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TEXTS ADOPTED

*Provisional edition*

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**P8\_TA-PROV(2019)0026**

**Establishing the InvestEU Programme \*\*\*I**

Amendments adopted by the European Parliament on 16 January 2019 on the proposal for a regulation of the European Parliament and of the Council establishing the InvestEU Programme (COM(2018)0439 – C8-0257/2018 – 2018/0229(COD))<sup>1</sup>

(Ordinary legislative procedure: first reading)

[Amendment 1, unless otherwise indicated]

AMENDMENTS BY THE EUROPEAN PARLIAMENT\*

to the Commission proposal

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Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**establishing the InvestEU Programme**

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<sup>1</sup> The matter was referred back for interinstitutional negotiations to the committees responsible, pursuant to Rule 59(4), fourth subparagraph (A8-0482/2018).

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

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<sup>1</sup>,

Having regard to the opinion of the Committee of the Regions<sup>2</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

**(-1) *The European Fund for Strategic Investments has proved to be a valuable tool for the mobilisation of private investments through the use of the EU guarantee and the own resources of the EIB Group.***

(1) With 1,8 % of EU GDP, down from 2,2 % in 2009, infrastructure investment activities in the Union in 2016 were about 20 % below investment rates before the global financial crisis. Thus, while a recovery in investment-to-GDP ratios in the Union can be observed, it remains below what might be expected in a strong recovery period and is insufficient to compensate years of underinvestment. More importantly, the current ***public and private*** investment levels and forecasts do not cover the Union's structural investment ***for sustaining long-term growth*** needs 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, continued support is necessary to address market failures and sub-optimal investment situations to reduce the investment gap in targeted sectors to achieve the Union's policy objectives.

(2) Evaluations have underlined that the variety of financial instruments delivered under the 2014-2020 Multiannual Financial Framework period has led to some overlaps. That variety has also produced complexity for intermediaries and final recipients who were confronted with different eligibility and reporting rules. Absence of compatible rules also hampered the combination of several Union funds although such

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<sup>1</sup> OJ C [...], [...], p. [...].

<sup>2</sup> OJ C [...], [...], p. [...].

combination would have been beneficial to support projects in need of different types of funding. Therefore, a single fund, the InvestEU Fund, should be set up in order to achieve a more efficiently functioning support to final recipients by integrating and simplifying the financial offer under a single budgetary guarantee scheme, thereby improving the impact of Union intervention while reducing the cost to the Union budget.

- (3) In the last years, the Union has adopted ambitious strategies to complete the Single Market and to stimulate sustainable *and inclusive* growth and jobs, such as *the Europe 2020 Strategy*, the Capital Markets Union, the Digital Single Market Strategy, *the European Agenda for Culture*, the Clean Energy for all Europeans package, the Union Action Plan for the Circular Economy, the Low-Emission Mobility Strategy, the **■** Space Strategy for Europe *and the European Pillar of Social Rights*. 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, *in cooperation with local and regional authorities*, develop their own national multiannual investment strategies in support of those reform priorities. The strategies should be presented alongside the yearly National Reform Programmes as a way to outline and coordinate priority investment projects to be supported by national or Union funding, or by both. They should also serve to use Union funding in a coherent manner and to maximise the added value of the financial support to be received notably from the European Structural and Investment Funds, the European Investment Stabilisation Function and the InvestEU Fund, where relevant.
- (5) The InvestEU Fund should contribute to improving the competitiveness *and socio-economic convergence* of the Union, including in the field of innovation **■**, digitisation, the *efficient use of resources in accordance with a circular economy*, the sustainability *and inclusiveness* of the Union's economic growth *and* the social resilience **■** and integration of the Union capital markets, including solutions addressing their fragmentation and diversifying sources of financing for the Union enterprises. *This would make the Union economy and the financial system more resilient and increase its capacity to react to cyclical downturns*. To that end, the

*InvestEU Fund* should support projects that are technically **■**, economically *and socially* viable by providing a framework for the use of debt, risk sharing and equity instruments underpinned by a guarantee from the Union's budget and by *financial* contributions from implementing partners *as relevant*. It should be demand-driven while support under the InvestEU Fund should at the same time focus on *providing strategic, long-term benefits in key areas of Union policy which would otherwise not be funded or be insufficiently funded, thereby* contributing to meeting policy objectives of the Union.

- (5a) *The Commission and the implementing partners should ensure that the InvestEU programme exploits all complementarities and synergies with grant financing and other actions under the policy areas it supports, in line with the objectives of other Union programmes, such as Horizon Europe, the Connecting Europe Facility, the Digital Europe Programme, the Single Market Programme, the European Space Programme, the European Social Fund+, Creative Europe and the Programme for Environment & Climate Action (LIFE).*
- (5b) *Cultural and creative sectors are resilient and fast growing sectors in the Union, generating both economic and cultural value from intellectual property and individual creativity. However, the intangible nature of their assets limits their access to private financing which is essential to invest, scale-up and compete at an international level. The dedicated guarantee facility created under Creative Europe has successfully strengthened the financial capacity and the competitiveness of cultural and creative companies. Therefore, the InvestEU Programme should continue to facilitate access to finance for SMEs and organisations from the cultural and creative sectors.*
- (6) The InvestEU Fund should support investments in tangible and intangible assets, *including cultural heritage*, to foster *sustainable and inclusive* growth, investment and employment, and thereby contributing to improved well-being and fairer income distribution *and greater economic, social and territorial cohesion in the Union. InvestEU-funded projects should meet Union social and environmental standards, such as respect for labour rights and climate-friendly energy usage and waste management.* Intervention through the InvestEU Fund should complement Union support delivered through grants.

- (7) The Union endorsed the objectives set out in the United Nations Agenda 2030 and its Sustainable Development Goals and the Paris Agreement in 2015 as well as the Sendai Framework for Disaster Risk Reduction 2015-2030. To achieve the agreed objectives, including those embedded in the environmental policies of the Union, action pursuing sustainable development is to be stepped up significantly. Therefore, the principles of sustainable development *and safety* should ***be the basis of*** the design of the InvestEU Fund, ***and fossil-fuel related investments should not be supported unless duly justified on the basis that the investment contributes to the objectives of the Energy Union.***
- (8) The InvestEU Programme should contribute to building a sustainable finance system in the Union which supports the re-orientation of private capital towards *social and* sustainable investments in accordance with the objectives set out in the Commission Action Plan for Financing Sustainable Growth<sup>1</sup>.
- (8a) ***In the spirit of fostering long-term financing and sustainable growth, long-term investments strategies of insurance companies should be encouraged through a revision of the solvency requirements on the contributions for financing investment projects backed by the EU Guarantee in the framework of the InvestEU programme. In order to align the incentives of insurers towards the Union's objective of long term sustainable growth and to remove obstacle to investments under the InvestEU programme, the Commission should therefore take into account this revision as part of the review referred to in Article 77f (3) of Directive 2009/138/EC of the European Parliament and of the Council<sup>1a</sup>.***
- (9) Reflecting the importance of tackling climate change in line with the Union's commitments to implement the Paris Agreement and the United Nations Sustainable Development Goals, the InvestEU Programme will contribute to mainstream climate actions and to the achievement of an overall target of 25 % of the Union budget expenditures supporting climate objectives ***over the MFF 2021-2027 period and an annual target of 30 % as soon as possible and at the latest by 2027.*** Actions under the InvestEU Programme are expected to contribute ***at least 40 %*** of the overall financial

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<sup>1</sup> COM(2018)0097.

<sup>1a</sup> ***Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335, 17.12.2009, p. 1).***

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.

- (10) The contribution of the InvestEU Fund to the achievement of the climate target ***and sectorial targets included in the 2030 Climate and Energy Framework*** will be tracked through an EU climate tracking system developed by the Commission in cooperation with implementing partners and using in an appropriate way the criteria established by [Regulation on the establishment of a framework to facilitate sustainable investment<sup>1</sup>] for determining whether an economic activity is environmentally sustainable. ***The InvestEU Programme should also contribute to the implementation of other dimensions of the Sustainable Development Goals (SDGs).***
- (11) 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 air, soil, ***inland*** water ***and ocean*** pollution, 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 the InvestEU Fund related operations. Environmental protection and related risk prevention and management should be integrated in the preparation and implementation of investments. The EU should also track its biodiversity-related and air pollution control-related expenditure in order to fulfil the reporting obligations under the Convention on Biological Diversity and Directive (EU) 2016/2284 of the European Parliament and of the Council<sup>2</sup> Investment allocated to environmentally sustainability objectives should therefore be tracked using common methodologies coherent with that developed under other Union programmes applying to climate, biodiversity and air pollution management in order to allow assessing the individual and combined impact of investments on the key components of the natural capital, including air, water, land and biodiversity.

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<sup>1</sup> COM(2018)0353.

<sup>2</sup> 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).

- (12) Investment projects receiving substantial Union support, notably in the area of infrastructure, should be subject to sustainability proofing in accordance with guidance that should be developed by the Commission in *close* cooperation with *the* implementing partners under the InvestEU Programme *after conducting open public consultations* and, using in an appropriate way the criteria established by [Regulation on establishment of a framework to facilitate sustainable investment] for determining whether an economic activity is environmentally sustainable and coherently with the guidance developed for other programmes of the Union. *In line with the principle of proportionality such* guidance should include adequate provisions to avoid undue administrative burden *and projects below a certain size as defined in the* guidance *should be excluded from the sustainability proofing.*
- (13) Low infrastructure investment rates in the Union during the financial crisis undermined the Union's ability to boost sustainable growth, competitiveness and convergence. Sizeable investments in the European infrastructure, *in particular with regard to interconnection and energy efficiency and to creating a Single European Transport Area*, are fundamental to meet 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, environmental, climate action, maritime and digital infrastructure, *supporting, for example, development and deployment of Intelligent Transport Systems (ITS). The InvestEU Programme should prioritise areas that are under-invested, and in which additional investment is required, including sustainable mobility energy efficiency, and actions that contribute to the achievement of the 2030 and long-term climate and energy targets.* To maximise the impact and the value added of Union financing support, it is appropriate to promote a streamlined investment process enabling visibility of the project pipeline and *maximising synergies* across relevant Union programmes *in areas such as transport, energy and digitisation.* Bearing in mind security threats, investment projects receiving Union support 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 such as the European Regional Development Fund providing support for security components of investments in public spaces, transport, energy and other critical infrastructure.

