those measures and their results.

3. The EIB Group shall take the necessary precautions to avoid situations in which a conflict of interest could arise in the implementation of the InvestEU Advisory Hub, in particular in relation to its operational tasks in its role of supporting the Commission as referred to in point (d)(ii) of Article 10(1). In the event of a conflict of interest, the EIB Group shall take appropriate measures.

CHAPTER IV

EU GUARANTEE

Article 12

EU guarantee

1. The EU guarantee shall be granted as an irrevocable, unconditional and on demand guarantee to the implementing partners in accordance with Article 219(1) of the Financial Regulation and implemented in indirect management in accordance with Title X of that Regulation.

2. The remuneration for the EU guarantee shall be linked to the characteristics and risk profile of the financial products, taking into account the nature of the underlying financing and investment operations and the fulfilment of the policy objectives targeted by the financial products.

Where duly justified by the nature of the policy objectives targeted by the financial product and the need for the financial products to be affordable to the targeted final recipients, the cost of the financing provided to the final recipient may be reduced or the terms of that financing may be improved, by adjusting the remuneration for the EU guarantee, or, where necessary, by covering the outstanding administrative costs borne by the implementing partner through the Union budget, in particular:

(a) where stressed financial market conditions would prevent the realisation of a financing or investment operation under market-based pricing; or

(b) where necessary to catalyse financing and investment operations in sectors or areas experiencing a significant market failure or sub-optimal investment situation or to facilitate the establishment of investment platforms,

(ba) for the solvency support window, in the Member States and sectors economically most hit and the Member States where the possibility of State solvency support is more limited,

to the extent that the reduction of the remuneration for the EU guarantee or the coverage of the outstanding administrative costs borne by the implementing partner does not significantly impact the provisioning for the EU guarantee.

The reduction of the remuneration for the EU guarantee shall fully benefit final recipients.

3. The condition set out in Article 219(4) of the Financial Regulation shall apply to each implementing partner on a portfolio basis.

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4. 75 % of the EU guarantee under the EU compartment as referred to in ***the*** first subparagraph of Article 4(1), amounting to EUR ***68 829 990 000***, shall be granted to the EIB Group. The EIB Group shall provide an aggregate financial contribution amounting to EUR ***11 494 608 330***. ***That*** contribution shall be provided in a manner and form that facilitates the implementation of the InvestEU Fund and the achievement of the objectives set out in Article 14(2).

5. The remaining 25 % of the EU guarantee under the EU compartment shall be granted to other implementing partners, which shall also provide a financial contribution to be determined in the guarantee agreements.

6. Best efforts shall be made to ensure that, at the end of the investment period, a wide range of sectors and regions are covered and excessive sectoral or geographical concentration is avoided. Those efforts shall include incentives for smaller or less sophisticated NPBIs that have a comparative advantage due to their local presence, knowledge and investment competencies. The Commission shall develop a coherent approach to support these efforts.

7. Support of the EU guarantee referred to in the first and second subparagraphs of Article 4(2) ***may*** be granted ***for financing and investment operations to be carried out by an implementing partner provided that the Commission has concluded a guarantee agreement with that implementing partner by 31 December 2023, thereby meeting*** the conditions set out in Article 4(6) of Regulation [EURI]. In other cases, support of the EU guarantee may be granted for financing and investment operations covered by this Regulation for an investment period ending on 31 December 2027.

Contracts ▌ between the implementing partner and the final recipient or the financial intermediary or other entity referred to in point (a) of Article 15(1) shall be signed by 31 December 2028.

Article 13

Eligible financing and investment operations

1. The InvestEU Fund shall only support financing and investment operations that:

(a) comply with the conditions set out in points (a) to (e) of Article 209(2) of the Financial Regulation, in particular regarding market failures, sub-optimal investment situations and additionality as set out in points (a) and (b) of Article 209(2) of the Financial Regulation and in Annex V to this Regulation and, where appropriate, maximising private investment in accordance with point (d) of Article 209(2) of the Financial Regulation;

(b) contribute to the Union policy objectives and fall within the scope of the areas eligible for financing and investment operations under the appropriate policy window in accordance with Annex II to this Regulation;

(c) do not provide financial support to the excluded activities set out in point B of Annex V to this Regulation; and

(d) are consistent with the investment guidelines.

2. In addition to projects situated in the Union, or in an overseas country or territory linked to a Member State as set out in Annex II to the TFEU, the InvestEU Fund may support the following projects and operations through financing and investment operations under other windows than the strategic European investment window ***or the solvency support window:***

(a) projects involving entities located or established in one or more Member States that extend to one or more third countries, including acceding States, candidate countries and potential candidates, countries falling within the scope of the European Neighbourhood Policy, the EEA or the EFTA, to an overseas country or territory as set out in Annex II to the TFEU, or to an associated third country, regardless of whether there is a partner in those third countries or overseas countries or territories;

(b) financing and investment operations in third countries as referred to in Article 5 which have contributed to a specific financial product.

3. The InvestEU Fund may support financing and investment operations that provide finance to final recipients which are legal entities established in any of the following countries or territories:

(a) a Member State or an overseas country or territory linked to a Member State as set out in Annex II to the TFEU;

(b) a third country associated to the InvestEU Programme in accordance with Article 5;

(c) a third country referred to in point (a) of paragraph 2, where applicable;

(d) other third countries, where necessary for the financing of a project in a country or territory referred to in points (a), (b) or (c).

Notwithstanding the first subparagraph, under the strategic European investment window final recipients and intermediaries shall be legal entities fulfilling the requirements laid down in the introductory sentence and the second subparagraph, and in accordance with the third subparagraph, of point (e) of Article 7(1).

Notwithstanding the first subparagraph, only companies established in a Member State and operating in the Union may be supported by financing and investment operations under the solvency support window.

Notwithstanding the first subparagraph, under the solvency support window, final recipients of EUR 30 million or more shall not make dividend payments, non-mandatory coupon payments or buy back shares. The remuneration of any member of the management of a beneficiary that receives financing of EUR 30 million or more under the solvency support window shall not go beyond the fixed part of that members' remuneration on 31 December 2019. For a person becoming a member of the management on or after the granting of InvestEU financing under the solvency support window, the applicable limit shall be the lowest fixed remuneration of any member of the management on 31 December 2019. Bonuses or other variable or comparable remuneration elements shall not be paid under any circumstances.

Article 14

Selection of implementing partners other than the EIB Group

1. The Commission shall select implementing partners other than the EIB Group in accordance with Article 154 of the Financial Regulation.

Implementing partners may form a group. An implementing partner may be a member of one or more groups.

For the EU compartment, the eligible counterparties shall have expressed their interest in relation to the portion of the EU guarantee referred to in Article 12(5).For the Member State compartment, the Member State concerned may propose one or more counterparties as implementing partners from among those counterparties that have expressed their interest. The Member State concerned may also propose the EIB Group as an implementing partner and, at its own expense, may contract the EIB Group to provide the services listed in Article 10.

Where the Member State concerned does not propose an implementing partner, the Commission shall proceed in accordance with the third subparagraph of this paragraph and shall select as implementing partners eligible counterparties that are able to cover the financing and investment operations in the geographical areas concerned.

2. When selecting implementing partners, the Commission shall ensure that the portfolio of financial products under the InvestEU Fund meets the following objectives:

(a) maximising the coverage of the objectives laid down in Article 3;

(b) maximising the impact of the EU guarantee through the own resources committed by the implementing partner;

(c) maximising, where appropriate, private investment;

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(d) promoting innovative financial and risk solutions to address market failures and sub-optimal investment situations;

(e) achieving geographical diversification via gradual allocation of the EU guarantee, and to allow for the financing of smaller projects;

(f) providing sufficient risk diversification.

3. When selecting the implementing partners, the Commission shall also take into account:

(a) the possible cost and remuneration to the Union budget;

(b) the capacity of the implementing partner to implement thoroughly the requirements of Article 155(2) and (3) of the Financial Regulation related to tax avoidance, tax fraud, tax evasion, money laundering, terrorism financing and non-cooperative jurisdictions.

4. National promotional banks or institutions may be selected as implementing partners, provided that they fulfil the requirements laid down in this Article.

Article 15

Eligible types of financing

1. The EU guarantee may be used towards risk coverage for the following types of financing provided by the implementing partners:

(a) loans, guarantees, counter-guarantees, capital market instruments, any other form of funding or credit enhancement, including subordinated debt, or equity or quasi-equity investments, provided directly or indirectly through financial intermediaries, funds, investment platforms or other vehicles to be channelled to final recipients;

(b) funding or guarantees by an implementing partner to another financial institution enabling the latter to undertake financing referred to in point (a).

In order to be covered by the EU guarantee, the financing referred to in points (a) and (b) of the first subparagraph of this paragraph shall be granted, acquired or issued for the benefit of financing or investment operations referred to in Article 13(1), where the financing by the implementing partner was granted in accordance with a financing agreement or transaction signed or entered into by the implementing partner after the signature of the guarantee agreement and that has not expired or been cancelled.

2. Financing and investment operations through funds or other intermediate structures shall be supported by the EU guarantee in accordance with provisions to be laid down in the investment guidelines, even if such structures invest a minority of their invested amounts outside the Union and in third countries referred to Article 13(2) or invest a minority of their invested amounts into assets other than those eligible under this Regulation.

The investment guidelines may set out further limitations as regards the proportion of amounts invested outside the Union in financing and investment operations through funds or other intermediate structures under the strategic European investment window, including potential clauses on exit from such investments.

2a. Eligible instruments under the solvency support window, via implementing partners, shall result in the provision of equity or quasi-equity to companies, as referred to in Article 3(2), point (ea). Hybrid instruments may be used if such instruments fulfil the purpose of the window.

Article 16

Guarantee agreements

1. The Commission shall conclude a guarantee agreement with each implementing partner on the granting of the EU guarantee up to an amount to be determined by the Commission.

