Council of the European Union
General Secretariat

Interinstitutional files:
2020/0108(COD)

Brussels, 29 September 2020

WK 10267/2020 INIT

LIMITE

ECOFIN	**EDUC**
COMPET	**EF**
RECH	**TELECOM**
ENER	**IA**
TRANS	**FSTR**
ENV	**CADREFIN**
	CODEC

This is a paper intended for a specific community of recipients. Handling and further distribution are under the sole responsibility of community members.

WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party of Financial Counsellors
Subject:	InvestEU - Commission replies to Member States questions

Delegations will find attached the replies by the Commission to Member States questions regarding InvestEU to be discussed at the Financial Counsellors Working Party on 30 September 2020.

Commission replies to MS questions received on 11/9/2020

(For the sake of completeness, all questions figure in the table (in order of appearance but those not considered to be addressed to the Commission are indicated in [].)

	Line	Article
BE1: In case where the Regulation do not provide for any delegation powers to the Commission giving it the power to determine a quantified objective, which would imply a certain impact on the EU guarantee could it be possible for the Commission to do so via the investment guidelines? **COM:** In so far as the question relates to the quantified objective under the Just Transition Scheme and without elaborating more generally on the question, according to the Presidency compromise text a specific reference in the InvestEU Regulation in relation to the Just Transition Scheme would be added so that it is explicitly stated in the Regulation that the delegated act on the investment guidelines includes provisions on the Scheme. The Commission is not opposing to such clarification.	General	
SE1: 1) Please explain why these sectors are specifically pinpointed? 2) We request more information on the practical meaning for the InvestEU of "sovereignty and autonomy" and how this is suggested to guide investments supported by the EU guarantee. **COM:** 1) Supporting cultural and creative sectors was already agreed upon in the partial agreement of 2019. These sectors have been among the most heavily impacted from the lockdown and they continue to be as restrictions affecting them continue. 2) The cultural and creative, audio-visual and media sectors are increasingly relevant for strengthening the democracy and autonomy of the Union. The Union owning its own content, technologies and infrastructures related to these sectors will allow to fight disinformation online and foster diverse and independent European media.	29	Recital 6
[NL1: Why has the reference to the SME IPO been removed?]	59	Recital 21
NL2: 1) Will the Commission participate pro rata in a EIF capital increase? 2) Has the Commission made a reservation for a financial enveloppe that considers a capital increase in the next MFF? **COM:** 1) A proposal from the EIF as regards its capital increase is yet to be adopted by its governing bodies. More information is expected after the EIF Board meeting to be held mid-October. The proposal will define the amount and the timing of the capital increase.	89	Recital 34

Therefore, a decision on the exact participation of the Commission in it is also pending at this moment. 2) A financial envelope is foreseen in Article 32 of the proposed InvestEU Regulation. Once the EIF proposal has been adopted, the detailed modalities of the Commission potential subscription could be inserted in the InvestEU Regulation.		
[PT1: Partially acceptable. Not clear on how impact may be measured. Would this reference tie-in with investment guidelines? (see comment on article 5 (d))]	93	Recital 36
SE2: Please provide further information on the role of "third countries". Is language aligned with previous agreed regulations/agreements? **COM:** Third countries may participate to financial products under the EU compartment of the InvestEU fund, not to the full programme as such. Such participation would be possible solely through the cash contribution from the third country, providing the provisioning in full, i.e. no contingent liabilities. The recital proposed by the Commission is in line with standard provisions included in the Commission proposals for the next MFF. They were endorsed by the EUCO conclusions of 21 July. The wording reflects the nature of the InvestEU budgetary guarantee. This approach is very similar (but not identical) to the third country provisions in the legislation currently in force, where third countries participate through various co-funding mechanisms.	93	Recital 36
IE1: We would welcome some information on what difference/additionality the InvestEU Advisory Hub will be providing compared to its predecessor that will make this Hub more successful than the last, taking the findings of the European Court of Auditors Special Report No 12/2020 into consideration. **COM:** The InvestEU Advisory Hub has no predecessor as such as it is building on 13 existing EU Advisory support programmes including the European Investment Advisory Hub (EIAH), ELENA and InnovFin Advisory. However, in developing the InvestEU Advisory Hub the Commission has made efforts to incorporate the lessons learnt from the EIAH and other programmes and the recommendations made by the European Court of Auditors to make the InvestEU Advisory Hub more effective and relevant to the future needs to ensure its greater impact compared to the current situation. The local outreach by cooperation with NPBIs within the EIAH framework has already been increased and further improvement with the InvestEU Advisory Hub local outreach will happen by opening	131	Recital 55