- (13a) *The InvestEU Programme should empower citizens and communities that want to invest in a more sustainable, decarbonised society, including energy transition. Whereas the [revised Renewables Directive] and [revised Electricity Directive] now acknowledge and provide support to renewable and citizens energy communities, and renewable self-consumers as essential actors in the Union's energy transition, InvestEU should help facilitate the participation of those actors in the market.*  
[Am. 3]
- (13b) *The InvestEU Programme should contribute, where appropriate, to the objectives of the [revised Renewables Directive] and the [Governance Regulation], as well as promote energy efficiency in investment decisions. It should also contribute to the long-term building renovation strategy that Member States are required to establish under the [Energy Performance of Building Directive]. The Programme should strengthen the digital single market, and contribute to decreasing the digital divide while increasing coverage and connectivity across the Union.*
- (13c) *Ensuring the safety of road users is a huge challenge in the development of the transport sector, and the action being taken and investments being made are only helping to reduce the number of people dying or sustaining serious injuries on the roads to a limited extent. The InvestEU Programme should help to boost efforts to design and apply technologies that help to improve the safety of vehicles and road infrastructure.*
- (13d) *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 could become an important tool for supporting investment in multimodal transport hubs, which - in spite of their significant economic potential and business case - carry a significant risk for private investors.*
- (14) Whereas the level of overall investment in the Union is increasing, investment in higher-risk activities such as research and innovation is still inadequate. *Given the public funding of research and innovation activities drives productivity growth and is crucial to boost private research and innovation activities*, the resulting underinvestment in research and innovation is damaging to the industrial and



economic competitiveness of the Union and the quality of life of its citizens. The InvestEU Fund should provide the appropriate financial products to cover different stages in 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 order to address the need to support investment in higher-risk activities such as research and innovation, it is essential that Horizon Europe, in particular the European Innovation Council (EIC), works in synergy with the financial products to be deployed under the InvestEU Programme. Additionally, innovative SMEs and start-ups face difficulties in access to finance, especially those focusing on intangible assets, hence the need for the EIC to work in close complementarity with the dedicated financial products under the InvestEU Programme to ensure a continuity of support for such SMEs. In that regard, the experience gained from the financial instruments deployed under Horizon 2020 such as InnovFin and the loan guarantee for SMEs under COSME should serve as a strong basis to deliver this targeted support.**

- (14a) **Tourism is an important sector of the Union economy and the InvestEU Programme should contribute to strengthening its long-term competitiveness by supporting actions aimed at a shift towards sustainable, innovative and digital tourism.**
- (15) 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, **in urban and rural areas**. 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, particularly with regard to ethics, machine learning, internet of things, biotechnology and Fintech, which can increase efficiencies in mobilising capital for entrepreneurial ventures.**
- (16) **■ SMEs represent over 99 % of businesses in the Union and their economic value is significant and crucial ■**. However, they face challenges 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. Moreover,

compared to larger enterprises, they have access to a more limited set of financing sources: they typically do not issue bonds, have only limited access to stock exchanges or large institutional investors. ***The lack of access to capital for SMEs is also intensified by the comparative weakness of the private equity and venture capital industry in the Union.*** The challenge in accessing finance is even greater for those SMEs whose activities focus on intangible assets. SMEs in the Union rely heavily on banks and debt financing in the form of bank overdrafts, bank loans or leasing. Supporting SMEs that face the above challenges ***by simplifying their access to finance*** and providing more diversified sources of funding is necessary for increasing the ability of SMEs to finance their creation, growth, ***innovation*** and ***sustainable development, ensure their competitiveness***, withstand economic downturns, and for making the economy and the financial system more resilient during economic downturn or shocks ***and capable of creating job and social well-being.*** This is also complementary to the initiatives already undertaken in the context of the Capital Markets Union. ***Programmes such as COSME have been important for SMEs in that they have facilitated access to finance in all phases of the lifecycle of SMEs, and this was added to by EFSI for which there was a quick SME uptake. The InvestEU Fund should therefore build on those successes and provide working capital and investment throughout the life cycle of a company, financing for leasing transactions and*** an opportunity to focus on specific, more targeted financial products.

***(16a) Undertakings providing services of general interest play an essential and strategic role in key sectors with large network industries (energy, water, waste, environment, postal services, transport and telecommunications), and in health, education and social services. The Union, by supporting these undertakings, safeguards the wellbeing of its citizens and democratic choices, inter alia concerning the quality of services.***

(17) As set out in the reflection paper on the social dimension of Europe<sup>1</sup> and the European Pillar of Social Rights<sup>2</sup> ***and the Union framework for the UN Convention on the Rights of Persons with disabilities***, building a more inclusive and fairer Union is a key

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<sup>1</sup> COM(2017) 206.

<sup>2</sup> COM(2017) 250.

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 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*, help increase employment, in particular among the unskilled and long-term unemployed, and improve the situation with regard to *gender equality, equal opportunities*, 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 contribute to the support of European culture and creativity. To counter the 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, sustainable and social finance*, microfinance, 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, increasing the supply of and access to finance to micro- and social enterprises *and social solidarity institutions*, 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<sup>1</sup> has identified *a total investment gap of at least EUR 1,5 trillion for the period between 2018 and 2030* in social infrastructure and services, including for education, training, health and housing, which call for support, including at the Union level. Therefore, the collective power of public, commercial and philanthropic capital, as well as support from *alternative types of financial providers such as ethical, social and sustainable actors, and from* foundations, should be harnessed to support the social market value chain development and a more resilient Union.

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<sup>1</sup> Published as **European Economy Discussion Paper** 074 in January 2018.

- (18) The InvestEU Fund should operate under four policy windows, mirroring the key Union policy priorities, namely sustainable infrastructure; research, innovation and digitisation: SMEs; and social investment and skills.
- (19) 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, including those relating to Union policy objectives. The Member State compartment should address market failures or suboptimal investment situations in one or several Member States. In addition, it should be possible for Member States to contribute to the Member State compartment in the form of guarantees or cash. The EU and Member State compartments should be used, where appropriate, in a complementary manner to support a financing or investment operation, including by combining support from both compartments. Regional authorities should be able to transfer into the InvestEU Fund via the Member States a share of the funds under shared management that they manage, which would be ring-fenced for InvestEU projects within the same region.* Actions supported from 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.
- (20) The Member State compartment should be specifically designed to allow the use of funds under shared management to provision a guarantee issued by the Union. *That possibility would increase the added value of the Union backed budgetary guarantee by providing it to a wider range of financial recipients and projects and diversifying the means of achieving the objectives of the funds under shared management,* while ensuring a consistent risk management of the contingent liabilities by implementing the guarantee given by the Commission under indirect management. The Union should guarantee the financing and investment operations foreseen by the guarantee agreements concluded between the Commission and implementing partners under the Member State compartment, the Funds under shared management should provide the provisioning of the guarantee, following a provisioning rate determined by the Commission *in agreement with the Member State* based on the nature of the operations and the resulting expected losses, and the Member State *and/or the implementing partners or private investors* 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. The setting out of the provisioning rate on a case by case basis requires a derogation from [Article 211(1)] of Regulation (EU, Euratom) No XXXX<sup>1</sup> (the 'Financial Regulation'). This design provides also a single set of rules for budgetary guarantees supported by funds managed centrally or by funds under shared management, which would facilitate their combination.

- (21) 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 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.
- (22) 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 17 of the 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*<sup>2</sup>], for the European Parliament and the Council during the annual budgetary procedure.
- (23) The EU guarantee of EUR **40 817 500 000** (current prices) at Union level is expected to mobilise more than EUR **698 194 079 000** of additional investment across the Union and should be allocated between the policy windows.
- (23a) Member States may contribute to the Member State compartment in the form of guarantees or cash. Without prejudice to the prerogatives of the Council in the implementation of the Stability and Growth Pact (SGP), one-off contributions by***

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<sup>1</sup>

<sup>2</sup> Reference to be updated: OJ C 373, 20.12.2013, p. 1. The agreement is available at: [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C\\_.2013.373.01.0001.01.ENG&toc=OJ:C:2013:373:TOC](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2013.373.01.0001.01.ENG&toc=OJ:C:2013:373:TOC)

*Member States in the form of guarantees or cash into the Member State compartment, or contributions 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 investment platforms, should in principle qualify as one-off measures within the meaning of Article 5 of Council Regulation (EC) No 1466/97<sup>1a</sup> and Article 3 of Council Regulation (EC) No 1467/97<sup>1b</sup>.*

- (24) The EU guarantee underpinning the InvestEU Fund should be implemented indirectly by the Commission relying on implementing partners with outreach to final intermediaries, where applicable, and final recipients. *The selection of the implementing partners should be transparent and free from any conflict of interest.* A guarantee agreement allocating guarantee capacity from the InvestEU Fund should be concluded by the Commission with each implementing partner, to support its financing and investment operations meeting the InvestEU Fund objectives and eligibility criteria. *The risk management of the guarantee should not hamper direct access to the guarantee by the implementing partners. Once the guarantee is granted under the EU compartment to implementing partners, they should be fully responsible for the whole investment process and the due diligence of the financing or investment operations. The InvestEU Fund should support projects that typically have a higher risk profile than the projects supported by normal operations of implementing partners and that could not have been carried out during the period in which the EU guarantee can be used, or not to the same extent, by implementing partners without InvestEU support.*
- (24a) *The InvestEU Fund should have an appropriate 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 and, where applicable, the principle of the market-driven nature of the InvestEU Fund. That governance structure should be composed of a Steering Board, an Advisory Board and a fully independent Investment Committee. The Commission should assess the compatibility of investment and financing*

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<sup>1a</sup> 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).

<sup>1b</sup> 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).

