Reduction of information requirements under EU legislation
"Have your say procedure"

Brussels, 01 December 2023

When presenting the Green Deal Industrial Plan in February 2023, President von der Leyen already mentioned overly complex permitting procedures and announced putting a focus on "cutting red tape". About half a year later, in her State of the Union address, she announced to put forwards legislative proposals to cut reporting obligations by 25% as a step to reduce administrative costs.

In addition to welcoming the increase in the thresholds for the accounting definition of SMEs, ELTI supports the ambition of the European Commission (EC) to rationalise and simplify the reporting obligations imposed on companies and administrations, and the overall objective of reducing the administrative burden linked to these obligations by 25%. Such measures would make it easier for ELTI members to finance the twin transition, which requires a speed and lean process to reduce time to market for the implementation of EU instruments and programmes.

In line with the new priorities put forwards by the Commission President, this document proposes to simplify and streamline the processes, reporting- and other obligations arising from EU legislation to gain in dynamism and speed of execution around 2 **major ideas:**

1. **Efficient implementation of EU Financial instruments**
2. **Reducing State Aid red tape**

Chapter 1: EU Funding programs & EU Financial Instruments

Financial Regulation

As explained by ELTI, the EU Financial Regulation has a strong direct – and in terms of bureaucracy negative - impact on the financial instruments (see ELTI position[1]). Reducing red tape could in many cases be achieved by introducing reporting exemptions and simplified checks (in addition to the usual due diligence processes that Implementing Partners – IPs - have in place) for smaller ticket sizes, thereby complying with the principle of proportionality.

InvestEU[2]

The InvestEU Regulation foresees three main classes of reporting requirements: (a) Operational Reporting (Annex II), (b) Financial Reporting (Annex III), and (c) Risk Reporting (Annex IV). In the Guarantee Agreements, additional "Complementary reporting requirements" are also foreseen, such as (i) State aid reporting (Annex X), Progress Report (Annex II) and cash flow forecasts as part of the semi-annual Claims Form (Annex V).

[1] 2022_10_17_ELTI_Position_Paper_Financial_Regulation.pdf (eltia.eu)

[2] InvestEU consists of several parts. The paper limits itself to the InvestEU Fund and to InvestEU Advisory. In addition, InvestEU allows NPBIs to either directly access the guarantee, or to continue being intermediaries, as it was the case under EFSI.

Each reporting requirement has a different deadline and a different format/template. Cumulatively, IPs must report to the EC on a bi-monthly, quarterly, semi-annual, and annual basis. Reporting requirements tend to penalise smaller projects (e.g. start-up/scale-ups, SMEs, small mid-caps, small municipalities), which need to provide IPs with the necessary information if they want to secure the loan/investment. The InvestEU reporting requirements thus represent a cost that not all final beneficiaries can bear, especially when compared to the benefits that the InvestEU guarantee offers in terms of reduced interests rates (debt products) or additional co-financing amounts (equity products).

The EC is now proposing to reduce the frequency (from half-yearly to annually) of the reporting obligations stemming from the preparation of summary reports on the financing and investment operations in compliance with Article 28 of the InvestEU Regulation. In effect, this would reduce the number of reports to be prepared by IPs for the use of the InvestEU guarantee from currently 20 per year to 19 per year (see figure below). It is also worth stressing that so far only one report template was made available to the IPs, thus further increasing administrative burdens.

Figure 1. Reporting for InvestEU Implementing Partners

Reports

Domain	Report name	Frequency	Reporting date	Deadline	Format
Financial reporting	Unaudited FS	1x/year	31/12/n	15/02/n+1	Unstructured
	Financial reporting package	1x/year	31/12/n	15/02/n+1	Structured
	Audited FS	1x/year	31/12/n	15/03/n+1	Unstructured
Management reporting	Management declaration	1x/year	31/12/n	15/02/n+1 and if qualified also 15/03/n+1	Unstructured
	Summary of audit reports and controls carried out	1x/year	31/12/n	15/02/n+1	Unstructured
	Auditors report on management declaration	1x/year	31/12/n	15/03/n+1	Unstructured
Risk	Annual Risk report	1x/year	31/12/n	28/02/n+1	Structured
	H1 Risk report	1x/year	30/06/n	15/09/n	Structured
Operational	Operational report	2x/year	31/12/n, 30/06/n+1	15/02/n+1 and 15/09/n+1	Structured
	Progress report	4x/year	End/02/n, 30/04/n, 31/08/n, 31/10/n	15/04/n, 15/06/n, 15/10/n, 15/12/n	Structured
Cash management	Claims report	2x or 4x/year	End of semester or quarter	50 calendar days	Structured
State aid	SA (TAM + Exp.) Report	1x/year	31/12/n	30/06/n+1	Structured
EU visibility	Article 38 publication	1x/year	31/12/n	30/06/n+1	Published on the IP website

37 In blue, the structured reports (in xml format)

European Commission

Source: European Commission

In addition to the reduction in frequency – which is welcome but not sufficient to cut red tape, the number of reports and the content of such Reports should be revised with the objective of reducing the number of data entries by at least 25%.