In the event that implementing partners form a group a single guarantee agreement shall be concluded between the Commission and each implementing partner within the group or with one implementing partner on behalf of the group.

2. The guarantee agreement shall contain:

(a) the amount and the terms of the financial contribution which is to be provided by the implementing partner;

(b) the terms of the funding or the guarantees which are to be provided by the implementing partner to another legal entity participating in the implementation, whenever that is the case;

(c) detailed rules on the provision of the EU guarantee in accordance with Article 18, including on the coverage of portfolios of specific types of instruments and the respective events that trigger possible calls on the EU guarantee;

(d) the remuneration for risk-taking that is to be allocated in proportion to the respective share of the risk-taking of the Union and of the implementing partner or as adjusted in duly justified cases pursuant to Article 12(2);

(e) the payment conditions;

(f) the commitment of the implementing partner to accept the decisions by the Commission and the Investment Committee as regards the use of the EU guarantee for the benefit of a proposed financing or investment operation, without prejudice to the decision-making of the implementing partner in respect of the proposed operation without the EU guarantee;

(g) provisions and procedures relating to the recovery of claims that is to be entrusted to the implementing partner;

(h) financial and operational reporting and monitoring of the financing and investment operations under the EU guarantee;

(i) key performance indicators, in particular as regards the use of the EU guarantee, the fulfilment of the objectives and criteria laid down in Articles 3, 7 and 13, and the mobilisation of private capital;

(j) where applicable, provisions and procedures relating to blending operations;

(k) other relevant provisions in compliance with the requirements of Article 155(2) and Title X of the Financial Regulation;

(l) the existence of adequate mechanisms for addressing the potential concerns of private investors.

3. A guarantee agreement shall also provide that remuneration attributable to the Union from financing and investment operations covered by this Regulation is to be provided after the deduction of payments due upon calls on the EU guarantee.

4. In addition, a guarantee agreement shall provide that any amount due to the implementing partner that relates to the EU guarantee shall be deducted from the overall amount of remuneration, revenues and repayments due by the implementing partner to the Union from financing and investment operations covered by this Regulation. Where that amount is not sufficient to cover the amount due to the implementing partner in accordance with Article 17(3), the outstanding amount shall be drawn from the provisioning for the EU guarantee.

5. Where the guarantee agreement is concluded under the Member State compartment, it may provide for the participation of representatives from the Member State or the regions concerned in the monitoring of the implementation of that guarantee agreement.

Article 17

Requirements for the use of the EU guarantee

1. The granting of the EU guarantee shall be subject to the entry into force of the guarantee agreement with the relevant implementing partner.

2. Financing and investment operations shall be covered by the EU guarantee only where they fulfil the criteria laid down in this Regulation and in the relevant investment guidelines, and where the Investment Committee has concluded that those operations fulfil the requirements for benefiting from the EU guarantee. The implementing partners shall remain responsible for ensuring that the financing and investment operations comply with this Regulation and the relevant investment guidelines.

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3. No administrative costs or fees related to the implementation of financing and investment operations under the EU guarantee shall be due to the implementing partner by the Commission unless the nature of the policy objectives targeted by the financial product to be implemented and the affordability for the targeted final recipients or the type of financing provided allow the implementing partner to duly justify to the Commission the need for an exception. The coverage of such costs by the Union budget shall be limited to the amount strictly required to implement the relevant financing and investment operations, and shall be provided only to the extent to which the costs are not covered by revenues received by the implementing partners from the financing and investment operations concerned. The fee arrangements shall be laid down in the guarantee agreement and shall comply with Article 16(4) and with point (g) of Article 209(2) of the Financial Regulation.

4. In addition, the implementing partner may use the EU guarantee to meet the relevant share of any recovery costs in accordance with Article 16(4), unless those costs have been deducted from recovery proceeds.

Article 18

Coverage and terms of the EU guarantee

1. Remuneration for risk-taking shall be allocated between the Union and an implementing partner in proportion to their respective share of the risk-taking with respect to a portfolio of financing and investment operations or, where relevant, with respect to individual financing and investment operations. The remuneration for the EU guarantee may be reduced in duly justified cases referred to in Article 12(2).

The implementing partner shall have appropriate exposure at its own risk to financing and investment operations supported by the EU guarantee, unless exceptionally the policy objectives targeted by the financial product to be implemented are of such nature that the implementing partner could not reasonably contribute its own risk-bearing capacity to it.

2. The EU guarantee shall cover:

(a) for debt products referred to in point (a) of Article 15(1):

(i) the principal and all interest and amounts due to the implementing partner but not received by it in accordance with the terms of the financing operations prior to the event of default;

(ii) restructuring losses;

(iii) losses arising from fluctuations of currencies other than the euro in markets where possibilities for long-term hedging are limited;

(b) for equity or quasi-equity investments referred to in point (a) of Article 15(1): the amounts invested and the associated funding costs and losses arising from fluctuations of currencies other than the euro;

(c) for funding or guarantees by an implementing partner to another financial institution in accordance with point (b) of Article 15(1): the amounts used and their associated funding costs.

For the purposes of point (a)(i) of the first subparagraph, for subordinated debt a deferral, reduction or required exit shall be considered to be an event of default.

3. Where the Union makes a payment to the implementing partner as the result of a call on the EU guarantee, the Union shall be subrogated into the relevant rights of the implementing partner relating to any of its financing or investment operations covered by the EU guarantee, to the extent that those rights continue to exist.

The implementing partner shall pursue the recovery of claims for the subrogated amounts on behalf of the Union and shall reimburse the Union from the amounts recovered.

CHAPTER V

GOVERNANCE

Article 19

Advisory Board

1. The Commission and the Steering Board established pursuant to Article 20 shall be advised by an Advisory Board.

2. The Advisory Board shall strive to ensure gender balance and shall comprise:

(a) one representative of each implementing partner;

(b) one representative of each Member State;

(c) one expert appointed by the European Economic and Social Committee;

(d) one expert appointed by the Committee of the Regions.

3. The Advisory Board shall be chaired by a representative of the Commission. The representative of the EIB Group shall be the vice-chair.

The Advisory Board shall meet regularly, at least twice a year, at the request of the Chairperson.

4. The Advisory Board shall:

(a) provide advice to the Commission and the Steering Board on the design of financial products to be deployed under this Regulation;

(b) provide advice to the Commission and the Steering Board about market developments, market conditions, market failures and sub-optimal investment situations;

(c) exchange views on market developments and share best practices.

5. The Commission shall nominate the first Advisory Board members representing the implementing partners other than the EIB Group after consultation of potential implementing partners. Their term is limited to one year.

6. Meetings of representatives of the Member States in a separate format shall also be organised at least twice a year and chaired by the Commission.

7. The Advisory Board and the meetings of the representatives of the Member States referred to in paragraph 6 may issue recommendations to the Steering Board for its consideration regarding the implementation and operation of the InvestEU Programme.

8. Detailed minutes of the meetings of the Advisory Board shall be made public as soon as possible after they have been approved by the Advisory Board.

The Commission shall establish the operating rules and procedures for the Advisory Board and shall manage the secretariat of the Advisory Board. All relevant documentation and information shall be made available to the Advisory Board to enable it to exercise its tasks.

9. The NPBIs represented on the Advisory Board shall select from among themselves the representatives of the implementing partners other than the EIB Group in the Steering Board referred to in Article 20(1). The NPBIs shall aim to achieve a balanced representation in the Steering Board in terms of size and geographical location. The representatives selected shall represent the agreed common position of all implementing partners other than the EIB Group.

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Article 20

Steering Board

1. A Steering Board shall be established for the InvestEU Programme. It shall be composed of four representatives of the Commission, three representatives of the EIB Group and two representatives of the implementing partners other than the EIB Group and one expert appointed as a non-voting member by the European Parliament. The expert appointed as a non-voting member by the European Parliament shall not seek or take instructions from Union institutions, bodies, offices or agencies, from any Member State government or from any other public or private body and shall act with full independence. That expert shall perform his or her duties impartially and in the interest of the InvestEU Fund.

Members of the Steering Board shall be appointed for a term of four years, renewable once, with the exception of the representatives of the implementing partners other than the EIB Group, who shall be appointed for a term of two years.

2. The Steering Board shall select a Chairperson from among the Commission representatives for a term of four years, renewable once. The Chairperson shall report biannually to the representatives of the Member States on the Advisory Board on the implementation and operation of the InvestEU Programme.

Detailed minutes of Steering Board meetings shall be published as soon as they have been approved by the Steering Board.

3. The Steering Board shall:

(a) provide strategic and operational guidance for the implementing partners, including guidance on the design of financial products and on other operating policies and procedures necessary for the operation of the InvestEU Fund;

(b) adopt the risk methodological framework developed by the Commission in cooperation with the EIB Group and the other implementing partners;

(c) oversee the implementation of the InvestEU Programme;

(d) be consulted, reflecting the views of all its member, on the shortlist of candidates for the Investment Committee before their selection in accordance with Article 23(2);

(e) adopt the rules of procedure of the secretariat to the Investment Committee referred to in Article 23(4).

(f) adopt the rules applicable to the operations with investment platforms;

(fa) determine the Member States and sectors economically most hit by the COVID-19 crisis and the Member States where the possibility of State solvency support is more limited, on the basis of the indicators established by the Commission pursuant to Article 7(1)(ea).

4. The Steering Board shall use a consensual approach in its discussions, therefore taking the utmost possible account of the positions of all members. If the members cannot reach a consensus, decisions of the Steering Board shall be adopted by qualified majority of its voting members, consisting of at least seven votes.

Article 21

Scoreboard

1. A scoreboard of indicators (the 'Scoreboard') shall be established to ensure that the Investment Committee is able to carry out an independent, transparent and harmonised assessment of requests for the use of the EU guarantee for financing or investment operations proposed by implementing partners.