*operations submitted by the implementing partners with Union law and policies whereas the decisions on financing and investment operations should ultimately be taken by an implementing partner. Gender balance should be ensured in the overall composition of the governance structure.*

- (25) *An Advisory Board consisting of representatives of the Commission, of the European Investment Bank (EIB) Group, of the implementing partners and of representatives of Member States, of one expert for each of the four policy windows appointed by the European Economic and Social Committee and of an expert appointed by the Committee of the Regions should be established in order to exchange information and for exchanges on the take-up of the financial products deployed under the InvestEU Fund and to discuss on evolving needs and new products, including specific territorial market gaps.*
- (26) *The Steering Board should set the strategic orientations of the InvestEU Fund and the rules necessary for its functioning, and should set out the rules applicable to the operations with investment platforms. The Steering Board should be comprised of six members, as follows: three members appointed by the Commission, one member appointed by the European Investment Bank, one member appointed by the Advisory Board from amongst the representatives of the implementing partners, who should not be a representative of the EIB Group, and one expert appointed by the European Parliament, who should 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 should act in full independence. The expert should perform his or her duties impartially and in the interests of the InvestEU Fund. Detailed minutes of the Steering Board meetings should be published as soon as they have been approved by the Steering Board and the European Parliament should be immediately notified of their publication.*
- (27) *Before a project is submitted to the Investment Committee, a secretariat hosted by the Commission and answerable to the chairperson of the Investment Committee should check the completeness of the documentation provided by the implementing partners and assist the Commission in assessing the compatibility of investment and financing operations with Union law and policies. The secretariat should also assist the Steering Board.*

- (28) 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 best cover different policy areas and sectors.
- (29) In selecting implementing partners for the deployment of the InvestEU Fund, the Commission should consider the counterpart's capacity to fulfil the objectives of the InvestEU Fund and *to contribute to it*, in order to ensure adequate geographical coverage and diversification, to crowd-in private investors and to provide sufficient risk diversification as well as new solutions to address market failures and sub-optimal investment situations, ***and ensure economic, social and territorial cohesion***. 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 regional level could be beneficial for the maximisation of the impact of public funds on the ***whole territory of the Union, and to ensure a fair geographical balance of projects, contributing to reducing regional disparities***. ***The rules on the participation of national promotional banks or institutions in the InvestEU Programme should take into account the principle of proportionality with regard to complexity, size and risk of the implementing partners concerned to ensure a level playing field for smaller and younger promotional banks or institutions***. Moreover, it should be possible to have other international financial institutions as implementing partners, in particular when they present a comparative advantage in terms of specific expertise and experience in certain Member States. It should also be possible for other entities fulfilling the criteria laid down in the Financial Regulation to act as implementing partners.
- (29a) ***Investment platforms should, where appropriate, bring together co-investors, public authorities, experts, education, training and research institutions, the relevant social partners and representatives of the civil society and other relevant actors at Union, national and regional levels.***



- (30) In order to ensure that interventions under the EU compartment of the InvestEU Fund focus on market failures and sub-optimal investment situations, but, at the same time, satisfy the objectives of best possible geographic outreach, the EU guarantee should be allocated to implementing partners, which alone or together with other implementing partners, can cover *one or more Member States. In the latter case, contractual responsibility of implementing partners remains limited by their respective national mandates. With a view to promoting improved geographic diversification, dedicated regional investment platforms focused on interested groups of Member States may be established, combining the efforts and expertise of pillar-assessed financial institutions with national promotional banks with limited experience in the use of financial instruments. Such structures should be encouraged, including with available support from the InvestEU Advisory Hub. At least 75 % of the EU guarantee under the EU compartment should be allocated to the EIB Group. Amounts exceeding 75 % of the EU guarantee could be made available to the EIB Group in the event that national promotional banks or institutions cannot fully use the remaining share of the guarantee. Likewise, amounts exceeding 25 % of the EU guarantee could be made available to other implementing partners in the event that the EIB Group cannot fully use its share of the guarantee. National promotional banks or institutions could fully benefit from the EU guarantee also in case they decide to access to it through the EIB Group or the European Investment Fund.*
- (31) The EU guarantee under the Member State compartment should be allocated to any implementing partner eligible according to [Article 62(1)(c)] of the [Financial Regulation], including national or regional promotional banks or institutions, the EIB, the European Investment Fund and other multilateral development banks. When selecting implementing partners under the Member State compartment, the Commission should take into account the proposals made by each Member State. In accordance with [Article 154] of the [Financial Regulation], the Commission must 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.
- (32) Financing and investment operations should ultimately be decided by an implementing partner in its own name, implemented in accordance with its internal rules and procedures and accounted for in its own financial statements. Therefore, the

Commission should exclusively account for any financial liability arising from the EU guarantee and disclose the maximum guarantee amount, including all relevant information on the guarantee provided.

- (33) The InvestEU Fund should, where appropriate, allow for a smooth and efficient blending of grants or financial instruments, or both, funded by the Union budget or by *other funds, such as* the EU Emissions Trading System (ETS) Innovation Fund with that guarantee in situations where this is necessary to best underpin investments to address particular market failures or sub-optimal investment situations.
- (34) Projects submitted by implementing partners for support under the InvestEU Programme, which include blending with support from another Union programmes, should as a whole also be consistent with the objectives and eligibility criteria contained in the rules of the relevant Union programmes. The use of the EU guarantee should be decided under the rules of the InvestEU Programme.
- (35) The InvestEU Advisory Hub should support the development of a robust pipeline of investment projects in each policy window *providing for the effective implementation of geographic diversification with a view to contributing to the Union objective of economic, social, and territorial cohesion and reducing regional disparities. The Advisory Hub should pay particular attention to the necessity of aggregating small projects and bundling them into larger portfolios. The Commission should sign agreements with the EIB Group and other implementing partners in order to designate them as Advisory Hub partners. The Commission, the EIB Group and the other implementing 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 existing structures, such as the European Investment Advisory Hub.* In addition, a cross-sectoral component under the InvestEU Programme should be foreseen to ensure a single-entry point and cross-policy project development assistance for centrally managed Union programmes. [Am. 5]
- (36) 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,

*complementing 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 support coverage across the Union, the InvestEU Advisory Hub should cooperate with national promotional banks or institutions, and the managing authorities of the European Structural and Investment Funds, as well as benefit from and make use of their expertise. In Member States where national promotional banks or institutions do not exist, the InvestEU Advisory Hub should provide, where appropriate, and at the request of the Member State concerned, proactive advisory support on the establishment of such a bank or institution.*

*(36a) The InvestEU Advisory Hub should provide advisory support to small projects and projects for start-ups, especially when start-ups seek to protect their research and innovation investments by obtaining intellectual property (IP) titles, such as patents.*

(37) In the context of the InvestEU Fund, there is a need *to provide project development and* capacity building support to develop the organisational capacities and market making activities needed to originate quality projects. Moreover, the aim is to create the conditions for the expansion of the potential number of eligible recipients in nascent market *and local* segments, in particular where the small size of individual projects raises considerably the transaction cost at the project level, such as for the social finance ecosystem. The capacity building support should therefore be complementary and additional to actions undertaken under other Union programmes that cover a specific policy area. *An effort should also be made to support the capacity building of potential project promoters, in particular local service provider organisations and authorities.*

(38) 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.

- (39) Pursuant to paragraphs 22 and 23 of the Inter-institutional agreement for Better Law-Making of 13 April 2016<sup>1</sup>, 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.
- (40) A solid monitoring framework, based on output, outcome and impact indicators should be implemented to track progress towards the Union's objectives. In order to ensure accountability to European citizens, the Commission *and the Steering Board* should report annually to the European Parliament and the Council on the progress, impact and operations of the InvestEU Programme.
- (41) 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 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.
- (42) Regulation (EU, Euratom) No [the new FR] applies to InvestEU Programme. It lays down rules on the implementation of the Union budget, including the rules on budgetary guarantees.
- (43) In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council<sup>2</sup>, Council Regulation (Euratom, EC)

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<sup>1</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016 (OJ L 123, 12.5.2016, p. 1).

<sup>2</sup> 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 L248, 18.9.2013, p. 1).

No 2988/95<sup>1</sup>, Council Regulation (Euratom, EC) No 2185/96<sup>2</sup> and Council Regulation (EU) 2017/1939<sup>3</sup>, the financial interests of the Union are to be protected through proportionate measures, including the prevention, detection, correction and investigation of irregularities and 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 (EPPO) may investigate and prosecute fraud and other criminal offences affecting the financial interests of the Union as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council<sup>4</sup>. 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 and the European Court of Auditors and to ensure that any third parties involved in the implementation of Union funds grant equivalent rights.

- (44) 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 ***exclude off-shore companies and companies based in “non-cooperating” countries, and to*** grant the necessary rights for and access to the

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<sup>1</sup> Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.95, p.1).

<sup>2</sup> 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, 15.11.96, p.2).

<sup>3</sup> 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)

<sup>4</sup> 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).

authorising officer responsible, the European Anti-Fraud Office (OLAF) as well as the European Court of Auditors to comprehensively exert their respective competences ***and guarantee the right of the Union to ensure financial management and to protect its financial interests.***

- (45) Pursuant to [reference to be updated as appropriate according to a new decision on OCTs: Article 88 of Council Decision 2013/755/EU], persons and entities established in 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 OCT is linked.
- (46) In order to supplement the non-essential elements of this Regulation with investment guidelines, ***which should be developed by the Commission in close cooperation with the implementing partners after conducting consultations, and*** with which financing and investment operations should comply, to facilitate a prompt and flexible adaptation of the performance indicators and to adjust of the provisioning rate, the power to adopt acts in accordance with Article 290 of the TFEU should be delegated to the Commission in respect of drawing-up the investment guidelines for the financing and investment operations under different policy windows, 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 carry 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 on Better Law-Making of 13 April 2016. 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.
- (47) The InvestEU Programme should address ***Union-wide and/or Member State specific*** market failures and sub-optimal investment situations and provide for Union-wide market testing of innovative financial products, and systems to spread them, for new or complex market failures. Therefore, action at Union level is warranted,

HAVE ADOPTED THIS REGULATION:

## CHAPTER I

### GENERAL PROVISIONS

#### *Article 1*

#### *Subject matter*

This Regulation establishes the InvestEU Fund providing for an EU guarantee for financing and investment operations carried out by the implementing partners in support of the Union's internal policies.