Example: Under the InvestEU Advisory Hub, the Advisory Partner must submit answers to more than 52 data requests in five different reports for project advisory programmes:

Report name	Frequency	Deadline	Number of unique data entries
Recording of received requests	Monthly	Within 15 calendar days of the following month	12
Assignment update	Monthly	Within 15 calendar days of the following month	15
Annual technical report Semi-annual technical report	Annual Semi-annual	15/02 31/07	25
Annual technical report (unstructured)	Annual	End of reporting period + max. 60 days	N/A
Success stories	Ad-hoc	N/A	N/A
TOTAL			52

The Advisory Partner is required to collect this data for each beneficiary within a given advisory program. For large scale programme (i.e. more than 450 beneficiaries targeted), the volume of data can get very high (450 x 52 = up to 23 400 unique data entries of various complexity). Moreover, this data is to be collected directly from each beneficiary which can be SMEs or very small local authorities not necessarily equipped for this reporting.

The InvestEU Regulation foresees the obligation for IPs to carry out the sustainability analysis of their financing/investment operations under the programme, in line with the provisions of the "Technical guidance on sustainability proofing for the InvestEU Fund" (the guidance).

The guidance outlines specific requirements depending on the type of operation (i.e. direct vs indirect operations) and identifies a threshold (10 mln EUR) under which no sustainability proofing is required. It also indicates that for intermediated operations targeting SMEs, small mid-caps and "other eligible enterprises" a simplified sustainability analysis has to be carried out by IPs.

However, the environmental assessment and the sustainability proofing are not yet defined in all details and this might prevent private investors from co-financing projects co-funded with InvestEU support. In addition, where the requirements are most specific (i.e. for infrastructure projects) the guidance refers generally to "infrastructure" without taking into consideration the different types of infrastructure projects that can be financed by IPs, which range from the most environmentally impactful (i.e. transport, energy, water, telecom, etc.) to others, like social and affordable housing that have a much lower impact.

Such lack of distinction forces IPs to carry out the same type of analysis regardless of the fundamentally different nature and policy objective between the former and the latter, thus increasing the cost associated to the realisation of infrastructure projects which already offer very low return (i.e. discourage private participation) and suffer from a distinct market financing gap.

In light of the above, sustainability assessments and proofing procedures should be further simplified, notably for social infrastructure by applying the same rules as those for non-infrastructure projects.

More administrative burdens are created by "gold plating" via EIB Group lending policies. The exclusion criteria based on the InvestEU Regulation fit on just over one page – and can easily be handled. However, when using the InvestEU Guarantee as financial intermediaries of the EIF, the list of exclusion and other criteria increases by some 13 pages and includes specific thresholds (such as CO_2-emission limits for vehicles) that also need to be applied to SME financing. As a result, products that had been successfully deployed in the past, are no longer marketable and are often dismissed. Reporting requirements are particularly burdensome for products with small ticket sizes, namely those supporting SMEs.

The EC and the Member States, as stakeholders of the EIB, should work jointly with the EIB to prevent such "gold-plating" whenever the EIB implements EU financial instruments. Only reporting obligations and thresholds stemming from EU legislation should apply.

Structural Funds

Some progress in simplification has been made in the 2021-2027 Common Provisions Regulation (CPR). However, more could still be done. In particular:

- The CPR 2021-2027 introduces a reference to the "do no significant harm" (DNSH) principle for the first time (Articles 9.4 and 10), so that funds' objectives cannot cause significant harm to the environment. Inspired by the Taxonomy Regulation, this principle must be met *ex-ante* by the managing authorities' operational programmes, which seems proportionate. Nevertheless, nothing prevents managing authorities from postponing the DNSH burden *ex-post* onto the bodies responsible for implementing financial instruments.

  As a result, it seems helpful to introduce the following proportionality measures:
  - **Limit DNSH to direct financing operations otherwise there is the risk that financial intermediaries (like private banks in the case of guarantee programmes) will feel unable to finance projects.**
  - **Introduce a DNSH compliance threshold per project, so it applies only to projects exceeding €10m in line with the InvestEU Programme.**

- The principle of DNSH dovetails with that of "climate proofing" requirement (Article 73.2.j), which requires an evaluation of climate impacts for infrastructure projects, with no threshold stated in the CPR.