up the InvestEU Advisory Hub to multiple advisory partners in order to stimulate local demand for advice. Therefore, special attention is paid to further increasing Advisory Partners' capacities to develop and provide advisory support to local financial intermediaries and project promoters. A natural follow-up within the InvestEU Advisory Hub will be the capacity building advisory support designed to increase the capacity of financial intermediaries to deploy the InvestEU financial products. Moreover, by strengthening the link between the InvestEU Advisory Hub and the InvestEU guarantee, the impact on investment projects is expected to be more visible. This is why, the Commission is already actively working with potential Advisory Partners to develop a stronger link between their planned advisory initiatives and financial products under InvestEU in order to support the development of a robust pipeline of InvestEU projects.		
HR1: Who and when should take into consideration findings (reference 18) of the Europan Court of Audistors mentioned in the Article? In oreder to be effetice this observation should relate to specific instutuions/acts/activities… **COM:** The demand driven nature of the EIAH was indeed a first of a kind exercise that was mainly relying on the Task Force on investment in the EU report where the Commission alongside with the EIB and the Member States established the advisory support needs across the EU Member States in 2015. To better structure and specify the advisory needs but also to take into account the already available advisory support, the EIAH commissioned two in-depth studies carried out by PwC to perform a general market gap analysis in 2015 and a subsequent specific one dedicated to the SMEs sector. The EIAH used the outcome of the market gap analyses, including the key sectors/Member States where intervention was needed, to define proactive tasks in its annual Work Programme (e.g. in the SME sector, the EIAH signed a funding agreement with the EBRD to support the EBRD Advice for Small Businesses programme in Bulgaria, Croatia, Greece and Romania). The InvestEU Advisory Hub would be set up as a demand driven tool but it will also include a policy focus to prioritise support for incoming requests in the InvestEU priority sectors. The latter will be implemented via a number of advisory initiatives developed under the InvestEU policy windows while also taking into account the results of the market gap studies.	133	Recital 56
NL3: What recovery and resilience measures under InvestEU are referred to in this recital, given the fact that the Strategic Investment Facility has been removed? **COM:** The wording in the recital reflects the fact that a large part of the funding of the provisioning for the InvestEU Fund will come from	143	Recital 61