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

It lays down the objectives of the InvestEU Programme, the 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) ***'additionality' means additionality as defined in Article 7a of this Regulation and as referred to in Article 209(2)(b) of the Financial Regulation;***

- (-1a) 'Advisory Hub partner' means the eligible counterpart with whom the Commission signs an agreement to implement a service provided by the InvestEU Advisory Hub;***
- (1) 'blending operations' means operations supported by the Union budget combining non-repayable forms of support or repayable support or both from the Union budget with repayable forms of support from development or other public finance institutions, as well as 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, can be assimilated to Union programmes financed by the Union budget;
- (1a) 'contribution agreement' means the legal instrument whereby the Commission and the Member States specify the conditions of the EU guarantee under the Member State compartment, specified in Article 9;***
- (1b) 'EIB Group' means the European Investment Bank and its subsidiaries;***
- (2) 'EU guarantee' means an overall 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 signature of individual guarantee agreements with implementing partners;
- (2a) 'financial contribution' means a contribution from an implementing partner in the form of own risk taking capacity and/or financial support to an operation covered by this Regulation;***
- (3) 'financial product' means a financial mechanism or arrangement agreed between the Commission and the implementing partner under the terms of which the implementing partner provides direct or intermediated financing to final recipients in in any of the forms referred to in Article 13;
- (4) 'financing and/or investment operations' means operations to provide finance directly or indirectly to final recipients in the form of financial products, carried out by an implementing partner in its own name, provided by it in accordance with its internal rules and accounted for in its own financial statements;



- (5) 'Funds under shared management' means funds that foresee the possibility of allocating an amount thereof to the provisioning of a budgetary guarantee under the Member State compartment of the InvestEU Fund, namely the European Regional Development Fund (ERDF), the European Social Fund+ (ESF+), the Cohesion Fund, the European Maritime and Fisheries Fund (EMFF) and the European Agriculture Fund for Rural Development (EAFRD);
- (6) 'guarantee agreement' means the legal instrument whereby the Commission and an implementing partner specify the conditions for proposing financing or investment operations to be granted the benefit of the EU guarantee, for providing the budgetary guarantee for those operations and for implementing them in accordance with the provisions of this Regulation;
- (7) 'implementing partner' means the eligible counterpart such as a financial institution or other intermediary with whom the Commission signs a guarantee agreement ;
- (8) 'InvestEU Advisory Hub' means the technical assistance defined in Article 20;
- (9) 'InvestEU Portal' means the database defined in Article 21;
- (10) 'InvestEU Programme' means the InvestEU Fund, the InvestEU Advisory Hub, the InvestEU Portal and blending operations, collectively;
- (10a) *'investment guidelines' means the set of criteria, based on the principles established by this Regulation with regard to the general objectives, eligibility criteria and eligible instruments, used by the Investment Committee to decide in a transparent and independent manner on the use of the EU guarantee;***
- (10b) *'investment platforms' means special purpose vehicles, managed accounts, contract-based co-financing or risk-sharing arrangements or arrangements 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) national or sub-national platforms that group together several investment projects on the territory of a given Member State;***

*(b) multi-country or regional platforms that group together partners from several Member States or third countries interested in projects in a given geographic area;*

*(c) thematic platforms that group together investment projects in a given sector;*

- (11) 'microfinance' means microfinance as defined in Regulation [[ESF+] number];
- (12) 'midcap companies' means entities employing up to 3 000 employees that are not SMEs or small midcap companies;
- (13) 'national promotional banks or institutions' (*'NPBI'*) means legal entities carrying out financial activities on a professional basis which are 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;
- (14) 'small and medium-sized enterprises (SMEs)' means micro, small and medium-sized enterprises as defined in the Annex to Commission Recommendation 2003/361/EC<sup>1</sup>;
- (15) 'small midcap companies' means entities employing up to 499 employees that are not SMEs;
- (16) 'social enterprise' means a social enterprise as defined in Regulation [[ESF+] number];
- (16a) 'sustainable finance' means the process of taking due account of environmental and social considerations in investment decision-making, leading to increased investments in longer-term and sustainable activities;*
- (17) 'third country' means a country that is not a member of the Union.

### *Article 3*

#### *Objectives of the InvestEU Programme*

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<sup>1</sup> Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

1. The general objective of the InvestEU Programme is to support the policy objectives of the Union by means of financing and investment operations contributing to:
  - (a) the competitiveness of the Union, including *research*, innovation and digitisation;
  - (aa) *an increase in the Union employment rate and the creation of high-quality jobs in the Union;*
  - (b) the *growth* of the Union economy and its *sustainability, enabling the Union to achieve the SDGs and the objectives of the Paris Climate Agreement;*
  - (c) the social *innovativeness*, resilience and inclusiveness of the Union;
  - (ca) *the promotion of scientific and technological advance, of culture, education and training;*
  - (cb) *economic, territorial and social cohesion;*
  - (d) the integration of the Union capital markets and the strengthening of the Single Market, including solutions addressing the fragmentation of the Union capital markets, diversifying sources of financing for Union enterprises and promoting sustainable finance.
  
2. The InvestEU Programme has the following specific objectives:
  - (a) to support financing and investment operations in sustainable infrastructure in the areas referred to in point (a) of Article 7(1);
  - (b) to support financing and investment operations in research, innovation and digitisation *in all policy windows, including support for the upscaling of innovative companies and the bringing of technologies to market;*
  - (c) to increase *and simplify* the access to and the availability of finance for, *and to enhance the global competitiveness of innovative start-ups*, SMEs *including micro-enterprises* and, in duly justified cases, for small mid-cap companies;
  - (d) to increase the access to and the availability of microfinance and finance *for SMEs*, social enterprises, *cultural and creative and education sectors*, support

financing and investment operations related to social investment, *competences* and skills and develop and consolidate social investment markets, in the areas referred to in point (d) of Article 7(1).

#### *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 **40 817 500 000** (current prices). It shall be provisioned at the rate of 40 %.

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*]<sup>1</sup> and Article [75(1)] of Regulation [[CAP plan] *number*]<sup>2</sup>, of the corresponding amounts.

***In addition to the contribution referred to in the second subparagraph, Member States may contribute to the Member State compartment in the form of guarantees or cash.***

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. The **■** distribution of the amount referred to in the first subparagraph of paragraph 1 ***of this Article*** is set out in Annex I. ***The Commission is empowered to adopt delegated acts in accordance with Article 26 in order to supplement this Regulation by modifying*** the amounts referred to in **■** Annex I, where appropriate, by up to 15% for each *window*.

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3. The financial envelope for the implementation of the measures provided in Chapters V and VI shall be EUR 525 000 000 (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 corporate information technology systems.

#### *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) may receive contributions from the following third countries in order to participate 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 EEA agreement;
- (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 them;
- (c) countries covered by the European Neighbourhood Policy, in accordance with the general principles and general terms and conditions for the participation of those countries in Union programmes established in the respective framework agreements and association council decisions, or similar agreements, and in accordance with the specific conditions laid down in agreements between the Union and those countries;

- (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 programmes, including the calculation of financial contributions to individual programmes and their administrative costs. These contributions shall constitute assigned revenues in accordance with Article [21(5)] of the [Financial Regulation];
  - (iii) does not confer to the third country a decisional power on the 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 [Article 62(1)(c)(ii) to (vii)] of the [Financial Regulation]. Other forms of EU funding under this Regulation shall be implemented in direct or indirect management in accordance with the [Financial Regulation], including grants implemented in accordance with its [Title VIII].
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 by the EU Emissions Trading System (ETS) Innovation Fund shall:

- (a) be consistent with the policy objectives and comply with the eligibility criteria set out in the rule on the Union programme under which the support is decided;
- (b) comply with this Regulation.

**2a. *Blending operations combining support under this Regulation shall be as seamless as possible.***

- 3. Blending operations including a financial instrument fully financed by other Union programmes or by the ETS Innovation Fund without use of the EU guarantee under this Regulation shall comply with the policy objectives and 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/or financial instruments from the Union budget forming part of the blending operation referred to in paragraphs 2 and 3 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 shall also include the elements on the consistency with the policy objectives and eligibility criteria set out in the rules of the Union programme under which support is decided as well on the compliance with this Regulation.

## **CHAPTER II**

### **InvestEU Fund**

#### *Article 7*

#### *Policy windows*

1. The InvestEU Fund shall operate through the following four policy windows that shall address market failures *and/or* sub-optimal investment situations within their specific scope:
  - (a) sustainable infrastructure policy window: comprises sustainable investment in the areas of transport, *including multimodal transport, road safety, renovation and maintenance of rail and road infrastructure, tourism, energy, in particular the increased deployment of renewable energy, energy efficiency in line with the 2030 and 2050 energy frameworks, buildings renovation projects focused on energy savings and the integration of buildings into a connected energy, storage, digital and transport system, improving interconnection levels, digital connectivity and access including in rural areas*, supply and processing of raw materials, space, oceans, *inland* water, waste *avoidance and the circular economy*, nature and other environment infrastructure, equipment, mobile assets and deployment of innovative technologies that contribute to the environmental or social sustainability objectives of the Union, or to both, *and* meet the environmental or social sustainability standards of the Union;
  - (b) research, innovation and digitisation policy window: comprises research, *product development* and innovation activities, transfer of *technologies and* research results to the market, *supporting market enablers and cooperation between enterprises*, demonstration and deployment of innovative solutions and support to scaling up of innovative companies *including start-ups and* SMEs as well as digitisation of Union industry, *based on the experiences gained, in particular with the InnovFin*;
  - (c) SMEs policy window: *simplified* access to and availability of finance for *start-ups*, SMEs, *including innovative ones*, and, in duly justified cases, for small mid-cap companies, *in particular to improve global competitiveness, innovation, digitisation and sustainability*;
  - (d) social investment and skills policy window: comprises *ethical and sustainable finance*, microfinance, *workers buyouts*, social enterprise finance and social economy *and measures to promote gender equality and active participation*



*of women and vulnerable groups*; skills, education, training and related services; social infrastructure (including social and student housing); social innovation; health and long-term care; inclusion and accessibility; cultural activities with a social goal; *cultural and creative sectors, including with intercultural dialogue and social cohesion goals*; integration of vulnerable people, including third country nationals.

2. Where a financing or investment operation proposed to the Investment Committee referred to in Article 19 falls under more than one policy window, it shall be attributed to the window under which its main objective or the main objective of most of its sub-projects fall, unless the investment guidelines define otherwise.
3. Financing and investment operations under *all* the █ policy *windows* referred to in █ paragraph *I* shall, *where applicable*, be subject to climate, environmental and social sustainability proofing with a view to minimise detrimental impacts and maximise benefits on climate, environment and social dimension. For that purpose, promoters requesting financing shall provide adequate information based on guidance to be developed by the Commission *in the form of a delegated act and taking into account the criteria established by Regulation (EU) No .../... on the establishment of a framework to facilitate sustainable investment (COM(2018)353) to determine whether an economic activity is environmentally sustainable. Where appropriate* projects below a certain size defined in the guidance *may be exempted* from the proofing.