2. Implementing partners shall fill out the Scoreboard for their proposals for financing and investment operations.

3. The Scoreboard shall cover the following elements:

(a) a description of the proposed financing and investment operation;

(b) how the proposed operation contributes to EU policy objectives;

(c) a description of additionality;

(d) description of the market failure or sub-optimal investment situation;

(e) the financial and technical contribution by the implementing partner;

(f) the impact of the investment;

(g) the financial profile of the financing or investment operation;

(h) complementary indicators.

4. The Commission is empowered to adopt delegated acts in accordance with Article 33 in order to supplement this Regulation by establishing additional elements of the Scoreboard, including detailed rules for the Scoreboard to be used by the implementing partners.

Article 22

Policy check

1. The Commission shall conduct a check to confirm that the financing and investment operations proposed by the implementing partners other than the EIB comply with Union law and policies.

2. In the case of EIB financing and investment operations within the scope of this Regulation, such operations shall not be covered by the EU guarantee where the Commission delivers an unfavourable opinion within the framework of the procedure provided for in Article 19 of the EIB Statute.

Article 23

Investment Committee

1. A fully independent investment committee shall be established for the InvestEU Fund (the 'Investment Committee'). The Investment Committee shall:

(a) examine the proposals for financing and investment operations submitted by implementing partners for coverage under the EU guarantee that have passed the policy check referred to in Article 22(1) or that have received a favourable opinion within the framework of the procedure provided for in Article 19 of the EIB Statute;

(b) verify their compliance with this Regulation and the relevant investment guidelines;

(c) give particular attention to the additionality requirement set out in point (b) of Article 209(2) of the Financial Regulation and in Annex V to this Regulation and to the requirement to crowd in private investment set out in point (d) of Article 209(2) of the Financial Regulation; and

(d) check whether the financing and investment operations that would benefit from the support of the EU guarantee comply with all relevant requirements.

2. The Investment Committee shall meet in ***six*** different configurations, corresponding to the ***six*** policy windows referred to in Article 7(1).

Each configuration of the Investment Committee shall be composed of six remunerated external experts. The experts shall be selected and shall be appointed by the Commission, at the recommendation of the Steering Board. The experts shall be appointed for a term of up to four years, renewable once. They shall be remunerated by the Union. The Commission, at the recommendation of the Steering Board, may decide to renew the term of office of an incumbent member of the Investment Committee without following the procedure laid down in this paragraph.

The experts shall have a high level of relevant market experience in project structuring and financing or financing of SMEs or corporates.

The composition of the Investment Committee shall ensure that it has a wide knowledge of the sectors covered by the policy windows referred to in Article 7(1) and a wide knowledge of the geographic markets in the Union, and shall ensure that the Investment Committee as a whole is gender-balanced.

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Four members of the Investment Committee shall be permanent members of each of the ***six*** configurations of the Investment Committee. At least one of the permanent members shall have expertise in sustainable investment. In addition, each of the ***six*** configurations shall have two experts with experience in investment in sectors covered by the corresponding policy window. The Steering Board shall assign the Investment Committee members to the appropriate configuration or configurations. The Investment Committee shall elect a chairperson from among its permanent members.

3. When participating in the activities of the Investment Committee, its members shall perform their duties impartially and in the sole interest of the InvestEU Fund. They shall not seek or take instructions from the implementing partners, the institutions of the Union, the Member States, or any other public or private body.

The curricula vitae and declarations of interest of each member of the Investment Committee shall be made public and constantly updated. Each member of the Investment Committee shall without delay communicate to the Commission and the Steering Board all information needed to confirm the absence of any conflict of interest on an ongoing basis.

The Steering Board may recommend to the Commission that it remove a member from his or her functions if that member does not comply with the requirements laid down in this paragraph or for other duly justified reasons.

4. When acting in accordance with this Article, the Investment Committee shall be assisted by a secretariat. The secretariat shall be independent and answerable to the chairperson of the Investment Committee. The secretariat shall be administratively located in the Commission. The rules of procedure of the secretariat shall ensure the confidentiality of exchanges of information and documents between implementing partners and the respective governing bodies. The EIB Group may submit its proposals for financing and investment operations directly to the Investment Committee and shall notify them to the secretariat.

The documentation to be provided by the implementing partners shall comprise a standardised request form, the Scoreboard referred to in Article 21 and any other document the Investment Committee considers relevant, in particular a description of the character of the market failure or sub-optimal investment situation and how it will be alleviated by the financing or investment operation, as well as a reliable assessment of the operation that demonstrates the additionality of the financing or investment operation. The secretariat shall check the completeness of the documentation provided by implementing partners other than the EIB Group. The Investment Committee may seek clarifications from the implementing partner concerned in relation to a proposal for an investment or financing operation, including by requesting the direct presence of a representative of the implementing partner concerned during the discussion of the aforementioned operation. Any project assessment conducted by an implementing partner shall not be binding on the Investment Committee for the purposes of granting a financing or investment operation coverage by the EU guarantee.

The Investment Committee shall use the Scoreboard referred to in Article 21 in its assessment and verification of the proposed financial and investment operations.

5. Conclusions of the Investment Committee shall be adopted by simple majority of all members, provided that such simple majority includes at least one of the non-permanent members of the configuration relating to the policy window under which the proposal is made. In case of a draw, the chair of the Investment Committee shall have the casting vote.

Conclusions of the Investment Committee approving the coverage of the EU guarantee for a financing or investment operation shall be publicly accessible and shall include the rationale for the approval and information on the operation, in particular its description, the identity of the promoters or financial intermediaries, and the objectives of the operation. The conclusions shall also refer to the global assessment stemming from the Scoreboard.

The relevant Scoreboard shall be made publicly accessible after the signature of the financing or investment operation or sub-project, if applicable.

Information to be made publicly accessible under the second and third subparagraphs shall not contain commercially sensitive information or personal data that are not to be disclosed under the Union data protection rules. Commercially sensitive parts of the conclusions of the Investment Committee shall be forwarded by the Commission to the European Parliament and to the Council upon request subject to strict confidentiality requirements.

Twice a year, the Investment Committee shall submit to the European Parliament and to the Council a list of all conclusions of the Investment Committee in the preceding six months, as well as the published Scoreboards relating thereto. That submission shall include any decisions rejecting the use of the EU guarantee and shall be subject to strict confidentiality requirements.

Conclusions of the Investment Committee shall be made available in a timely manner to the implementing partner concerned by the secretariat of the Investment Committee.

The secretariat of the Investment Committee shall record all information related to proposals for financing and investment operations provided to the Investment Committee and the conclusions of the Investment Committee on those proposals in a central repository.

6. Where the Investment Committee is requested to approve the use of the EU guarantee for a financing or investment operation that is a facility, programme or structure which has underlying sub-projects, that approval shall comprise those underlying sub-projects unless the Investment Committee decides to retain the right to approve them separately. The Investment Committee shall not have the right to separately approve sub-projects of a size below EUR 3 000 000.

7. Where it deems it necessary, the Investment Committee may bring to the Commission any operational issue relating to the application or interpretation of the investment guidelines.

8. From the date of its constitution, the Investment Committee shall also be in charge of approving the use of the EU guarantee under Regulation (EU) 2015/1017 for the remainder of the investment period under that Regulation. They shall be assessed in accordance with the criteria laid down in that Regulation. ▌ Article 22 shall not apply to such submissions.

CHAPTER VI

InvestEU Advisory Hub

Article 24

InvestEU Advisory Hub

1. The Commission shall establish the InvestEU Advisory Hub. The InvestEU Advisory Hub shall provide advisory support for the identification, preparation, development, structuring, procuring and implementation of investment projects, and for enhancing the capacity of project promoters and financial intermediaries to implement financing and investment operations. Such support may cover any stage of the life-cycle of a project or financing of a supported entity.

The Commission shall conclude advisory agreements with the EIB Group and other potential advisory partners and task them with the provision of advisory support as referred to in the first subparagraph and of the services referred to in paragraph 2. The Commission may also implement advisory initiatives, including through contracting external service providers. The Commission shall establish a central entry point to the InvestEU Advisory Hub and shall allocate requests for advisory support to be dealt under the appropriate advisory initiative. The Commission, the EIB Group and the other advisory partners shall cooperate closely with a view to ensuring efficiency, synergies and effective geographic coverage of support across the Union, while taking due account of existing structures and work.

Advisory initiatives shall be available as a component under each policy window referred to in Article 7(1), covering sectors under that window. In addition, advisory initiatives shall be available under a cross-sectoral component.

2. The InvestEU Advisory Hub shall in particular:

(a) provide a central point of entry, managed and hosted by the Commission, for project development assistance under the InvestEU Advisory Hub for public authorities and for project promoters;

(b) disseminate to public authorities and project promoters all available additional information regarding the investment guidelines, including information on their application or on the interpretation provided by the Commission;

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(c) where appropriate, assist project promoters in developing their projects so that they fulfil the objectives set out in Articles 3 and 7 and the eligibility criteria set out in Article 13, and facilitate the development of Important Projects of Common European Interest and aggregators for small-sized projects, including through investment platforms as referred to in point (f) of this paragraph, provided that such assistance does not prejudge the conclusions of the Investment Committee with respect to the coverage of the EU guarantee with respect to such projects;

(d) support actions and leverage local knowledge to facilitate the use of InvestEU Fund support across the Union and contribute actively where possible to the objective of the sectorial and geographical diversification of the InvestEU Fund by supporting implementing partners in originating and developing potential financing and investment operations;

(e) facilitate the establishment of collaborative platforms for peer-to-peer exchanges and the sharing of data, knowhow and best practices to support project pipeline and sector development;

(f) provide proactive advisory support with respect to the establishment of investment platforms, including cross-border and macro-regional investment platforms and investment platforms that bundle small and medium-sized projects in one or more Member States by theme or by region;

(g) support the use of blending with grants or financial instruments funded by the Union budget or by other sources in order to strengthen synergies and complementarities between Union instruments and to maximise the leverage and impact of the InvestEU Programme;

(h) support capacity building actions to develop organisational capacities, skills and processes and to accelerate the investment readiness of organisations in order for public authorities and project promoters to build investment project pipelines, develop financing mechanisms and investment platforms and to manage projects and for financial intermediaries to implement financing and investment operations for the benefit of entities that face difficulties in obtaining access to finance, including through support for developing risk assessment capacity or sector specific knowledge;

(i) providing advisory support for start-ups, especially when they seek to protect their research and innovation investments by obtaining intellectual property titles, such as patents;

(ia) providing support to financing and investment operations under the solvency support window by covering costs, advisory services and technical and administrative assistance to set-up and manage investment platforms and having a special focus on Member States with less developed equity markets. The technical assistance shall also be available to support the green and digital transformation of companies financed under this window.