the Recovery Package (Next Generation EU) and that even if the Strategic Investment Facility were not approved, InvestEU will nevertheless contribute to the objectives of the recovery and resilience of the European economy. In line with the European Council conclusions, a significant part of the InvestEU budget comes from the Next Generation EU resources and as such it has to be compatible with the EURI Regulation objectives. This is also in line with the synergies that could be establised between the programmes referred to in Recital 4.		
SE3: Please provide further information on the role of "third countries". Is language aligned with previous agreed regulations/agreements? **COM:** See reply to question SE2 above. The purpose of the recital is to capture the role of OLAF and the European Court of Auditors adequately in the context of the third country participation. This is a horizontal provision in Commission proposals for the next MFF.	155	Recital 67
SE4: We request more information on what this imply for the InvestEU. What is the practical implication for the InvestEU of "upholding and strengthening strategic value chains" and "reinforcing activities of strategic importance" and how is this suggested to guide investments supported by the EU guarantee? **COM:** Article 3(1)(g) as proposed by the Commission indicates that supporting strategic value chains is an element of a general objective of InvestEU, not only related to the 5th window. This need became even more apparent due to the Covid-19 pandemic.	260	Article 3 (1) (g)
AT1: While according to the Commission's MFF Fiche #83 InvestEU will be assigned EUR 9,142 mn., this very Art. 4(1) states that of the overall amount (EUR 23,48 bn.) 40% are to be provisioned which equals EUR 9,392 mn.. Could you please clarify this discrepancy? **COM:** Your figures are correct. According to MFF Fiche #83, InvestEU would be assigned EUR 9.142 bn (of which EUR 3.068 bn from the MFF budget and EUR 6.074from the NGEU budget). To this, the expected reflows for an amount of around EUR 1 bn are to be added, reaching a total of aroundEUR 10.142 bn. However, not all the budget will be allocated to the provisioning of the EU guarantee. Part of the budget will have to be devoted to the advisory hub, the project portal and the EIF capital increase, the amounts of which are yet to be stabilised. This amount was estimated very preliminarily and indicatively at EUR 750 mio without having detailed information on the size of the EIF capital increase, i.e. very likely to change.	277	Article 4 (1)

Once this indicative amount is substracted from the overall budget (including the estimated reflows) you obtain EUR 9.392 bn, which represents the provisioning at 40% of the InvestEU guarantee**.**		
NL4: Could the amount of the proposed EU guarantee be explained in relation to the MFF agreement? The MFF agreement amounts to a total of 8,4 billion euros (2018: 9,1 billion euros in current prices) which does not seem to reflect the amount indicated in this compromise text. We also notice the change in provisioning rate from 45% to 40%. [What factors account for this change? Is this due to the removal of the strategic European investment window or do other factors play a role too?] **COM:** See reply to question AT1.	277	Article 4 (1)
SE5: Please provide further information on the role of "third countries". Is language aligned with previous agreed regulations/agreements? **COM:** See reply to question SE2 above.	283	Article 4(1)
SE6: Please provide further information on the role of "third countries". Is language aligned with previous agreed regulations/agreements? **COM:** See reply to question SE2.	310-318	Article 5(d)
[NL5: The Netherlands can support the proposed addition. The Netherlands is in favour of applying synergies between investment guidelines in InvestEU and the existing guidelines in the EDF and EDIDP regulations with respect to strategic investments in defence. What is the relation between this addition and article 7.8?]	378	Article 7 (1) (e)
[NL6: Can the lowering of the allocated amount for advisory initiatives be solely explained by the lowering of the InvestEU guarantee? If not, what other factors account for this too?]	509	Article 10 (1)(d)(i)
AT2: We are surprised about the fact that the EIB's financial contribution to InvestEU has not been cut proportionally (to around 30%), but is now proposed to amount to around 47% of the Commission's May proposal. Could you please clarify? Have the relevant EIB governing bodies consulted on this? **COM:** The rate of the financial contribution of the EIB was 25% in the Commission 2018 proposal The contribution was reduced to 16.7% in the May 2020 proposal due to the substantial increase in volume of InvestEU and the nature of the 5th window. The percentage of 25 % is in line with the expected financial contribution from the	575	Article 12 (4)