The Commission guidance shall allow to:

- a) as regards adaptation, ensure the resilience to the potential adverse impacts of climate change through a climate vulnerability and risk assessment, including 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 *and ensure compliance with Union environmental objectives and standards*;
- b) account for consolidated project impact in terms of the principal components of the natural capital relating to air, water, land and biodiversity;

- ba) estimate the impact on employment and good quality job creation;*
  - c) estimate the impact on the social inclusion of certain areas or populations.
- 4. Implementing partners shall provide the information necessary to allow the tracking of investment that contributes to meeting the Union objectives on climate and environment, based on guidance to be provided by the Commission *and assess where appropriate compliance of operations with Regulation (EU) .../... [on the establishment of a framework to facilitate sustainable investment].*
- 4a. The SMEs policy window shall offer support also to beneficiaries that were supported by the different EU guarantee facilities merged under InvestEU, in particular the Cultural and Creative Sectors Guarantee Facility from the Creative Europe Programme.*
- 5. Implementing partners shall target that:
  - (a) at least 65 % of the investment under the sustainable infrastructure policy window significantly contribute to meeting the Union objectives on climate and environment, in line with the Paris Agreement;*
  - (b) in the area of transport, at least 10 % of investment under the sustainable infrastructure policy window contribute to meeting the EU objective of eliminating fatal road accidents and serious injuries by 2050 and to renovating rail and road bridges and tunnels for the sake of their safety;*
  - (c) at least 35% of the investment under the research, innovation and digitisation policy window contribute to Horizon Europe Objectives;*
  - (d) a significant share of the guarantee offered to SMEs and small mid-caps under the SME policy window support innovative SMEs.*
- The Commission together with implementing partners shall seek to ensure that the part of the budgetary guarantee used for the sustainable investment window is distributed aiming at a balance between the actions in the different areas.*
- 6. The Commission is empowered to adopt delegated acts in accordance with Article 26 to define the investment guidelines for each of the policy windows.

- 6a. *Where the Commission produces information on the interpretation of the investment guidelines, it shall make that information available to the implementing partners, the Investment Committee and the InvestEU Advisory Hub.*

#### *Article 7a*

#### *Additionality*

*For the purposes of this Regulation, ‘additionality’ means support by the InvestEU Fund for operations which address Union-wide and/or Member State specific market failures or sub-optimal investment situations and which could not have been carried out during the period in which the EU guarantee can be used, or not to the same extent, by implementing partners without InvestEU Fund support.*

#### *Article 8*

#### *Compartments*

1. *The policy windows* referred to in Article 7(1) shall *each* consist of two compartments addressing █ 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 *and/or Member State specific* market failures or sub-optimal investment situations; or

- (iii) new or complex market failures or sub-optimal investment situations with a view to developing new financial solutions and market structures;
  - (b) the Member State compartment shall address specific market failures or sub-optimal investment situations in one or several Member States to deliver objectives of the contributing Funds under shared management.
- 2. The compartments referred to in paragraph 1 *shall* be used, *where appropriate*, in a complementary manner to support a 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 under Article [10(1)] of Regulation [[CPR] number] or Article [75(1)] of Regulation [[CAP plan] number] shall be used for the provisioning of the part of the EU guarantee under the Member State compartment covering financing and investment operations in the Member State concerned.
  - 1a. Member States may also contribute to the Member State compartment in the form of guarantees or cash. Those contributions may only be called for payments of guarantee calls after the funding under the first subparagraph of Article 4(1).*
- 2. The establishment of that part of the EU guarantee under the Member State compartment shall be subject to the conclusion of a contribution agreement between the Member State and the Commission.

■

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 maybe 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, 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 *and/or by the implementing partners or private investors*;
  - b) the strategy consisting of the financial products and their minimum leverage, the geographical coverage, the investment period and, where applicable, the categories of final recipients and of eligible intermediaries;
  - c) **■** the implementing partner or partners selected *in agreement with the Member State*;
  - d) the possible contribution from Funds under shared management to *investment platforms and* the InvestEU Advisory Hub;
  - e) the annual reporting obligations towards the Member State, including reporting in accordance with the indicators referred to in the contribution agreement;
  - f) provisions on the remuneration of the part of the EU guarantee under the Member State compartment;
  - g) possible combination with resources under the EU compartment, including in a layered structure to achieve better risk coverage in accordance with Article 8(2).

*Contributions from Funds under shared management may be used, at the discretion of Member States in agreement with the implementing partners, to guarantee any tranche of structured finance instruments.*

4. The contribution agreements shall be implemented by the Commission through guarantee agreements signed with implementing partners pursuant to Article 14.

Where, within nine months from the signature of the contribution agreement, no guarantee agreement has been concluded or the amount of a contribution agreement is not fully committed through one or more guarantee agreements, the contribution agreement shall be terminated in the first case or amended accordingly in the second case and the unused amount of provisioning re-used pursuant to [Article 10(5)] of Regulation [[CPR] *number*] and Article [75(5)] of Regulation [[CAP plan] *number*].

Where the 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 plan] *number*], the contribution agreement shall be amended and the unused amount of provisioning re-used pursuant to [Article 10(6)] of the [[CPR] *number*] and Article [75(6)] of Regulation [[CAP plan] *number*].

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 and the actual provisions, shall be re-used pursuant to [Article 10(6)] of the [CPR] and to Article [75(6)] of the [[CAP plan] *number*];
- (b) by 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 during the availability of that part of the EU guarantee under the Member State compartment to annual replenishments;
- (c) the Commission shall immediately inform the Member State where, as a result of calls on that part of the EU guarantee under the Member State compartment, the level of provisions for that part of the EU guarantee falls below 20 % of the initial provisioning;
- (d) ■

## CHAPTER III

### EU GUARANTEE

#### *Article 10*

#### *EU guarantee*

1. The EU guarantee ***under the InvestEU Fund*** shall be granted to the implementing partners in accordance with [Article 219(1)] of the [Financial Regulation] and managed in accordance with [Title X] of the [Financial Regulation]. ***The EU guarantee shall be irrevocable, unconditional and provided on first demand to eligible counterparts for the financing and investment operations covered by this Regulation and its pricing shall be exclusively linked to the characteristics and risk profile of the underlying operations, taking into due account the nature of the underlying operations and the fulfilment of the policy objectives targeted, including, if duly justified, the possible application of specific concessional terms and incentives as needed, in particular:***
  - (a) in situations where stressed financial market conditions would prevent the realisation of a viable project;***
  - (b) where necessary to facilitate the establishment of investment platforms or the funding of projects in sectors or areas experiencing a significant market failure and/or suboptimal investment situation.***

***In addition, the EU guarantee shall provide for:***

  - (a) a robust mechanism for its prompt utilisation;***
  - (b) a duration consistent with the final maturity of the last receivable from the final beneficiary;***
  - (c) an adequate risk and guarantee portfolio monitoring;***

*(d) a reliable mechanism for the estimation of expected cash-flows in case it is availed of;*

*(e) adequate documentation regarding risk management decisions;*

*(f) adequate flexibility regarding the way the guarantee is used, allowing implementing partners to benefit directly from the guarantee when/if needed, in particular in the absence of an additional guarantee scheme;*

*(g) the fulfilment of all the additional requirements requested by the relevant regulatory supervisor, if any, for being considered as an effective full risk mitigation.*

*1a. The EU guarantee under the EU compartment shall be allocated to implementing partners. At least 75 % of the EU guarantee under the EU compartment shall be allocated to the EIB Group. Amounts exceeding 75 % of the EU guarantee may be made available to the EIB Group in the event that national promotional banks or institutions cannot fully use the remaining share of the guarantee. Likewise, amounts exceeding 25 % of the EU guarantee may be made available to other implementing partners in the event that the EIB Group cannot fully use its share of the guarantee. National promotional banks or institutions may fully benefit from the EU guarantee also in case they decide to access to it through the EIB Group or the European Investment Fund.*

2. 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 Article 13(1)(a) shall be signed by 31 December 2028.

## *Article 11*

### *Eligible financing and investment operations*



1. The InvestEU Fund shall only support *public and private* 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], *and* with the additionality requirement set out in **■** Article 7a of *this* Regulation, and, where appropriate, maximising private investment in accordance with [point (d) of Article 209(2)] of the [Financial Regulation];
  - (b) contribute to, *complement and are consistent with* the Union policy objectives and fall under the scope of the areas eligible for financing and investment operations under the appropriate window in accordance with Annex II to this Regulation; and
  - (c) are consistent with the investment guidelines.
  
2. In addition to projects situated in the Union, the InvestEU Fund may support the following projects and operations through financing and investment operations:
  - (a) **■** projects between entities located or established in one or more Member States and extending to one or more third countries, including acceding countries, candidate countries and potential candidates, countries *falling within the scope of* the European Neighbourhood Policy, the European Economic Area or the European Free Trade Association, or to an overseas country or territory as set out in Annex II to the TFEU, or to an associated third country, whether or not there is a partner in those third countries or overseas countries or territories;
  - (b) financing and investment operations in countries referred to in Article 5 which have contributed to a specific financial product.
  
3. The InvestEU Fund may support financing and investment operations providing finance to recipients which are legal entities established in any of the following countries:
  - (a) a Member State or an overseas country or territory linked to it;

- (b) a third country or territory 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 countries where needed for financing a project in a country or territory referred to in points (a) to (c).

## *Article 12*

### *Selection of implementing partners*

1. The Commission shall select, in accordance with [Article 154] of the [Financial Regulation], the implementing partners or a group of them, as referred to in the second subparagraph of this paragraph, from among eligible counterparts.

For the EU compartment, the eligible counterparts shall have expressed their interest and shall be able to cover financing and investment operations in ***one or more*** Member States ***or regions***. The implementing partners may also cover together financing and investment operations in ***one or more*** Member States ***or regions*** by forming a group. ***The implementing partners, whose contractual responsibility is limited by their respective national mandates, may also address market failures or suboptimal investment situations with respective, locally adapted, comparable instruments.***

***On the basis of the degree of maturity of the project, the group of implementing partners may be formed at any moment and with different configurations, in order to efficiently meet market requirements.***

For the Member State compartment, the Member State concerned may propose one or more eligible counterparts as implementing partners from among those that have expressed their interest pursuant to Article 9(3)(c).

Where the Member State concerned does not propose an implementing partner, the Commission shall proceed in accordance with the second subparagraph of this

paragraph among those implementing partners that can cover 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:
  - (a) maximises the coverage of the objectives laid down in Article 3;
  - (b) maximises the impact of the EU guarantee through the own resources committed by the implementing partner;
  - (c) maximises, where appropriate, private investment;
  - (d) achieves geographical diversification, ***and allows for the financing of smaller projects;***
  - (e) provides sufficient risk diversification;
  - (f) promotes innovating financial and risk solutions to address market failures and sub-optimal investment situations;
  - (fa) achieves additionality.***
  
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 ***[Articles 155(2) and 155(3)]*** of the ***[Financial Regulation]*** related to tax avoidance, tax fraud, tax evasion, money laundering, terrorism financing and non-cooperative jurisdictions.
  - (ba) the capacity of the implementing partner to evaluate the financing and investment operations according to international recognised social rating standards, with particular attention to social and environmental impact;***

*(bb) the capacity of the implementing partner to give public evidence of, and to ensure transparency and public access to information concerning, each financing and investment operation;*

*(bc) where relevant, the capacity of the implementing partner to manage financial instruments, taking account of its past experience with financial instruments and managing authorities as referred to in Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council<sup>1a</sup>.*

4. National promotional banks or institutions may be selected as implementing partners, subject to fulfilling the requirements laid down in this Article and in the second subparagraph of Article 14(1).