3. The InvestEU Advisory Hub shall be available to public and private project promoters, including SMEs and start-ups, to public authorities and to national promotional banks or institutions, financial and non-financial intermediaries.

4. The Commission shall conclude an advisory agreement with each advisory partner on the implementation of one or more advisory initiatives. Fees may be charged for the services referred to in paragraph 2 to cover part of the costs for providing those services, except for services provided to public project promoters or non-profit institutions, which shall be free of charge where justified. Fees charged to SMEs for those services referred to in paragraph 2 shall be capped at one third of the cost of providing those services.

5. In order to achieve the objective referred to in paragraph 1 and to facilitate the provision of advisory support, the InvestEU Advisory Hub shall build upon the expertise of the Commission, the EIB Group and the other advisory partners.

6. Each advisory initiative shall incorporate a cost-sharing mechanism between the Commission and the advisory partner, except where the Commission agrees to cover all costs of the advisory initiative in a duly justified case where the specificities of the advisory initiative so require and the coherent and equitable treatment of advisory partners concerned is ensured.

7. The InvestEU Advisory Hub shall have local presence where necessary. Local presence shall be established in particular in Member States or regions that face difficulties in developing projects under the InvestEU Fund. The InvestEU Advisory Hub shall assist in the transfer of knowledge to the regional and local level with a view to building up regional and local capacity and expertise to be able to provide advisory support referred to in paragraph 1, including support to implement and accommodate small-sized projects.

8. In order to provide the advisory support referred in paragraph 1 and to facilitate the provision of that advisory support at local level, the InvestEU Advisory Hub shall cooperate where possible with and take advantage of the expertise of national promotional banks or institutions. Where appropriate, cooperation agreements with national promotional banks or institutions shall be concluded under the InvestEU Advisory Hub, with at least one national promotional bank or institution per Member State.

9. The implementing partners shall, as appropriate, propose to project promoters applying for financing, including in particular small-sized projects, that they request the InvestEU Advisory Hub support for their projects, where appropriate, in order to enhance the preparation of their projects and to allow for the assessment of the possibility of bundling projects.

Where relevant, the implementing partners and advisory partners shall also inform the project promoters of the possibility of listing their projects on the InvestEU Portal referred to in Article 25.

CHAPTER VII

InvestEU Portal

Article 25

InvestEU Portal

1. The Commission shall establish the InvestEU Portal. The InvestEU Portal shall be an easily accessible and user-friendly project database that provides relevant information for each project.

2. The InvestEU Portal shall provide a channel for project promoters to bring projects for which they are seeking finance visible to investors. The inclusion of projects in the InvestEU Portal shall be without prejudice to decisions on the final projects selected for support under this Regulation, under any other instrument of the Union, or to decisions for public funding.

3. Only projects that are compatible with Union law and policies shall be listed on the InvestEU Portal.

4. The Commission shall transmit projects that meet the conditions set out in paragraph 3 to the relevant implementing partners. Where appropriate and where an advisory initiative exists, the Commission shall also transmit such projects to the InvestEU Advisory Hub.

5. Implementing partners shall examine projects falling within their geographic and activity scope.

CHAPTER VIII

ACCOUNTABILITY, MONITORING AND REPORTING, EVALUATION AND CONTROL

Article 26

Accountability

1. At the request of the European Parliament or of the Council, the Chairperson of the Steering Board shall report on the performance of the InvestEU Fund to the requesting institution, including by participating in a hearing before the European Parliament.

2. The Chairperson of the Steering Board shall reply orally or in writing to questions addressed to the InvestEU Fund by the European Parliament or by the Council within five weeks of their receipt.

Article 27

Monitoring and reporting

1. Indicators for reporting on the progress of the InvestEU Programme towards the achievement of the general and specific objectives set out in Article 3 are set in Annex III.

2. The performance reporting system shall ensure that data for monitoring implementation and results are collected in an efficient, effective and timely manner, and that those data allow for adequate risk and guarantee portfolio monitoring. To that end, proportionate reporting requirements shall be imposed on the implementing partners, the advisory partners and other recipients of Union funds, as appropriate.

3. The Commission shall report on the implementation of the InvestEU Programme in accordance with Articles 241 and 250 of the Financial Regulation. In accordance with Article 41(5) of the Financial Regulation, the annual report shall provide information on the level of implementation of the Programme with respect to its objectives and performance indicators. For that purpose, each implementing partners shall provide on an annual basis the information necessary to allow the Commission to comply with its reporting obligations, including information on the operation of the EU guarantee.

4. Every six months, each implementing partner shall submit a report to the Commission on the financing and investment operations covered by this Regulation, broken down by EU compartment and Member State compartment, as appropriate. Each implementing partner shall also submit information on the Member State compartment to the Member State whose compartment it implements. The report shall include an assessment of compliance with the requirements on the use of the EU guarantee and with the key performance indicators laid down in Annex III to this Regulation. The report shall also include operational, statistical, financial and accounting data on each financing and investment operation and an estimation of expected cash flows, at the level of compartment, policy window and the InvestEU Fund. Once a year, the report from the EIB Group and, where appropriate, from other implementing partners, shall also include information on barriers to investment encountered when carrying out financing and investment operations covered by this Regulation. The reports shall contain the information the implementing partners have to provide under point (a) of Article 155(1) of the Financial Regulation.

5. To ensure the effective assessment of the progress of the InvestEU Programme towards the achievement of its objectives, the Commission is empowered to adopt delegated acts in accordance with Article 33 in order to amend this Regulation by reviewing or complementing the indicators set in Annex III where considered necessary and the provisions on the establishment of a monitoring and evaluation framework.

Article 28

Evaluation

1. Evaluations of the InvestEU Programme shall be carried out so that they feed into the decision-making process in a timely manner.

2. By 30 September 2024, the Commission shall submit to the European Parliament and to the Council an independent interim evaluation report on the InvestEU Programme, in particular on the use of the EU guarantee, on the fulfilment of the EIB Group's obligations under points (b) and (c) of Article 10(1), on the allocation of the EU guarantee provided for in Article 12(4) and (5), on the implementation of the InvestEU Advisory Hub, on the budgetary allocation provided for in point (d)(i) of Article 10(1), and on Article 7(6). The evaluation shall in particular demonstrate how the inclusion of the implementing partners and advisory partners in the implementation of the InvestEU Programme has contributed to the reaching of InvestEU Programme targets as well as EU policy goals, especially with regard to value added, geographical and sectoral balance of the supported financing and investment operations. The evaluation shall also assess the application of sustainability proofing pursuant to Article 7(3) and the focus on SMEs reached under the SME policy window referred to in point (c) of Article 7(1).

3. At the end of the implementation of the InvestEU Programme, but no later than four years after the end of the period specified in Article 1(3), the Commission shall submit to the European Parliament and to the Council an independent final evaluation report on the InvestEU Programme, in particular on the use of the EU guarantee.

4. The Commission shall communicate the conclusions of the evaluations, accompanied by its observations, to the European Parliament, to the Council, to the European Economic and Social Committee and to the Committee of Regions.

5. The implementing partners and advisory partners shall contribute to and provide the Commission with the information necessary to perform the evaluations referred to in paragraphs 2 and 3.

6. In accordance with Article 211(1) of the Financial Regulation, every three years the Commission shall include in the annual report referred to in Article 250 of the Financial Regulation a review of the adequacy of the provisioning rate laid down in Article 4(1) of this Regulation with respect to the actual risk profile of the financing and investment operations covered by the EU guarantee. The Commission is empowered to adopt delegated acts in accordance with Article 33 of this Regulation in order to amend this Regulation by adjusting the provisioning rate laid down in Article 4(1) of this Regulation by up to 15 % on the basis of that review.

Article 29

Audits

Audits of the use of the Union funding carried out by persons or entities, including by persons or entities other than those mandated by Union institutions or bodies, shall form the basis of the overall assurance pursuant to Article 127 of the Financial Regulation.

Article 30

Protection of the financial interests of the Union

Where a third country participates in the InvestEU Programme by a decision under an international agreement or by virtue of any other legal instrument, the third country shall grant the necessary rights and access required for the authorising officer responsible, the European Anti-Fraud Office (OLAF), the European Court of Auditors to comprehensively exert their respective competences. In the case of OLAF, such rights shall include the right to carry out investigations, including on-the-spot checks and inspections, provided for in Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council concerning investigations conducted by the European Anti-Fraud Office (OLAF).

CHAPTER IX

TRANSPARENCY AND VISIBILITY

Article 31

Information, communication and publicity

1. Implementing partners and advisory partners shall acknowledge the origin and ensure the visibility of the Union funding (in particular when promoting the actions and their results), by providing coherent, effective and targeted information to multiple audiences, including the media and the public.

The application of the requirements under the first subparagraph to projects in the defence and space sectors shall be subject to respect for any confidentiality or secrecy obligations.