  It is necessary to set out more proportionate measures by restricting climate proofing to direct financing and projects exceeding €10m or subject to Directive 2011/92/EU on the Assessment of the effects of certain public and private projects on the environment, in line with the InvestEU Programme.

- Clarify the verifications and audits on guarantee instruments (Article 81): The CPR 2021-2027 is a complete change from the provisions that applied during the 2014-2020 period. It is desirable to maintain the previous programme's rules, which stipulated that audits were conducted at the level of the body implementing the financial instrument (without going down to the level of the banks benefiting from that body's guarantee), with the onus on that body to collect documentary evidence that loans were granted in compliance with the intended purpose (appraisal reports, business plan and contracts). The new CPR provisions (Article 81), which intend to ensure management audits are conducted at the banks delivering the loans when it comes to guarantee funds, could in fact prove counterproductive. The risk is that banks will withdraw from these guarantee schemes, thus limiting the development of such instruments.

- Relax the rules concerning the responsibility of beneficiaries (Article 50.3): Under the CPR, recipients must acknowledge the support provided by Cohesion Policy Funds to an operation, and the applicable responsibility rules are toughened. They now stipulate that "*where the beneficiary does not comply with its [publicity] obligations (...), (…) the managing authority shall apply measures, (…) by cancelling up to 3% of the support from the Funds to the operation concerned*".

It is proposed that, financial instruments do not fall under this rule, as they are repayable in nature.

Recovery and Resilience Facility

The Recovery and Resilience Facility also requires compliance with the DNSH principle at the level of each measure. The above suggestions regarding the introduction of thresholds for DNSH assessment are also valid where national plans defer compliance obligations to funded projects - at the level of final beneficiaries.

Chapter 2: Reducing State Aid red tape

Proportionality must remain a cardinal principle even in transparency requirements and aid cumulation rules under state aid frameworks. The following points are essential to achieve proportionality:

InvestEU

Currently, all Implementing Partners (IP) must respect State aid rules when implementing financial products under InvestEU to avoid undue distortions to competition and trade between Member States.

However, while State aid rules are necessary in the case of public subsidy programs that – according to the 2022 State aid Scoreboard – rely on more distortive instruments such as grants and tax advantages[1], they are not always fit-for-purpose in the case of more complex financial instruments (e.g. intermediate equity fund-of-funds investment, etc.) and constrain the action of IPs in areas with a high degree of additionality or where "market-based" solutions are preferable (e.g. venture capital, social and affordable housing, etc.). As a matter of fact, many IPs are not public sector entities and have never dealt with State aid procedures, which are normally a prerogative of Government Bodies (e.g. Ministries) and require carrying out a completely new set of actions. The application of State aid rules to IPs under InvestEU requires, therefore, *ad hoc* compromise solutions and can't simply replicate what was designed for public sector entities. Such solutions should be discussed with the direct involvement and constant support of the relevant DG(s), the lack of which is currently leaving the IPs in a state of regulatory and operational uncertainty.

In addition, not all IPs are required to respect State aid rules in the same way. In fact, national IPs are required to be "State aid compliant", while International Financial Institutions (IFIs) and the European Investment Bank Group (EIB Group) follow the principle of "State aid consistency". "State aid compliance" means that national IPs must design financial products under InvestEU in line with the relevant articles of (i) the General Block Exemption Regulation (GBER) or (ii) State aid Guidelines.

National IPs are, therefore, expected to respect all State aid conditions therein such as, but not limited to, those on (i) cumulation (art. 8 – GBER), (ii) reporting (art. 11(a) – GBER), (iii) publication and information (art. 9 – GBER). On the contrary, the same treatment is not reserved for international IPs, which are given the opportunity to negotiate directly with the EC product-specific clauses to ensure consistency with State aid rules.

Against this background, not only compliance with State aid rules makes deploying the InvestEU guarantee in areas with a higher degree of additionality more complex, but the different State aid treatment between national and international IPs risks compromising the level-playing field between them and puts the former at a significant disadvantage, especially in a situation of co-investment/co-financing of the same underlying operation/project with the latter.

For a more effective and balanced deployment of the InvestEU guarantee, the following changes may be envisaged:

- Require all IPs of the programme to be "State aid consistent".

- Define, already in the negotiation phase with each IP, specific clauses and criteria so that to ensure (i) consistency of the relevant financial products with State aid rules and/or (ii) market-conformity of the underlying operations in case of IPs that already deploy market-conform financial instruments.

Raise TAM reporting thresholds

Increase Aid amount thresholds should be reset to higher amounts for the TAM (transparency award module) reporting. The lowering of thresholds in the latest 2023 revision of the GBER leads to higher compliance costs and add red tape to already far too complex set of rules to comply with.