### *Article 13*

#### *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 participations, 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 activities referred to in point (a).

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<sup>1a</sup> *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).*

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 11(1), where the financing by the implementing partner has been granted in accordance with a financing agreement or transaction signed or entered into by the implementing partner after the signature of the guarantee agreement between the Commission and the implementing partner and which has not expired or been cancelled.

2. Financing and investment operations through funds or other intermediate structures shall be covered by the EU guarantee in accordance with provisions to be laid down in the investment guidelines even if such structure invests a minority of its invested amounts outside the Union and in the countries referred to Article 11(2) or into assets other than those eligible under this Regulation.

#### *Article 14*

##### *Guarantee agreements*

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

In case implementing partners form a group referred to in the second subparagraph of Article 12(1), 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 agreements shall contain, in particular, provisions concerning:
  - (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) in accordance with Article 16, detailed rules on the provision of the EU guarantee, including coverage of portfolios of specific types of instruments and the respective events triggering possible calls on the EU guarantee;
  - (d) the remuneration for risk-taking that is to be allocated in proportion to the respective share in the risk-taking of the Union and the implementing partner;
  - (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 on 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 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 11 as well as 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 [Title X] of the [Financial Regulation].
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 related 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 this amount is not sufficient to cover the amount due to an implementing partner in accordance with Article 15(3), the outstanding amount shall be drawn from the provisioning of 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 the guarantee agreement.

### *Article 15*

#### *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 they fulfil the requirements for benefiting from the support of the EU guarantee. The implementing partners shall remain responsible for ensuring the compliance of the financing and investment operations with this Regulation and the relevant investment guidelines.
3. No administrative expenditure 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 allows the implementing partner to demonstrate the need for an exception. Coverage of such costs shall be laid down in the guarantee agreement and shall comply with [Article 209(2)(g)] of the [Financial Regulation].
4. In addition, the implementing partner may use the EU guarantee to meet the relevant share of any recovery costs, unless deducted from recovery proceeds, in accordance with Article 14(4).

## Article 16

### *Coverage and terms of the EU guarantee*

1. The remuneration for risk-taking shall be allocated between the Union and an implementing partner in proportion to their respective share in the risk-taking of a portfolio of financing and investment operations or, where relevant, of individual operations ***and shall be exclusively related to the characteristics and risk profile of the underlying operations***. The implementing partner shall have an 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 Article 13(1)(a):
    - (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 until the event of default; for subordinated debt a deferral, reduction or required exit shall be considered to be an 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 Article 13(1)(a), the amounts invested and their associated funding cost and losses arising from fluctuations of currencies other than the euro;



- (c) for funding or guarantees by an implementing partner to another legal entity referred to in Article 13(1)(b), the amounts used and their associated funding costs.
3. Where the Union makes a payment to the implementing partner upon a call on the EU guarantee, it shall be subrogated into the relevant rights, to the extent they continue to exist, of the implementing partner relating to any of its financing or investment operations covered by the EU guarantee.

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

## **CHAPTER IV**

### **GOVERNANCE**

#### *Article 16a*

##### *Steering Board*

1. *The InvestEU Fund shall be governed by a Steering Board, which, for the purpose of the use of the EU guarantee, shall determine, in conformity with the general objectives set out in Article 3:*
  - (a) *the strategic orientation of the InvestEU Fund;*
  - (b) *the operating policies and procedures necessary for the functioning of the InvestEU Fund;*
  - (c) *the rules applicable to the operations with investment platforms;*
2. *The Steering Board shall:*
  - (a) *comprise six members as follows:*

*(i) three members appointed by the Commission;*

*(ii) one member appointed by the EIB Group;*

*(iii) one member appointed by the Advisory Board from amongst the representatives of the implementing partners; that member shall not be a representative of the EIB Group;*

*(iv) one expert appointed by the European Parliament. That expert 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 in full independence. The expert shall perform his or her duties impartially and in the interest of the InvestEU Fund;*

*(b) elect a Chairperson among the three Members appointed by the Commission for a fixed term of three years, renewable once;*

*(c) discuss and take the utmost possible account of the positions of all members. If the members cannot converge in their positions, the Steering Board shall take its decisions by a majority of its members. The minutes of the Steering Board meetings shall provide a substantive account of the positions of all members.*

*3. The Steering Board shall propose to the Commission modifications to the distribution of the amounts referred to in Annex I.*

*4. The Steering Board shall regularly organise a consultation of relevant stakeholders, in particular co-investors, public authorities, experts, education, training and research institutions, philanthropic organisations, relevant social partners and representatives of civil society, on the orientation and implementation of the investment policy carried out under this Regulation.*

*5. The detailed minutes of the meetings of the Steering Board shall be published as soon as possible after they have been approved by the Steering Board.*

Article 17

Advisory Board

1. The Commission *and the Steering Board* shall be advised by an advisory board ■ .

*1a. 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 representative of the EIB Group;*

*(d) one representative of the Commission;*

*(e) one expert for each policy window, appointed by the European Economic and Social Committee;*

*(f) one expert appointed by the Committee of the Regions.*

2. ■

3. ■

4. The advisory board meeting ■ 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 and at least twice a year at the request of the Chairperson. ■

*The 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 and manage the secretariat of the advisory board.

5. The advisory board shall:

█  
(a) provide advice on the design of financial products to be implemented under this Regulation;

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

█  
(c) inform *Member* States about implementation of the InvestEU Fund *under each policy window*;

(d) exchange views with Member States on market developments and share best practices.

#### *Article 17a*

##### *Risk assessment Methodology*

*The Commission shall be empowered to adopt delegated acts in accordance with Article 26 to supplement this Regulation by establishing a risk assessment methodology. Such risk assessment methodology shall be developed in close cooperation with the EIB Group and the other implementing partners and shall include:*

(a) *a risk rating classification, to ensure consistent and standard treatment of all operations independent from the intermediary institution;*

(b) *a methodology to assess the value at risk and the probability of default based on clear statistical methods, including environmental, social and governance (ESG) criteria;*

(c) *a method to assess exposure at default and loss given default, taking into account the value of financing, the project risk, the repayment terms, the collateral, and other relevant indicators.*

## *Article 17b*

### *Scoreboard*

- 1. A scoreboard of indicators (the ‘Scoreboard’) shall be used by each implementing partner to evaluate the quality and the soundness of investments potentially supported by the EU guarantee. The Scoreboard shall ensure an independent, transparent and harmonised assessment of the potential and actual use of the EU guarantee.*
- 2. Each implementing partner shall fill out the Scoreboard on its proposed financing and investment operations. If the investment operation is proposed by several implementing partners, the Scoreboard shall be filled out jointly by the various implementing partners involved.*
- 3. The Scoreboard shall, in particular, contain an assessment of:*
  - (a) the risk profile of the proposed financing and investment operations as resulted from the application of the risk assessment methodology referred to in Article 17a;*
  - (b) the benefit for final recipients;*
  - (c) compliance with the Union’s commitments on the UN Sustainable Development Goals, the Paris agreement on climate change, the European Pillar of Social Rights and the Charter of Fundamental Rights;*
  - (d) the respect of the eligibility criteria;*
  - (e) the quality and contribution of the investment operation to sustainable growth and employment;*
  - (f) the contribution of the investment operation to the realisation of InvestEU Programme objectives;*

- (g) *the technical and financial contribution to the project;*
- (h) *whether the proposed operation addresses the identified market failures or suboptimal investment operations.*

4. *The Commission shall be empowered to adopt delegated acts in accordance with Article 26 to supplement this Regulation by establishing detailed rules for the scoreboard to be used by the implementing partners.*

5. *Where necessary, the Commission may provide assistance to implementing partners in the application of the risk assessment methodology and in the compilation of the Scoreboard. It shall ensure that the scoring methodology is properly applied and that the scoreboards presented to the Investment Committee are of high quality.*

#### *Article 18*

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#### *Article 19*

##### *Investment Committee*

1. *A fully independent* Investment Committee shall be established. It shall:
  - (a) examine the proposals for financing and investment operations submitted by implementing partners for coverage under the EU guarantee *and having passed a check of compliance with Union law and policies carried out by the Commission;*
  - (b) verify their compliance with this Regulation and the relevant investment guidelines, giving particular attention to the additionality requirement referred to in Article 7a of *this* Regulation, and to the requirement, *where appropriate*, to crowd in private investment referred to in [Article 209(2)(d)] of the [Financial Regulation]; and

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

2. The Investment Committee shall meet in four different configurations, corresponding to the 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 in accordance with [Article 237] of the [Financial Regulation] and be appointed by the Commission for a fixed term of up to four years. Their term shall be renewable but shall not exceed seven years in total. The *Steering Board* may decide to renew the term of office of an incumbent member of the Investment Committee without availing itself of 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 of the geographic markets in the Union and that it is gender-balanced as a whole.

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

The Commission shall adopt the rules of procedure and *host* the secretariat for the Investment Committee. *The secretariat shall also support the Steering Board.*

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.

CVs 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 communicate without delay to the Commission *and to the Steering Board* all information needed to check on an ongoing basis the absence of any conflict of interest.

The *Steering Board* may remove a member from his or her functions if he or she does not respect 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 supported by *a secretariat hosted by the Commission and answerable to the chairperson of the Investment Committee. The secretariat shall check the completeness of* the documentation provided by the implementing partners *comprising a standardised request form, the scoreboard* and any other document the Investment Committee considers relevant. *The Investment Committee may seek clarifications from the implementing partner during its meetings or by requesting additional information to be submitted to a subsequent meeting.* Any project assessment conducted by an implementing partner shall not be binding on the Investment Committee for the purposes of a financing or investment operation benefiting from the coverage by the EU guarantee.

The Investment Committee shall use in its assessment and verification of the proposals a scoreboard of indicators referred to in Article *17b*.

5. Conclusions of the Investment Committee shall be adopted by simple majority of all members, *where such simple majority includes at least one of the experts*. In case of a draw, the chair of the Investment Committee has the casting vote.

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



*publication shall not contain commercially sensitive information. In the case of commercially sensitive decisions, the Investment Committee shall make public such decisions and information concerning promoters or financial intermediaries at the date of closing of the relevant financing or any earlier date when commercial sensitivity ends.*

The scoreboard shall be publicly available *before* the signature of a financing or investment operation or sub-project [ ] . The publication shall not contain commercially sensitive information or personal data not to be disclosed under the Union data protection rules.

Twice a year, [ ] the Investment Committee [ ] shall *submit* to the European Parliament and to the Council *a list of all the conclusions as well as the scoreboards relating to all those decisions. That submission shall be* subject to strict confidentiality requirements.