2. The implementing partners and advisory partners shall inform the final recipients, including SMEs, of the existence of InvestEU Programme support, or oblige other financial intermediaries to inform such final recipients of that support, by making that information clearly visible in the relevant agreement providing InvestEU Programme support, particularly in the case of SMEs, in order to increase public awareness and improve visibility.

3. The Commission shall implement information and communication actions relating to the InvestEU Programme and its actions and results. Financial resources allocated to the InvestEU Programme shall also contribute to the corporate communication of the political priorities of the Union, insofar as those priorities are related to the objectives referred to in Article 3.

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CHAPTER X

TRANSITIONAL AND FINAL PROVISIONS

Article 32

Participation in a capital increase of the European Investment Fund

The Union shall subscribe shares in forthcoming capital increases of the European Investment Fund so that its relative share in the capital remains at current level. The subscription of the shares and the payment of up to EUR 900 000 000 of the paid-in part of the shares shall be carried out in accordance with the terms and conditions that shall be approved by the General Meeting of the Fund.

Article 33

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article. Where delegated acts concern activities to be carried out by or involving the EIB Group and other implementing partners, the Commission shall consult with the EIB Group and other potential implementing partners before preparing those delegated acts.

2. The power to adopt delegated acts referred to in Articles ***7(1)(ea) and*** (7), 21(4), 27(5) and 28(6) shall be conferred on the Commission until 31 December 2028. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Articles ***7(1)(ea) and*** (7), 21(4), 27(5) and 28(6) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Articles ***7(1)(ea) and*** (7), 21(4), 27(5) and 28(6) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 34

Transitional provisions

1. By ***way of*** derogation ***from*** the first and ***fourth*** subparagraphs of Article 209(3) of the Financial Regulation, ***any*** revenues, repayments and recoveries from financial instruments established by programmes referred to in Annex IV to this Regulation ***shall*** be used for the provisioning of the EU guarantee under this Regulation ▌.

2. By ***way of*** derogation ***from*** point (a) of Article 213(4) of the Financial Regulation, any surplus of provisions for the EU guarantee established by Regulation (EU) 2015/1017 ***shall*** be used for the provisioning of the EU guarantee under this Regulation ▌.

3. The amount of EUR ***XXX*** (current prices) referred to in point (i) of Article 3(2)(c) of Regulation [EURI] shall be used:

(a) for the provisioning of the EU guarantee under this Regulation with an amount of EUR ***XXX*** (current prices), in addition to the resources mentioned in the first subparagraph of Article 211(4) of the Financial Regulation,

(b) for the implementation of the measures provided in Chapters V and VI and the measures referred to in the second sentence of Article 2(2) of Regulation [EURI], subject to Article 4(4) and (8) of that Regulation, with an amount of EUR 200 440 000 (current prices).

This amount shall constitute an external assigned revenue in accordance with Article 21(5) of the Financial Regulation.

3a. The implementing partners may submit to the Commission financing and investment operations approved by them during the period from the conclusion of the relevant guarantee agreement and the first appointment of all the members of the Investment Committee.

3b. The Commission shall assess the operations referred to in paragraph 3a and shall decide whether to grant them coverage under the EU guarantee.

3c. The implementing partners may submit to the Commission financing and investment operations approved by them during the period from … [date of entry into force of this Regulation] until the conclusion of the relevant guarantee agreement.

3d. The Commission shall assess the operations referred to in paragraph 3c and shall decide whether to grant them coverage under the EU guarantee. In the event of positive decision by the Commission, such coverage shall take effect on the date of conclusion of the relevant guarantee agreements, after which the implementing partners may sign the financing and investment operations.

3e. All financial instruments established by programmes referred to in Annex IV to this Regulation and the EU guarantee established by Regulation (EU) 2015/1017 may, if applicable and subject to a prior evaluation, be merged with those under this Regulation.

3f. By way of derogation from the second and third subparagraphs of Article 209(3) of the Financial Regulation, revenues and repayments from the financial instruments established by programmes referred to in Annex IV to this Regulation and the budgetary guarantee established under Regulation (EU) 2015/1017, which have been merged with the EU guarantee established by this Regulation in accordance with paragraph 3e of this Article, shall constitute, respectively, internal assigned revenue within the meaning of Article 21(5) of the Financial Regulation for the EU guarantee established by this Regulation and repayments for the EU guarantee established by this Regulation.

Article 35

Entry into force

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

It shall apply from 1 January 2021.

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

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*

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ANNEX I

Amounts of EU guarantee per specific objective

The indicative distribution referred to in the fifth subparagraph of Article 4(2) towards financial and investment operations shall be as follows:

(a) up to EUR 20 051 970 000 for objectives referred to in point (a) of Article 3(2);

(b) up to EUR ***11 250 000 000*** for objectives referred to in point (b) of Article 3(2);

(c) up to EUR ***12 500 000 000*** for objectives referred to in point (c) of Article 3(2);

(d) up to EUR ***5 567 500 000*** for objectives referred to in point (d) of Article 3(2);

(e) up to EUR 31 153 850 000 for objectives referred to in point (e) of Article 3(2).

(ea) up to EUR 11 250 000 000 for objectives referred to in point (ea) of Article 3(2).

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ANNEX II

Areas eligible for financing and investment operations

The financing and investment operations under other windows than the strategic European investment window may fall under one or more of the following areas:

The financing and investment operations under the strategic European investment window shall fall under the areas laid down in point (e) of Article 7(1). They may in particular include Important Projects of Common European Interest.

1. The development of the energy sector in accordance with the Energy Union priorities, including security of energy supply, clean energy transition and the commitments taken under the 2030 Agenda for Sustainable Development and the Paris Agreement on Climate Change, in particular through:

   (a) the expansion of the generation, supply or use of clean and sustainable renewable and safe and sustainable other zero and low-emission energy sources and solutions;

   (b) energy efficiency and energy savings (with a focus on reducing demand through demand side management and the refurbishment of buildings);

   (c) the development, smartening and modernisation of sustainable energy infrastructure in particular, but not only transmission and distribution level, storage technologies, electricity interconnection between Member States and smart grids;

   (d) the development of innovative zero- and low-emission heat supply systems and the combined production of electricity and heat;

   (e) the production and supply of sustainable synthetic fuels from renewable/carbon-neutral sources and other safe and sustainable zero- and low-emission sources, biofuels, biomass and alternative fuels, including fuels for all modes of transport, in accordance with the objectives of Directive (EU) 2018/2001 of the European Parliament and of the Council ([1]); and

   (f) infrastructure for carbon capture, and storage in industrial processes, bioenergy plants and manufacturing facilities towards the energy transition.

2. The development of sustainable and safe transport infrastructures and mobility solutions, equipment and innovative technologies in accordance with Union transport priorities and the commitments taken under the Paris Agreement on Climate Change, in particular through:

   (a) projects that support the development of the trans-European transport network (TEN-T) infrastructure, including infrastructure maintenance and safety, the urban nodes of TEN-T, maritime and inland ports, airports, multimodal terminals and the connection of such multimodal terminals to the TEN-T networks, and the telematic applications referred to in Regulation (EU) No 1315/2013 of the European Parliament and of the Council ([2]);

   (b) TEN-T infrastructure projects that make provision for the use of at least two different modes of transport, in particular multimodal freight terminals and passenger transport hubs;

   (c) smart and sustainable urban mobility projects that target low-emission urban transport modes, including inland waterway solutions and innovative mobility solutions, non-discriminatory accessibility, reduced air pollution and noise, energy consumption, networks of smart cities, maintenance, and increasing safety levels and decreasing the frequency of accidents, including for cyclists and pedestrians);

([1]) Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 328, 21.12.2018, p. 82).

([2]) Regulation (EU) No 1315/2013 of the European Parliament and of the Council of 11 December 2013 on Union guidelines for the development of the trans-European transport network and repealing Decision No 661/2010/EU (OJ L 348, 20.12.2013, p. 1).

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(d) supporting the renewal and retrofitting of transport mobile assets with the view of deploying low and zero-emission mobility solutions, including through the use of alternative fuels in vehicles of all transport modes;

(e) railway infrastructure, other rail projects, inland waterway infrastructure, mass transit projects and maritime ports and motorways of the sea;

(f) alternative fuel infrastructure for all modes of transport, including electric charging infrastructure;

(g) other smart and sustainable mobility projects that target:

(i) road safety;

(ii) accessibility;

(iii) emission reduction; or

(iv) the development and deployment of new transport technologies and services such as services that relate to connected and autonomous modes of transport or integrated ticketing; and

(h) projects to maintain or upgrade existing transport infrastructure, including motorways on the TEN-T where necessary to upgrade, maintain or improve road safety, to develop Intelligent Transport Systems (ITS) services or to guarantee infrastructure integrity and standards, to develop safe parking areas and facilities, recharging and refuelling stations for alternative fuels.

3. Environment and resources, in particular with respect to:

(a) water, including drinking water supply and sanitation, and network efficiency, leakage reduction, infrastructure for the collection and treatment of waste water, coastal infrastructure and other water-related green infrastructure;

(b) waste management infrastructure;

(c) projects and enterprises in the fields of environmental resource management and sustainable technologies;

(d) the enhancement and restoration of eco systems and their services including through the enhancement of nature and biodiversity by means of green and blue infrastructure projects;

(e) sustainable urban, rural and coastal development;

(f) climate change actions, climate adaptation and mitigation, including natural hazard disaster risk reduction;

(g) projects and enterprises that implement the circular economy by integrating resource efficiency aspects in the production and product life-cycle, including the sustainable supply of primary and secondary raw materials;

(h) the decarbonisation of energy-intensive industries and the substantial reduction of emissions in such industries, including the demonstration of innovative low-emission technologies and their deployment;

(i) the decarbonisation of the energy production and distribution chain by phasing out the use of coal and oil; and

(j) projects that promote sustainable cultural heritage.

4. The development of digital connectivity infrastructure, in particular through projects that support the deployment of very high capacity digital networks, 5G connectivity or that improve digital connectivity and access, particularly in rural areas and peripheral regions.