other implementing partners: for the latter, at the time of the partial agreement, it was decided not to specify any amount. The substantial decrease of the overall volume of InvestEU (affecting in particular the fifth window) has put the InvestEU back to the previous expected level of risk, other things being equal.		
[NL7: The EU guarantee granted to the EIB Group is lowered leading to the EIB part in InvestEU under own resources being 25% in the new proposal as opposed to 16,7% in the earlier proposal. Is this due to the removal of the strategic investment window or do other factors play a role too? Does this lead to the EIB being treated like any other implementing partner in terms of financial contribution?] See reply to AT2	575	Article 12 (4)
[SE7: Please provide information as to clarify these figures. (linea 575)]	575	Article 12 (4)
[AT3: We are in favour of keeping the relative EU share in the EIF capital at the current level and support this drafting. At the same time no amount is mentioned. How will the PRES proceed?]	1028	Article 32
NL8: This proposal contains no figures on subscribed shares in forthcoming capital increases of the European Investment Fund by the Commission. Will the Commission participate pro rata in a EIF capital increase? Has the Commission made a reservation for a financial enveloppe that considers a capital increase in the next MFF? **COM:** See reply to question NL2.	1028	Article 32
SE8: Sweden's view is that reflows from instruments should be directed to the EU budget. Only if article 34(1) and 34(2) are in full consistency with the EUCO conclusions (para 30) could they be accepted. Could COM or the presidency comment? **COM:** The Commission considers that the proposed Articles 34(1) and 34(2) are in line with the EUCO conclusions that refers to 'reflows'.	1050	Article 34 (1)
LU0: 1) **We believe that a transitional provision should be included to avoid a fall-off of the support for investment during the last years of the new MFF, through a consolidation with the EIB's legacy portfolios.** 2) **The transitional provisions regarding the continuation of the governance structure of EFSI until the new**	1059	Article 34

governance structure of InvestEU has been put in place could also be included in this article. **COM:** 1) Should the Council see merit in a merger of several guarantee portfolios, the Commission could look at the technical feasibility of such an option. 2) The Commission could consider a transitional arrangement of ‘warehousing’ similar to that used in the beginning of the EFSI, allowing for approvals of financing and investment operations by the EIB Group from the adoption of the InvestEU Regulation until the establishment of the Investment Committee. These operations would be ex post assessed by the Investment Committee and could benefit from the EU guarantee if fulfilling the requirements of the InvestEU Regulation and Investment Guidelines, and approved by the Investment Committee. The Commission is not in favour of extending the EFSI into the next MFF.		
SE10: While we support that the InvestEU financing operations support the green and digital transitions, we would like to request more information on how “activities of strategic importance” and “enhanced resilisen” are suggested to guide investments under the InvestEU. **COM:** The non-paper presenting the draft Investment Guidelines will be shared ahead of tomorrow’s FiCo meeting. They contain further details of implementation.	1091	Annex II Intro
DK1: By stating this in the beginning of the annex it gives the impression that priority is given to strategic investments. However, its not yet clear what is actually covered under strategic investments. Who will define what constitutes strategic importance? **COM:** See reply to question SE10.	1091	Annex II Intro
DK2: we would like the Commission to clarify the relation between the InvestEU programme and Important Projects of Common European Interest (IPCEI) as it is stated in this paragraph. How can IPCEIs benefit from the InvestEU programme? Will projects endorsed by governments through IPCEIs have better chances of receiving support from the InvestEU programme? **COM:** Any project seeking financing from an InvestEU implementing partner and support through the InvestEU guarantee will be subject to the requirements defined in the InvestEU Regulation and will be assessed by the InvestEU implementing partner and the Investment Committee on its own merits. The Investment Committee will assess the merits of granting the benefit of the EU budget guarantee for such projects on the basis of the InvestEU guarantee request and scoreboard. A particular merit IPCEIs may have is their European nature.	101	Annex II Intro

LU1: How does the Commission define “critical” in this context? Is “critical” not already covered by the reference to “strategic importance” above? **COM:** For the purposes of defining the eligibility of such investment support in the scope of the InvestEU Regulation, it will be important to determine which are the critical infrastructures supporting the competitiveness of the Union economy or the elements of such critical infrastructure seen from the objectives of the InvestEU. This will be further detailed in the non-paper presenting the draft Investment Guidelines, which will be shared ahead of the next FiCo. .	1109 1137	Annex II 1 (g)
LU2: How does the Commission intend to measure this criterion? **COM:** The Commission is currently developing together with the Implementing Partners a methodology for measuring and reporting InvestEU key performance indicators. This methodology will build, to the extent possible/appropriate on existing methodologies applied to such programmes and instruments as EFSI or COSME.	1287	Annex III 3.1.