*Conclusions of the Investment Committee rejecting the use of the EU guarantee shall be made available in a timely manner to the implementing partner concerned.*

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 the underlying sub-projects, unless the Investment Committee, *in duly justified cases*, decides to retain the right to approve them separately.
- 6a. *The Investment Committee may, where it deems it necessary, submit to the Commission proposals for amendments to the investment guidelines.*

## CHAPTER V

### InvestEU Advisory Hub

#### Article 20

#### InvestEU Advisory Hub

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

*The Commission shall sign agreements with the EIB Group and other implementing partners in order to designate them as Advisory Hub partners and charge them with the provision of advisory support, as referred to in the previous subparagraph, and the services referred to in paragraph 2. The Commission shall establish the single access point to the InvestEU Advisory Hub and allocate the requests for advisory support to the appropriate Advisory Hub partner. The Commission, the EIB Group and the other implementing 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.*

The InvestEU Advisory Hub shall be available as a component under each policy window referred to in Article 7(1) covering all the sectors under that window. In addition, cross-sectoral *and capacity building* advisory services shall be available.

2. The InvestEU Advisory Hub shall in particular provide the following services:
  - (a) providing a single point of entry for project development assistance for authorities and project promoters for centrally managed Union programmes;
  - (aa) dissemination to authorities and project promoters of all available additional information regarding the investment guidelines and the interpretation of those guidelines;*
  - (b) assisting project promoters, where appropriate, in developing their projects to fulfil the objectives and eligibility criteria set out in Articles 3, 7 and 11 and facilitating development of aggregators for small-scale projects; however, such assistance does not prejudice the conclusions of the Investment Committee on the coverage of the support of the EU guarantee to such projects;
  - (ba) using the potential of attracting and financing small-scale projects, including through investment platforms;*

- (c) supporting actions and leveraging local knowledge to facilitate the use of the InvestEU Fund support across the Union and contributing actively where possible to the objective of sectorial and geographical diversification of the InvestEU Fund by supporting the implementing partners in originating and developing potential financing and investment operations;
- (d) facilitating the establishment of collaborative platforms for peer-to-peer exchange and sharing of data, knowhow and best practices to support project pipeline and sector development , *including helping to promote collaboration between, on the one hand, philanthropic organisations and, on the other hand, other potential investors and project promoters, particularly in relation to the social investment and skills policy window*;
- (e) providing proactive advisory support, *where necessary by means of a local presence*, on the establishment of investment platforms, in particular cross-border *and macro regional* investment platforms *as well as investment platforms bundling small and medium-sized projects in one or more* Member States *by theme or by region*;
- (ea) *facilitating and supporting the use of blending with grants or financial instruments funded by the Union budget or by other sources in order to strengthen synergies and complementarity between Union instruments and maximise the leverage and impact of the InvestEU Programme*;
- (f) supporting actions for capacity building to develop organisational capacities, skills and processes and accelerate investment readiness of organisations in order for promoters and authorities to build investment project pipelines, *develop financial instruments 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 to develop risk assessment capacity or sector specific knowledge, *with a particular focus on the cultural and creative sectors*;

- (fa) providing proactive advisory support for start-ups, especially when seeking to protect their research and innovation investments by obtaining intellectual property titles, such as patents.*
3. The InvestEU Advisory Hub shall be available for public and private project promoters, *including national promotional banks, investment platforms, SMEs and start-ups, to public authorities* and to financial and other intermediaries.
  4. 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 and non-profit institutions, which shall be free of charge. Fees charged to SMEs for the services referred to in paragraph 2 shall be capped at one third of the cost of the provision of 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* implementing partners.
  6. The InvestEU Advisory Hub shall have local presence, where necessary. It 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 for support referred to in paragraph 1, *and to implement and accommodate small projects.*
- 6a. 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 with and benefit from the expertise of national promotional banks or institutions. Cooperation between, on the one hand, the Invest EU Advisory Hub and, on the other hand, a national promotional bank or institution, may take the form of a contractual partnership. The InvestEU Advisory Hub shall endeavour to conclude at least one cooperation agreement with a national promotional bank or institution per Member State. In Member States where national promotional banks or institutions do not exist, the InvestEU Advisory Hub shall provide, where appropriate, and at request of the Member State*

*concerned, proactive advisory support on the establishment of such bank or institution.*

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

The implementing partners shall also inform promoters, where relevant, of the possibility of listing their projects on the InvestEU Portal referred to in Article 21.

## CHAPTER VI

### *Article 21*

#### *InvestEU Portal*

1. The InvestEU Portal shall be established by the Commission. It shall be an easily accessible and user-friendly project database, providing relevant information for each project.
2. The InvestEU Portal shall provide a channel for project promoters to bring their projects for which they are seeking finance visible and thus provide information on them to investors. The inclusion of projects in the InvestEU Portal shall be without prejudice to the decisions on the final projects selected for support under this Regulation, under any other instrument of the Union, or for public funding.
3. Only projects that are compatible with Union law and policies shall be listed on the Portal.
4. Projects meeting the conditions set out in paragraph 3 shall be transmitted by the Commission to the relevant implementing partners, *and to the InvestEU Advisory Hub, as appropriate.*

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

## **CHAPTER VII**

### **ACCOUNTABILITY, MONITORING AND REPORTING, EVALUATION AND CONTROL**

#### *Article 21a*

##### *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 the Council, in any event within five weeks of the date of receipt of a question.*
3. *At the request of the European Parliament or of the Council, the Commission shall submit a report on the application of this Regulation.*

#### *Article 22*

##### *Monitoring and reporting*

1. Indicators to report on progress of the InvestEU Programme implementation towards the achievement of the general and specific objectives set out in Article 3 are set in Annex III to this Regulation.

2. To ensure effective assessment of progress of the InvestEU Programme towards the achievement of its objectives, the Commission is empowered to adopt delegated acts in accordance with Article 26 to amend Annex III to this Regulation to review or complement the indicators where considered necessary and to supplement this Regulation with provisions on the establishment of a monitoring and evaluation framework.
3. The performance reporting system shall ensure that data for monitoring implementation and results are collected efficiently, effectively and in a timely manner. To that end, proportionate reporting requirements shall be imposed on implementing partners and other recipients of Union funds, as appropriate.
4. The Commission shall report on the implementation of InvestEU Programme in accordance with [Articles 241 and 250] of the [Financial Regulation]. For that purpose, the *EIB Group and the* implementing partners shall provide annually the information, *including those on the functioning of the guarantee*, necessary to allow the Commission to comply with its reporting obligations.
5. In addition, each implementing partner shall submit every six months a report to the *European Parliament and the* Commission on the financing and investment operations covered by this Regulation, broken down by the EU compartment and the Member State compartment by Member State, as appropriate. 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, *to the greatest extent possible while protecting the confidentiality of private and commercially sensitive information*, on each financing and investment operation and at the compartment, policy window and the InvestEU Fund level. One of those reports shall contain the information the implementing partners shall provide in accordance with [Article 155(1)(a)] of the [Financial Regulation]. *The Commission shall compile and assess implementing partners' reports and submit a summary in the form of public annual reports, providing information on the level of implementation of the programme against its objectives and performance indicators, indicating risks and opportunities for the financing and investment operations supported by the InvestEU Programme.*

## *Article 23*

### *Evaluation*

1. Evaluations shall be done in a timely manner to feed into the decision-making process.
2. By 30 September **2024**, the Commission shall carry out an interim evaluation on the InvestEU Programme, in particular on the use of the EU guarantee.
3. At the end of the implementation of the InvestEU Programme, but no later than **two** years after the end of the period specified in Article 1, the Commission shall carry out a final evaluation of 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, the Council, the European Economic and Social Committee and the Committee of Regions.
5. The implementing partners shall contribute to and provide the Commission with the information necessary to perform the evaluations referred to in paragraphs 1 and 2.
6. In accordance with [Article 211(1)] of the [Financial Regulation], the Commission shall every three years 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 against 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 26 in order to adjust, on the basis of that review, the provisioning rate laid down in Article 4(1) of this Regulation by up to 15%.



## Article 24

### *Audits*

Audits on the use of the Union funding carried out **by the European Court of Auditors together with those performed** by persons or entities, including by others than those mandated by the Union institutions or bodies, shall form the basis of the overall assurance pursuant to [Article 127] of the [Financial Regulation].

## Article 25

### *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 authorizing 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).

## Article 26

### *Exercise of delegation*

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article. ***Delegated acts concerning activities carried out by, or involving, the implementing partners shall be prepared in close dialogue with those implementing partners.***

2. The power to adopt delegated acts referred to in Articles **4(2), 7(3) and (6), 17a, 17b, 22(2) and 23(6)** shall be conferred on the Commission for a period of five years from [entry into force of this Regulation]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of that 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 **4(2), 7(3) and (6), 17a, 17b, 22(2) and 23(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 on Better Law-Making of 13 April 2016.
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 **4(2), 7(3) and (6), 17a, 17b, 22(2) and 23(6)** shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both 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.

## **CHAPTER VIII**

### **TRANSPARENCY AND VISIBILITY**

#### *Article 27*

##### *Information, communication and publicity*

1. The implementing 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, ***by focusing also on social and environmental impacts***.
2. 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, as far as they are related to the objectives referred to in Article 3.

## **CHAPTER IX**

### **TRANSITIONAL AND FINAL PROVISIONS**

#### *Article 28*

##### *Transitional provisions*

1. Revenues, repayments and recoveries from financial instruments established by programmes referred to in Annex IV to this Regulation may be used for the provisioning of the EU guarantee under this Regulation.

2. Revenues, repayments and recoveries from the EU guarantee established by Regulation (EU) 2015/1017 may be used for the provisioning of the EU guarantee under this Regulation, unless used for the purposes referred to in Articles 4, 9 and 12 of Regulation (EU) 2015/1017.

*Article 29*

*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,

*For the European Parliament*

*The President*

*For the Council*

*The President*

## ANNEX I

### Amounts per specific objective

The ■ distribution referred to in Article 4(2) towards financial and investment operations shall be as follows:

- (a) ■ EUR 11 500 000 000 for objectives referred to in point (a) of Article 3(2);
- (b) ■ EUR 11 250 000 000 for objectives referred to in point (b) of Article 3(2);
- (c) ■ EUR **12 500 000 000** for objectives referred to in point (c) of Article 3(2);
- (d) ■ EUR **5 567 500 000** for objectives referred to in point (d) of Article 3(2).