Streamline the rules for combining aid

Cumulation of aid must be streamlined with a simple and set once-for-all rule to limit the risk of errors and foster good management practices for state aid. More precisely, InvestEU aid should cumulate only with other InvestEU aid under Section 16 of the GBER. The current cumulation rules appear "patched" and hard to implement.

Clarify the rules of intervention

Clarifying in which cases the EIB group investment can be considered as private investor (when carried out at their own risk and out of their own resources) and in which cases they should be considered as public investor (i.a. when they benefit from the InvestEU guarantee coverage). GBER and state aid guidelines are not clear in this regard and induce red tape deriving from legal uncertainty advice and understanding issues.

Final remarks:

InvestEU – as an idea – was first proposed in 2017. The legislative proposal followed in 2018. The final agreement was published in the Official Journal in March 2021, delayed also by the late adoption on the MFF 2021-2027. The first Guarantee Agreement was signed in the 2022, further agreements with those Implementing Partners other than the EIB having answered to the first call for expression of interest in summer 2021 were signed still until the end of 2023. Setting up financial instruments under cohesion funds is a process that takes a similar amount of time.

Even though the above proposals would help accelerate the setting-up and roll-out of financial instruments, ELTI members would like to promote other possible solutions that could help the EU speed up the processes even further. Limitations are of course the legislative procedures envisaged by the Treaties. But in light of the challenges, we are facing with the implementation of financial programmes, we are ready to share with you additional ideas and recommendations that could be considered for the next MFF.

The European Association of Long-Term Investors – ELTI

ELTI members represent an European-wide network of National Promotional Banks and Institutions who offer financial solutions tailored to the specific needs of their respective country and economy. Multilateral financial institutions complement the activities at national level with specific cross-boarder solutions or investments with an European impact. Following the specific public mission of each member the business model of each institution differs from country to country including different products and approaches. This is the same for multilateral ELTI members. Most of the members offer various debt-products but not all members have a mandate for investment in equity.

The 31 members of the European Long-Term Investors Association (ELTI) a.i.s.b.l. are major long-term investors and represent a combined balance sheet of EUR 2,7 trillion. The Association promotes and attracts quality long- term investment in the real economy, including:

- strengthening cooperation, including at an operational level, between European financial institutions as well as with other Institutions of the European Union (EU) acting as long-term financiers;
- informing the EU and its Institutions on the role and potential of the Members as institutions and agencies for long-term financing;
- strengthening the access of the Members to information on matters related to the EU;
- exchanging information and experiences among Members and with national and international organisations sharing the Association's interest in the promotion of long-term investment;
- developing the concept of long-term investment within the economic and financial sector and promoting academic research on long-term investments;
- representing, promoting and defending the shared interests of its Members in the field of Long-Term Investment in full transparency.

The Full Members of ELTI are generally national official financial institutions dedicated to the promotion of public policies at national and EU level[3]. The European Investment Bank (EIB) as the status of a permanent observer. ELTI also includes Associate Members notably multilateral financial institutions, regional financial institutions and non-banking institutions[4].

[3] Oesterreichische Kontrollbank (OeKB) Austria, Federal Holding and Investment Company (SFPI) Belgium, Bulgarian Development Bank (BDB) Bulgaria, Croatian Bank for Reconstruction and Development (HBOR) Croatia, National Development Bank-CZ (NRB) Czech Republic, Caisse des Dépôts et Consignations (CDC) France, La Banque publique d'Investissement (bpifrance) France, KfW Bankengruppe (KfW) Germany, Hellenic Development Bank (HDB) Greece, Hungarian Development Bank (MFB) Hungary, Strategic Banking Corporation of Ireland (SBCI) Ireland, Cassa Depositi e Prestiti (CDP) Italy, Latvian Development Finance Institution (ALTUM) Latvia, INVEGA Lithuania, Société Nationale de Credit et d'Investissement (SNCI) Luxembourg, Malta Development Bank (MDB), Malta, Invest-NL The Netherlands, Bank Gospodarstwa Krajowego (BGK) Poland, Banco Português de Fomento (BPF) Portugal, Slovak Investment Holding (SIH) Slovakia, Slovenska Izvozna in Razvojna Banka (SID) Slovenia, Instituto de Credito Oficial (ICO) Spain

[4] Nordic Investment Bank (NIB), Council of Europe Development Bank (CEB), Long-Term Infrastructure Investors Association (LTIIA), Participatiemaatschappij Vlaanderen NV (PMV) Belgium, Fund Manager of Financial Instruments in Bulgaria (FMFIB) Bulgaria, NRW.Bank Germany, Consignment Deposits and Loans Fund (CDLF) Greece, Investment and Development Fund of Montenegro (IRF) – Montenegro, Turkiye Sinai Kalkinma Bankasi (TSKB) Turkey