5. Research, development and innovation, in particular through:

   (a) research and innovation projects that contribute to the objectives of Horizon Europe, including research infrastructure and support to academia;

   (b) corporate projects, including training and promoting the creation of clusters and business networks;

   (c) demonstration projects and programmes, as well as deployment of related infrastructures, technologies and processes;

   (d) collaborative research and innovation projects involving academia, research and innovation organisations and industry; public-private partnerships and civil society organisations;

   (e) knowledge and technology transfer;

   (f) research in the field of key enabling technologies (KETs) and their industrial applications, including new and advanced materials; and

   (g) new effective and accessible healthcare products, including pharmaceuticals, medical devices, diagnostics and advanced therapy medicinal products, new antimicrobials and innovative development process that avoid using animal testing.

6. The development, deployment and scaling-up of digital technologies and services, especially digital technologies and services that contribute to the objectives of the Digital Europe programme, in particular through:

   (a) artificial intelligence;

   (b) quantum technology;

   (c) cybersecurity and network protection infrastructures;

   (d) the internet of things;

   (e) blockchain and other distributed ledger technologies;

   (f) advanced digital skills;

   (g) robotics and automatisation;

   (h) photonics; and

   (i) other advanced digital technologies and services contributing to the digitisation of the Union industry and the integration of digital technologies, services and skills in the transport sector of the Union.

7. Financial support to entities employing up to 499 employees, with a particular focus on SMEs, and small mid-cap companies, in particular through:

   (a) the provision of working capital and investment;

   (b) the provision of risk financing from seed to expansion stages to ensure technological leadership in innovative and sustainable sectors, including enhancing their digitisation and innovation capacity and to ensure their global competitiveness;

   (c) the provision of financing for the acquisition of a business by employees or participation in the ownership of a business by employees.

8. Cultural and creative sectors, cultural heritage, media, the audio-visual sector, journalism and press, in particular through but not only the development of new technologies, the use of digital technologies and technological management of intellectual property rights.

9. Tourism.

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10. The rehabilitation of industrial sites (including contaminated sites) and the restoration of such sites for sustainable use.

11. Sustainable agriculture, forestry, fishery, aquaculture and other elements of the wider sustainable bioeconomy.

12. Social investments, including those supporting the implementation of the European Pillar of Social Rights, in particular through:

    (a) microfinance, ethical, social enterprise finance and social economy;

    (b) demand for and the supply of skills;

    (c) education, training and related services, including for adults;

    (d) social infrastructure, in particular:

        (i) inclusive education and training, including early childhood education and care, and related educational infrastructure and facilities, alternative childcare, student housing and digital equipment, that are accessible for all;

        (ii) affordable social housing ([3]);

        (iii) health and long-term care, including clinics, hospitals, primary care, home services and community-based care;

    (e) social innovation, including innovative social solutions and schemes aimed at promoting social impacts and outcomes in the areas referred to in point 12;

    (f) cultural activities with a social objective;

    (g) measures to promote gender equality;

    (h) the integration of vulnerable people, including third country nationals;

    (i) innovative health solutions, including e-health, health services and new care models;

    (j) the inclusion of and accessibility for persons with disabilities.

13. The development of the defence industry in order to contribute to the Union's strategic autonomy, in particular through support for:

    (a) the Union's defence industry supply chain, in particular through financial support to SMEs and mid-caps;

    (b) companies participating in disruptive innovation projects in the defence sector and closely related dual-use technologies;

    (c) the defence sector supply chain when participating in collaborative defence research and development projects, including those supported by the European Defence Fund;

    (d) infrastructure for defence research and training.

14. Space, in particular in relation to the development of the space sector in line with Space Strategy objectives:

    (a) to maximize the benefits for the Union society and economy;

    (b) to foster the competitiveness of space systems and technologies, addressing in particular vulnerability of supply chains;

    (c) to underpin space entrepreneurship, including downstream development;

([3]) Affordable social housing is to be understood as aimed at disadvantaged persons or socially less advantaged groups, who due to solvency constraints live in severe housing deprivation or are unable to obtain housing at market conditions.

(d) to foster Union's autonomy for safe and secure access to space, including dual use aspects.

15. Seas and oceans, through the development of projects and enterprises in the area of the blue economy, and the Sustainable Blue Economy Finance Principles, in particular through maritime entrepreneurship and industry, renewable marine energy and circular economy.

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ANNEX III

Key performance indicators

1. Volume of financing supported by the InvestEU Fund (broken down by policy window)

   1.1 Volume of operations signed

   1.2 Investment mobilised

   1.3 Amount of private finance mobilised

   1.4 Leverage and multiplier effect achieved

2. Geographical coverage of financing supported by the InvestEU Fund (broken down by policy window, country and region at the common classification of territorial units for statistics (NUTS) 2 level)

   2.1 Number of countries (Member States and third countries) covered by operations

   2.2 Number of regions covered by operations

   2.3 Volume of operations per country (Member State and third country) and per region

3. Impact of financing through the InvestEU Fund

   3.1 Number of jobs created or supported

   3.2 Investment supporting climate objectives and, where applicable, broken down by policy window

   3.3 Investment supporting digitalisation

   3.4. Investment supporting industrial transition

4. Sustainable infrastructure

   4.1 Energy: Additional renewable and other safe and sustainable zero and low-emission energy generation capacity installed (in megawatts (MW))

   4.2 Energy: Number of households, number of public and commercial premises with improved energy consumption classification

   4.3 Energy: Estimated energy savings generated by the projects (in kilowatt-hours (kWh)

   4.4 Energy: Annual green-house gas emissions reduced/avoided in tonnes of CO_2 equivalent

   4.5 Energy: Volume of investment in the development, smartening and modernisation of sustainable energy infrastructure

   4.6 Digital: Additional households, enterprises or public buildings with broadband access of at least 100 Mbps upgradable to gigabit speed, or number of WIFI-hotspots created

   4.7 Transport: Investment mobilised, in particular in TEN-T

   — Number of cross-border and missing links projects (including projects relating to urban nodes, regional cross-border rail connections, multimodal platforms, maritime ports, inland ports, connections to airports and rail-road terminals of the TEN-T core and comprehensive network)

   — Number of projects contributing to the digitalisation of transport, in particular through the deployment of European Rail Traffic Management System (ERTMS), River Information System (RIS), Intelligent Transportation System (ITS), vessel traffic monitoring and information system (VTMIS)/e-maritime services and Single European Sky ATM Research (SESAR)

— Number of alternative fuel supply points built or upgraded

— Number of projects contributing to the safety of transport

4.8 Environment: Investment contributing to the implementation of plans and programmes required by the Union environmental acquis relating to air quality, water, waste and nature

5. Research, innovation and digitisation

5.1 Contribution to the objective of 3 % of the Union's gross domestic product (GDP) invested in research, development and innovation

5.2 Number of enterprises supported by size carrying out research and innovation projects

6. SMEs

6.1 Number of enterprises supported by size (micro, small, medium-sized and small mid-cap companies)

6.2 Number of enterprises supported by stage (early, growth/expansion)

6.3 Number of enterprises supported by Member State and region at NUTS 2 level

6.4 Number of enterprises supported by sectors by statistical classification of economic activities in the European Union (NACE) code

6.5 Percentage of investment volume under the SME policy window directed towards SMEs

7. Social investment and skills

7.1 Social infrastructure: Capacity and access to supported social infrastructure by sector: housing, education, health, other

7.2 Microfinance and social enterprise finance: Number of microfinance recipients and social enterprises supported

7.3 Skills: Number of individuals acquiring new skills or having their skills validated and certified: formal, education and training qualification

8. Strategic European investment

8.1 Number and volume of operations contributing to the provision of critical infrastructure, broken down by physical ***and virtual*** infrastructure and the associated goods and services, where applicable

8.2 Additional Capacity of critical infrastructure, broken down by areas, where applicable

8.3 Number and volume of operations contributing to the ***research and*** development of critical technologies and inputs for the security of the Union and its Member States, and dual use items

8.4 Number of enterprises supported by size developing and manufacturing critical technologies and inputs for the security of the Union and its Member States, and dual use items

8.4a Number of clusters and Digital Innovation Hubs supported for the creation of synergies between companies

8.5 Number and volume of operations contributing to the supply, manufacturing and stockpiling of critical inputs, ***unless within the limits of existing legal requirements,*** including critical healthcare provisions

8.6 Additional critical inputs, including critical healthcare provisions, supported for supply, manufacturing and stockpiling, by type, where applicable

8.7 Number and volume of operations supporting key enabling and digital technologies that are strategically important for the Union's industrial future

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8.7a Number and volume of operations to help companies, especially SMEs, to digitalise their businesses and increase the resilience of their value chains and business models

8.7b Number of start-ups that have been supported by the InvestEU Fund, number and volume of operations to promote entrepreneurship

8.7c Number and volume of operations contributing to the reduction of greenhouse gas emissions in accordance with the Union climate targets

8.7d Number of engagements of the European Investment Advisory Hubs in regions and Member States with so far limited track record in project initiation and development and in under-invested industrial sectors that have not benefitted from the Union's investment instruments in the past

8.7e Increase of volume of private equity and venture capital investments in related projects

8.7f Regional and national breadth that indicates that Member States and regions that have benefitted are spread evenly across the Union's territory and there is no concentration of benefits to a limited number of Member States or regions.