## ANNEX II

### Eligible areas for financing and investment operations

The financing and investment operations may fall under one or more of the following areas:

1. Development of the energy sector in accordance with the Energy Union priorities, including security of energy supply, and the commitments taken under the Agenda 2030 and the Paris Agreement, in particular through:
  - (a) expansion of the generation, *accelerating the deployment*, supply or *implementation* of clean and sustainable renewable energy *solutions*;
  - (b) energy efficiency, *energy transition* and energy savings (with a focus on reducing demand through demand-side management and the refurbishment of buildings);
  - (c) development, smartening and modernisation of sustainable energy infrastructure (transmission and distribution level, storage technologies, *smart grids*); *and increasing the level of electricity interconnection between Member States*;
  - (d) production and supply of *sustainable* synthetic fuels from renewable/carbon-neutral sources, *and* alternative fuels, *including for all modes of transport, in line with the provisions set out in [Renewable Energy Directive 2009/28/EC]*;
  - (e) *infrastructure for* carbon-capture, and *for carbon* storage *in industrial processes, bio-energy plants and manufacturing facilities towards the energy transition*.
  
2. Development of sustainable *and safe* transport infrastructures *and mobility solutions* and equipment and innovative technologies in accordance with Union transport priorities and the commitments taken under the Paris Agreement, in particular through:
  - (a) projects supporting development of the TEN-T infrastructure, including its urban nodes, maritime and inland ports, *airports*, multimodal terminals and

their connection to the main networks *and the telematic applications laid down in Regulation (EU) No 1315/2013*;

- (aa) *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*;
- (b) smart and sustainable urban mobility projects, *including inland waterway and air transport* (targeting low-emission urban transport modes, *non-discriminatory* accessibility, air pollution and noise, energy consumption and *improved safety, including for cyclists and pedestrians*);
- (c) supporting the renewal and retrofitting of transport mobile assets with the view of deploying low-emission mobility solutions, *including the use of alternative fuels and synthetic fuels from renewable/carbon-neutral sources in vehicles of all transport modes*;
- (d) railway infrastructure, other rail projects, *inland waterway infrastructure* and maritime ports *and motorways of the sea*;
- (e) alternative fuels infrastructure *for all modes of transport*, including electric charging infrastructure;
- (ea) *smart and sustainable mobility projects, targeting*
  - (i) *road safety (including improving driver and passenger safety and reducing the number of fatal accidents and people sustaining serious injuries)*,
  - (ii) *accessibility (including in rural areas)*,
  - (iii) *emission reduction*,
  - (iv) *the development and deployment of new transport technologies and services, in particular by SMEs and in relation to connected and autonomous modes of transport as well as integrated ticketing*;

- (eb) *projects to maintain or upgrade existing transport infrastructure, including motorways on the TEN-T where necessary to upgrade, maintain or improve road safety, develop ITS services or guarantee infrastructure integrity and standards, in particular safe parking areas and facilities, alternative fuel stations and electric charging systems;*
- (ec) *road infrastructure for transport in cohesion countries, less developed regions or in cross-border transport projects.*

3. Environment and resources, in particular through:

- (a) water, including supply and sanitation, and 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) enhancement and restoration of eco-systems and their services;
- (e) sustainable urban, rural and coastal development *and regeneration*;
- (f) climate change actions, including natural hazard disaster risk reduction, *climate adaptation and mitigation*;
- (g) projects and enterprises that implement 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) decarbonisation of and substantial reduction of emissions of energy-intensive industries, including large-scale demonstration of innovative low-emission technologies and their deployment;
- (ha) *projects promoting sustainable cultural heritage, in particular strategies and instruments to safeguard European cultural heritage, tangible and intangible.*



4. Development of digital connectivity infrastructure, in particular through projects supporting deployment of very high capacity digital networks, ***5G connectivity and improving digital connectivity and access, particularly to rural areas and peripheral regions.***
5. Research, development and innovation, in particular through:
  - (a) ***support to*** research infrastructure and ***research*** and innovation projects ***in all thematic areas and defined in, and*** contributing to the objectives of, Horizon Europe;
  - (b) corporate projects, ***including training and the promotion of 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 between academia, ***research and innovation organisations*** and industry; ***public-private partnerships and civil society organisations;***
  - (e) knowledge and technology transfer;
  - (f) 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. Development, ***deployment and scaling-up*** of digital technologies and services, in particular through:
  - (a) artificial intelligence ***in line with the Digital Europe Programme, particularly with regards to ethics;***
    - (aa) ***quantum technology;***
  - (b) cybersecurity and network protection infrastructures;
  - (c) internet of things;

- (d) blockchain and other distributed ledger technologies;
  - (e) advanced digital skills;
  - (f) 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;*
- (fa) robotics and automation.*

7. Financial support to entities employing up to 3 000 employees. *The SME window shall only* focus on SMEs and small mid-cap companies *and social enterprises that are SMEs*, in particular through:

- (a) provision of working capital and investment, *particularly relating to actions that drive an entrepreneurial culture and environment and promote the creation and growth of micro, small and medium enterprises;*
- (b) 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.*

8. Cultural and creative sectors; media, audio-visual sector and journalism, *in particular through but not limited to:*

- (a) *new technologies such as assistive technologies applied to cultural and creative goods and services;*
- (b) *use of digital technologies for conservation and restoration of European cultural heritage, tangible and intangible;*
- (c) *cultural and creative industries and sectors, for example augmented reality/virtual reality, immersive environments, human computer interfaces, internet protocol and cloud infrastructures, 5G networks, new media;*
- (d) *technological management of intellectual property rights.*

9. Tourism sector.

10. Sustainable agriculture, forestry, fishery, aquaculture and other elements of the wider sustainable bioeconomy.
11. Social investments, including those supporting the implementation of the European Pillar of Social Rights, in particular through:
  - (a) ***ethical and sustainable finance***, microfinance, social enterprise finance and social economy;
  - (b) demand for and supply of skills;
  - (c) education, ***vocational*** training and related services;
  - (d) social infrastructure, in particular
    - (i) education and training, including early childhood education and care, educational facilities, student housing and digital equipment;
    - (ii) social housing;
    - (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 aiming at promoting social impacts and outcomes in the areas referred to in this point;
  - (f) cultural activities with a social goal;
  - (fa) ***measures to promote gender equality and active participation of women***;
  - (g) integration of vulnerable people, including third country nationals;
  - (h) innovative health solutions, including ***e-health***, health services and new care models;
  - (i) inclusion of and accessibility for persons with disabilities.
12. Development of the defence industry, thereby enhancing 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) defence research and training infrastructure.

13. Space, in particular through 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 *independence* of supply chains;
- (c) to underpin space entrepreneurship, *including downstream development*;
- (d) to foster Union's autonomy for safe and secure access to space, including dual use aspects.

*13a. Seas and oceans, through the development of a sustainable Blue Economy in line with the objectives of the Integrated Maritime Policy in particular through:*

- (a) maritime entrepreneurship;*
- (b) an innovative and competitive maritime industry;*
- (c) ocean literacy and blue careers;*
- (d) the implementation of the Sustainable Development Goals, in particular SDG 14 (Life Below Water);*
- (e) renewable marine energy and circular economy. [Ams 2 and 16/rev]*

## **ANNEX III**

### **Key performance indicators**

#### **1. Volume of InvestEU financing (broken down by *the points and sub-points of the eligible areas for financing and investment operations as laid down in Annex II*)**

1.1 Volume of operations signed

1.2 Investment mobilised

1.3 Amount of private finance mobilised

1.4 Leverage and multiplier effect achieved

*1.4a Synergies with other Union programmes*

#### **2. Geographical coverage of InvestEU financing (broken down by *the points and sub-points of the eligible areas for financing and investment operations as laid down in Annex II*)**

2.1 Number of countries covered by projects

*2.1a Number of regions covered by projects*

*2.1b Number and volume of operations per Member State and per region*

#### **3. Impact of InvestEU financing**

3.1 Number of jobs created or supported

3.2 Investment supporting *energy and* climate objectives, *and, where applicable, detailed per policy window and category, as well as share of climate relevance.*

3.3 Investment supporting digitalisation

*3.3a Investment supporting social objectives*

#### 4. Sustainable Infrastructure

4.1 Energy: Additional renewable energy generation capacity installed (MW) *by source*

4.2 Energy: Number of households, *number of public and commercial premises* with improved energy consumption classification, *including the degree of improvement in the classification or equivalent figure, or number of households renovated to NZEB and passive house standard*

4.3 Digital: Additional households *commercial and/or public buildings* with broadband access of at least 100 Mbps upgradable to Gigabit speed, *or number of WIFI-hotspots created*

4.4 Transport: Investment mobilised in TEN-T of which: ■

– *core network and comprehensive network in the component parts identified in the Annex to [Regulation No XXX, insert reference to new Connecting Europe Facility];*

– *multimodal infrastructure;*

– *innovative solutions contributing to a balanced mix of transport modes, including for inland waterway and air transport;*

– *Number of alternative fuel infrastructure points deployed*

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

*4.5a Number of alternative fuel infrastructure points deployed*

*4.6 Emissions reduction: amount of CO2 emissions reduced*

#### 5. Research, Innovation and Digitisation

5.1 Contribution to the objective of 3% of the Union's GDP invested in research, development and innovation *throughout the programme*

5.2 Number of enterprises supported carrying out research and innovation projects *throughout the programme*

***5.2a Number of projects that before got support through Horizon Europe and/or the Digital Europe programme***

**6. SMEs**

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

6.2 Number of enterprises supported by stage (early, growth/expansion) ***in particular innovative SMEs***

***6.3 Number of enterprises supported by sectors***

**7. Social Investment and Skills**

7.1 Social infrastructure: Capacity ***and reach*** of supported social infrastructure by sector: housing, education, health, other

7.2 Microfinance and social enterprise finance: Number of social economy enterprises supported

***7.2a Microfinance and social enterprise finance: Number of social economy enterprises created***

***7.2b Microfinance and social enterprise finance: Number of social economy enterprises supported by stage (early, growth/expansion)***

7.5 Skills: Number of individuals acquiring new skills ***or having skills validated***: formal, ***informal, and non-formal*** education and training qualification

## ANNEX IV

### The InvestEU Programme - Predecessor instruments

#### **A. Equity Instruments:**

- **European Technology Facility (ETF98):** Council Decision No 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).
- **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 (C(2007)531).
- **European Technology Facility (ETF01):** Council Decision No 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).
- **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 modified 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 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 No 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).
  
- **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 No 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 No 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).
- **SME Guarantee Facility '07 (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).
- **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:** 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 No 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 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).

- **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 placements – fonds d'investissements spécialisés (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) (C(2010)941).
- **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).