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ANNEX IV

The InvestEU Programme — Predecessor instruments

A. Equity instruments:

— European Technology Facility (ETF98): Council Decision 98/347/EC of 19 May 1998 on measures of financial assistance for innovative and job-creating small and medium-sized enterprises (SMEs) — the growth and employment initiative (OJ L 155, 29.5.1998, p. 43)

— Technology Transfer Pilot project (TTP): Commission decision adopting a complementary financing decision concerning the financing of actions of the activity 'Internal market of goods and sectoral policies' of the Directorate-General Enterprises & Industry for 2007 and adopting the framework decision concerning the financing of the preparatory action 'The EU assuming its role in a globalised world' and of four pilot projects 'Erasmus young entrepreneurs', 'Measures to promote cooperation and partnerships between micro and SMEs', 'Technological Transfer' and 'European Destinations of excellence' of the Directorate-General Enterprises & Industry for 2007

— European Technology Facility (ETF01): Council Decision 2000/819/EC of 20 December 2000 on a multiannual programme for enterprise and entrepreneurship, and in particular for small and medium-sized enterprises (SMEs) (2001-2005) (OJ L 333, 29.12.2000, p. 84)

— Competitiveness and Innovation Programme High Growth and Innovative SME Facility (CIP GIF): Decision No 1639/2006/EC of the European Parliament and of the Council of 24 October 2006 establishing a Competitiveness and Innovation Framework Programme (2007 to 2013) (OJ L 310, 9.11.2006, p. 15)

— Connecting Europe Facility (CEF): Regulation (EU) No 1316/2013 of the European Parliament and of the Council of 11 December 2013 establishing the Connecting Europe Facility, amending Regulation (EU) No 913/2010 and repealing Regulations (EC) No 680/2007 and (EC) No 67/2010 (OJ L 348, 20.12.2013, p. 129) as amended by Regulation (EU) 2015/1017 of the European Parliament and of the Council of 25 June 2015 on the European Fund for Strategic Investments, the European Investment Advisory Hub and the European Investment Project Portal and amending Regulations (EU) No 1291/2013 and (EU) No 1316/2013 — the European Fund for Strategic Investments (OJ L 169, 1.7.2015, p. 1)

— COSME Equity Facility for Growth (COSME EFG): Regulation (EU) No 1287/2013 of the European Parliament and of the Council of 11 December 2013 establishing a Programme for the Competitiveness of Enterprises and small and medium-sized enterprises (COSME) (2014 — 2020) and repealing Decision No 1639/2006/EC (OJ L 347, 20.12.2013, p. 33)

— InnovFin Equity:

  — Regulation (EU) No 1291/2013 of the European Parliament and of the Council of 11 December 2013 establishing Horizon 2020 — the Framework Programme for Research and Innovation (2014-2020) and repealing Decision No 1982/2006/EC (OJ L 347, 20.12.2013, p. 104);

  — Regulation (EU) No 1290/2013 of the European Parliament and of the Council of 11 December 2013 laying down the rules for participation and dissemination in 'Horizon 2020 — the Framework Programme for Research and Innovation (2014-2020)' and repealing Regulation (EC) No 1906/2006 (OJ L 347, 20.12.2013, p. 81);

  — Council Decision 2013/743/EU of 3 December 2013 establishing the specific programme implementing Horizon 2020 — the Framework Programme for Research and Innovation (2014-2020) and repealing Decisions 2006/971/EC, 2006/972/EC, 2006/973/EC, 2006/974/EC and 2006/975/EC (OJ L 347, 20.12.2013, p. 965)

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— EaSI Capacity Building Investments Window: Regulation (EU) No 1296/2013 of the European Parliament and of the Council of 11 December 2013 on a European Union Programme for Employment and Social Innovation ('EaSI') and amending Decision No 283/2010/EU establishing a European Progress Microfinance Facility for employment and social inclusion (OJ L 347, 20.12.2013, p. 238)

B. Guarantee instruments:

— SME Guarantee Facility '98 (SMEG98): Council Decision 98/347/EC of 19 May 1998 on measures of financial assistance for innovative and job-creating small and medium-sized enterprises (SMEs) — the growth and employment initiative (OJ L 155, 29.5.1998, p. 43).

— SME Guarantee Facility '01 (SMEG01): Council Decision 2000/819/EC of 20 December 2000 on a multiannual programme for enterprise and entrepreneurship, and in particular for small and medium-sized enterprises (SMEs) (2001-2005) (OJ L 333, 29.12.2000, p. 84)

— Competitiveness and Innovation Programme SME Guarantee Facility '07 (CIP SMEG07): Decision No 1639/2006/EC of the European Parliament and of the Council of 24 October 2006 establishing a Competitiveness and Innovation Framework Programme (2007 to 2013) (OJ L 310, 9.11.2006, p. 15)

— European Progress Microfinance Facility — Guarantee (EPMF-G): Decision No 283/2010/EU of the European Parliament and of the Council of 25 March 2010 establishing a European Progress Microfinance Facility for employment and social inclusion (OJ L 87, 7.4.2010, p. 1)

— Risk Sharing Finance Facility Risk-Sharing Instrument (RSI):

  — Decision No 1982/2006/EC of the European Parliament and of the Council of 18 December 2006 concerning the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013) Statements by the Commission (OJ L 412, 30.12.2006, p. 1)

  — Council Decision No 2006/971/EC of 19 December 2006 concerning the Specific Programme Cooperation implementing the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007 to 2013) (OJ L 400, 30.12.2006, p. 86)

  — Council Decision No 2006/974/EC of 19 December 2006 on the Specific Programme: Capacities implementing the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007 to 2013) (OJ L 400, 30.12.2006, p. 299)

— EaSI Guarantee Instrument: Regulation (EU) No 1296/2013 of the European Parliament and of the Council of 11 December 2013 on a European Union Programme for Employment and Social Innovation ('EaSI') and amending Decision No 283/2010/EU establishing a European Progress Microfinance Facility for employment and social inclusion (OJ L 347, 20.12.2013, p. 238)

— COSME Loan Guarantee Facility (COSME LGF): Regulation (EU) No 1287/2013 of the European Parliament and of the Council of 11 December 2013 establishing a Programme for the Competitiveness of Enterprises and small and medium-sized enterprises (COSME) (2014 — 2020) and repealing Decision No 1639/2006/EC (OJ L 347, 20.12.2013, p. 33)

— InnovFin Debt:

  — Regulation (EU) No 1290/2013 of the European Parliament and of the Council of 11 December 2013 laying down the rules for participation and dissemination in 'Horizon 2020 — the Framework Programme for Research and Innovation (2014-2020)' and repealing Regulation (EC) No 1906/2006 (OJ L 347, 20.12.2013, p. 81)

  — Regulation (EU) No 1291/2013 of the European Parliament and of the Council of 11 December 2013 establishing Horizon 2020 — the Framework Programme for Research and Innovation (2014-2020) and repealing Decision No 1982/2006/EC (OJ L 347, 20.12.2013, p. 104)

— Council Decision 2013/743/EU of 3 December 2013 establishing the specific programme implementing Horizon 2020 — the Framework Programme for Research and Innovation (2014-2020) and repealing Decisions 2006/971/EC, 2006/972/EC, 2006/973/EC, 2006/974/EC and 2006/975/EC (OJ L 347, 20.12.2013, p. 965)

— Cultural and Creative Sectors Guarantee Facility (CCS GF): Regulation (EU) No 1295/2013 of the European Parliament and of the Council of 11 December 2013 establishing the Creative Europe Programme (2014 to 2020) and repealing Decisions No 1718/2006/EC, No 1855/2006/EC and No 1041/2009/EC (OJ L 347, 20.12.2013, p. 221)

— Student Loan Guarantee Facility (SLGF): Regulation (EU) No 1288/2013 of the European Parliament and of the Council of 11 December 2013 establishing 'Erasmus+': the Union programme for education, training, youth and sport and repealing Decisions No 1719/2006/EC, No 1720/2006/EC and No 1298/2008/EC (OJ L 347, 20.12.2013, p. 50)

— Private Finance for Energy Efficiency (PF4EE): Regulation (EU) No 1293/2013 of the European Parliament and of the Council of 11 December 2013 on the establishment of a Programme for the Environment and Climate Action (LIFE) and repealing Regulation (EC) No 614/2007 (OJ L 347, 20.12.2013, p. 185)

C. Risk-Sharing Instruments:

— Risk Sharing Finance Facility (RSFF): Decision No 1982/2006/EC of the European Parliament and of the Council of 18 December 2006 concerning the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013) Statements by the Commission (OJ L 412, 30.12.2006, p. 1)

— InnovFin:

— Regulation (EU) No 1291/2013 of the European Parliament and of the Council of 11 December 2013 establishing Horizon 2020 — the Framework Programme for Research and Innovation (2014-2020) and repealing Decision No 1982/2006/EC (OJ L 347, 20.12.2013, p. 104)

— Regulation (EU) No 1290/2013 of the European Parliament and of the Council of 11 December 2013 laying down the rules for participation and dissemination in 'Horizon 2020 — the Framework Programme for Research and Innovation (2014-2020)' and repealing Regulation (EC) No 1906/2006 (OJ L 347, 20.12.2013, p. 81)

— Connecting Europe Facility Debt Instrument (CEF DI): Regulation (EU) No 1316/2013 of the European Parliament and of the Council of 11 December 2013 establishing the Connecting Europe Facility, amending Regulation (EU) No 913/2010 and repealing Regulations (EC) No 680/2007 and (EC) No 67/2010 (OJ L 348, 20.12.2013, p. 129)

— Natural Capital Financing Facility (NCFF): Regulation (EU) No 1293/2013 of the European Parliament and of the Council of 11 December 2013 on the establishment of a Programme for the Environment and Climate Action (LIFE) and repealing Regulation (EC) No 614/2007 (OJ L 347, 20.12.2013, p. 185)

D. Dedicated Investment Vehicles:

— European Progress Microfinance Facility — Fonds commun de placement — fonds d'investissement spécialisé (EPMF FCP-FIS): Decision No 283/2010/EU of the European Parliament and of the Council of 25 March 2010 establishing a European Progress Microfinance Facility for employment and social inclusion (OJ L 87, 7.4.2010, p. 1)

— Marguerite:

— Regulation (EC) No 680/2007 of the European Parliament and of the Council of 20 June 2007 laying down general rules for the granting of Community financial aid in the field of the trans-European transport and energy networks (OJ L 162, 22.6.2007, p. 1)

— Commission Decision of 25.2.2010 on European Union participation in the 2020 European Fund for Energy, Climate Change and Infrastructure (the Marguerite Fund)

— European Energy Efficiency Fund (EEEF): Regulation (EU) No 1233/2010 of the European Parliament and of the Council of 15 December 2010 amending Regulation (EC) No 663/2009 establishing a programme to aid economic recovery by granting Community financial assistance to projects in the field of energy (OJ L 346, 30.12.2010, p. 5)

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ANNEX V

Market failures, sub-optimal investment situations, additionality and excluded activities

A. Market failures, sub-optimal investment situations and additionality

In accordance with Article 209 of the Financial Regulation, the EU guarantee shall address market failures or sub-optimal investment situations (point (a) of Article 209(2)) and shall achieve additionality by preventing the replacement of potential support and investment from other public or private sources (point (b) of Article 209(2)).

In order to comply with points (a) and (b) of Article 209(2) of the Financial Regulation, the financing and investment operations benefitting from the EU guarantee shall fulfil the following requirements laid down in points 1 and 2 below:

1. Market failures and sub-optimal investment situations

To address market failures or sub-optimal investment situations as referred to in point (a) of Article 209(2) of the Financial Regulation, the investments targeted by the financing and investment operations shall include one of following features:

(a) Have the nature of a public good for which the operator or company cannot capture sufficient financial benefits (such as education and skills, healthcare and accessibility, security and defence, and infrastructure available at no or negligible cost).

(b) Externalities which the operator or company generally fails to internalise, such as R&D investment, energy efficiency, climate or environmental protection.

(c) Information asymmetries, in particular in case of SMEs and small mid-cap companies, including higher risk levels related to early stage firms, firms with mainly intangible assets or insufficient collateral, or firms focusing on higher risk activities.

(d) Cross-border infrastructure projects and related services or funds that invest on a cross-border basis to address the fragmentation of the internal market and to enhance coordination within the internal market.

(e) Exposure to higher levels of risks in certain sectors, countries or regions beyond levels that private financial actors are able or willing to accept, including where the investment would not have been undertaken or would not have been undertaken to the same extent because of its novelty or because of risks associated with innovation or unproven technology.

(f) In the case of support to financing and investment operations under the strategic European investment window, the investment would not have been undertaken or would not have been undertaken to the same extent through market financing by entities established and operating in the Union because of difficulties in internalising the benefits provided to the European strategic interest.

(g) New or complex market failures or sub-optimal investment situations in accordance with point (a)(iii) of Article 8(1) of this Regulation.

2. Additionality

Financing and investment operations shall fulfil both aspects of additionality as referred to point (b) of in Article 209(2) of the Financial Regulation. This means that the operations would not have been carried out or would not have been carried out to the same extent by other public or private sources without the InvestEU Fund support. For the purposes of this Regulation, these operations shall be understood as financing and investment operations having to meet the following two criteria:

(1) To be considered additional to the private sources referred to in point (b) of Article 209(2) of the Financial Regulation, the InvestEU Fund shall support the financing and investment operations of the implementing partners by targeting investments which, due to their characteristics (public good nature, externalities, information asymmetries, socio-economic cohesion considerations or other), are unable to generate sufficient market-level financial returns or are perceived to be too risky (compared to the risk levels that the relevant private entities are willing to accept). Because of those characteristics, such financing and investment operations cannot access market financing at reasonable conditions in terms of pricing, collateral requirements, the type of finance, the tenor of financing provided or other conditions, and would not be undertaken in the Union at all or to the same extent without public support.

(2) To be considered additional to existing support from other public sources referred to in point (b) of Article 209(2) of the Financial Regulation the InvestEU Fund shall only support financing and investment operations for which the following conditions apply:

(a) the financing or investment operations would not have been carried out or would not have been carried out to the same extent by the implementing partner without the InvestEU Fund support; and

(b) the financing or investment operations would not have been carried out or would not have been carried out to the same extent in the Union under other existing public instruments, such as shared management financial instruments that operate at regional or national level, although the complementary use of InvestEU and other public sources has to be possible, in particular where Union value added can be achieved and where the use of public sources to achieve policy objectives in an efficient manner can be optimised.

(3) Financing and investment operations under the strategic European investment window may also be considered additional whenever these operations would not have been carried out, or not to the same extent, by other private and public entities established and operating in the Union without the InvestEU Fund support.

To demonstrate that the financing and investment operations benefitting from the EU guarantee are additional to the existing market and other public support, the implementing partners shall provide information that demonstrates at least one of the following features:

(a) Support provided through subordinated positions in relation to other public or private lenders or within the funding structure

(b) Support provided through equity and quasi-equity or through debt with long tenors, pricing, collateral requirements or other conditions not sufficiently available on the market or from other public sources

(c) Support to operations that carry a higher risk profile than the risk generally accepted by the implementing partner's own standard activities or support to implementing partners in exceeding own capacity to support such operations

(d) Participation in risk-sharing mechanisms targeting policy areas that exposes the implementing partner to higher risk levels compared to the levels generally accepted by the implementing partner or that private financial actors are able or willing to accept

(e) Support that catalyses/crowds in additional private or public financing and is complementary to other private and commercial sources, in particular from traditionally risk-averse investor classes or institutional investors, as a result of the signalling effect of the support provided under the InvestEU Fund

(f) Support provided through financial products not available or not offered to a sufficient level in the targeted countries or regions due to missing, underdeveloped or incomplete markets

For intermediated financing and investment operations, notably for SME support, the additionality shall be verified at the level of the intermediary rather than at the level of the final recipient. Additionality is deemed to exist when InvestEU Fund supports a financial intermediary in setting up a new portfolio with a higher level of risk or increasing the volume of activities that are already highly risky as compared with the risk levels that private and public financial actors are currently able or willing to accept in the targeted countries or regions.

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The EU guarantee shall not be granted for supporting refinancing operations (such as replacing existing loan agreements or other forms of financial support for projects which have already partially or fully materialised), except in specific exceptional and well justified circumstances in which it is demonstrated that the operation under the EU guarantee will enable a new investment in an eligible area for financing and investment operations under Annex II of an amount, additional to customary volume of activity by the implementing partner or financial intermediary, at least equivalent to the amount of the operation that fulfils the eligibility criteria set out in this Regulation. Such refinancing operations shall respect the requirements set out in section A of this Annex regarding market failure, sub-optimal investment situations and additionality.

B. Excluded activities

The InvestEU Fund shall not support:

(1) Activities which limit individual rights and freedoms or that violate human rights

(2) In the area of defence activities, the use, development, or production of products and technologies that are prohibited by applicable international law

(3) Tobacco related products and activities (production, distribution, processing, and trade)

(4) Activities excluded from financing pursuant to Article [X] of the [Horizon Europe] Regulation ([1]): research on human cloning for reproductive purposes; activities intended to modify the genetic heritage of human beings which could make such changes heritable; and activities to create human embryos solely for the purpose of research or for the purpose of stem cell procurement, including by means of somatic cell nuclear transfer

(5) Gambling (production, construction, distribution, processing, trade or software related activities)

(6) Sex trade and related infrastructure, services and media

(7) Activities involving live animals for experimental and scientific purposes insofar as compliance with the European Convention for the Protection of Vertebrate Animals used for Experimental and other Scientific Purposes ([2]) cannot be guaranteed

(8) Real estate development activity, such as an activity with a sole purpose of renovating and re-leasing or re-selling existing buildings as well as building new projects; however, activities in the real-estate sector that are related to the specific objectives of the InvestEU Programme as specified in Article 3(2) and to the areas eligible for financing and investment operations under Annex II, such as investments in energy efficiency projects or social housing, shall be eligible

(9) Financial activities such as purchasing or trading in financial instruments. In particular, interventions targeting buy-out intended for asset stripping or replacement capital intended for asset stripping shall be excluded

(10) Activities forbidden by applicable national legislation

(11) The decommissioning, operation, adaptation or construction of nuclear power stations

(12) Investments related to mining or to the extraction, processing, distribution, storage or combustion of solid fossil fuels and oil, as well as investments related to the extraction of gas. This exclusion does not apply to:

(a) projects where there is no viable alternative technology;

(b) projects related to pollution prevention and control;

(c) projects equipped with carbon capture and storage or carbon capture and utilisation installations; industrial or research projects that lead to substantial reductions of greenhouse gas emissions as compared with the applicable EU Emission Trading System benchmarks

([1]) Article 14 of the Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing Horizon Europe — the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination 2018/0224(COD).

([2]) OJ L 222, 24.8.1999, p. 31.

(13) Investments in facilities for the disposal of waste in landfill. This exclusion does not apply to investments in:

(a) on-site landfill facilities that are an ancillary element of an industrial or mining investment project and where it has been demonstrated that landfilling is the only viable option to treat the industrial or mining waste produced by the concerned activity itself;

(b) existing landfill facilities to ensure the utilisation of landfill gas and to promote landfill mining and the reprocessing of mining waste

(14) Investments in mechanical biological treatment (MBT) plants. This exclusion does not apply to investments to retrofit existing MBT plants for waste-to-energy purposes or recycling operations of separated waste such as composting and anaerobic digestion

(15) Investments in incinerators for the treatment of waste. This exclusion does not apply to investments in:

(a) plants exclusively dedicated to treating non-recyclable hazardous waste;

(b) existing plants, where the investment is for the purpose of increasing energy efficiency, capturing exhaust gases for storage or use or recovering materials from incineration ashes, provided such investments do not result in an increase of the plants' waste processing capacity

The implementing partners shall remain responsible for ensuring compliance of financing and investment operations with the exclusion criteria set out in this Annex at signature, for monitoring this compliance during the implementation of the project and for undertaking appropriate remedial actions where relevant.