



Council of the
European Union

Brussels, 16 April 2021
(OR. en)

7887/21

ECOFIN 345
CADREFIN 172
CODEC 530
COMPET 252
RECH 152
ENER 118
TRANS 213
ENV 230
EDUC 122
EF 135
TELECOM 145
FSTR 31
DELECT 69

COVER NOTE

From: Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director

date of receipt: 14 April 2021

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

No. Cion doc.: C(2021) 2633 final

Subject: COMMISSION DELEGATED REGULATION (EU) .../... of 14.4.2021 supplementing Regulation (EU) 2021/523 of the European Parliament and of the Council by setting out the investment guidelines for the InvestEU Fund

Delegations will find attached document C(2021) 2633 final.

Encl.: C(2021) 2633 final



Brussels, 14.4.2021
C(2021) 2633 final

COMMISSION DELEGATED REGULATION (EU) .../...

of 14.4.2021

**supplementing Regulation (EU) 2021/523 of the European Parliament and of the
Council by setting out the investment guidelines for the InvestEU Fund**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

The InvestEU Fund, established by Regulation 2021/523 of the European Parliament and of the Council of 24 March 2021 establishing the InvestEU Programme and amending Regulation (EU) 2015/1017¹ (the InvestEU Regulation), supports investment in key Union policy areas. To this end, it provides for a guarantee backed by the Union budget (‘EU guarantee’) for eligible financing and investment operations contributing to achieve Union policy objectives referred to in Article 8(1) of the InvestEU Regulation.

Article 8(9) of the InvestEU Regulation empowers the Commission to adopt investment guidelines, by means of a delegated act, to supplement its non-essential elements. Pursuant to Article 14 of the InvestEU Regulation, eligible financing and investment operations must be consistent with the investment guidelines.

Pursuant to Article 18(2) of the InvestEU Regulation, “financing and investment operations shall be covered by the EU guarantee only where they fulfil the criteria laid down in this Regulation and in the relevant investment guidelines, and where the Investment Committee has concluded that those operations fulfil the requirements for benefiting from the EU guarantee [...]”.

This Commission Delegated Regulation lays down the requirements that financial products and financing and investment operations must satisfy to benefit from InvestEU Fund support. Pursuant to Article 24(1)(b) of the InvestEU Regulation, the Investment Committee must verify compliance with the requirements when examining proposals for such financing and investment operations.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

In accordance with the Common Understanding between the European Parliament, the Council and the Commission on Delegated Acts² and Article 8(9) of the InvestEU Regulation, when preparing the delegated act the Commission consulted relevant stakeholders via dedicated expert meetings and written consultations. The stakeholders included the European Investment Bank, the European Investment Fund and other potential implementing partners, including national promotional banks and institutions, the European Bank for Reconstruction and Development, the Council of Europe Bank and Nordic Investment Bank and several associations.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

This Commission Delegated Regulation lays down the requirements that financing and investment operations must satisfy in order to receive support from the InvestEU Fund.

It consists of a horizontal part, which applies to all financing and investment operations, and a ‘policy windows’ part, which lays down specific provisions for each policy window.

¹ OJ L 107, 26.3.2021, p. 30.

² Annexed to the Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making, 13 April 2016 (OJ L 123, 12.5.2016, p. 1).

The **horizontal part** stipulates how financing and investment operations supported by the InvestEU Fund must contribute to Union policy objectives, address market failures or sub-optimal investment situations, and achieve added value for the EU. It also sets out the requirements for benefiting from the EU guarantee, and risk considerations. The main provisions are as follows:

- common requirements detailing rules for the actors involved in the financing and investment operations (i.e. implementing partners, financial intermediaries and final recipients), the prioritisation of policy objectives and the various types of financial products;
- implementing partners must conduct appropriate risk assessments on the financing and investment operations. Risk-related reporting by implementing partners must allow the Commission to assess the impact of investment and financing operations on the risk borne by the EU guarantee and the adequacy of the provisioning;
- the EU guarantee provided is provided in EUR. Financing may be provided in other currencies under certain conditions;
- financial products must be allocated to policy windows in accordance with principles laid down in the investment guidelines;
- geographical and sectoral provisions ensure the InvestEU Fund's coverage across sectors and regions, while respecting its demand-driven nature;
- Member State compartments may be established to cover one or more applicable policy window(s). Financing and investment operations under the Member State compartments must contribute to the policy objectives of the funds under shared management or of the Recovery and Resilience Facility or to other objectives if the contribution is made from national sources;
- blending operations may combine support of the InvestEU Fund, with support from other Union programmes or from the EU Emissions Trading System Innovation Fund;
- financing and investment operations under the InvestEU Fund may cover activities considered of strategic importance to the Union. The investment guidelines set out the specific cases in which additional safeguards apply;
- the InvestEU Programme will contribute to the objectives of the Just Transition Mechanism through the Just Transition Scheme laid down in the investment guidelines;
- the use of the EU guarantee may cover different tranches of risk under financing and investment operations;
- specific principles apply for debt and equity financing provided by an implementing partner under general or thematic financial products.

The **policy windows part** sets out requirements for each of the four policy windows (sustainable infrastructure; research, innovation and digitisation; SME; social infrastructure and skills). There are specific rules on:

- areas of intervention reflecting EU policy priorities;
- investments of strategic importance for the EU under some policy windows;
- financial intermediaries to be involved according to the nature of relevant financing and investment operations (debt or equity financing);

- targeted final recipients.

COMMISSION DELEGATED REGULATION (EU) .../...

of 14.4.2021

supplementing Regulation (EU) 2021/523 of the European Parliament and of the Council by setting out the investment guidelines for the InvestEU Fund

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2021/523 of the European Parliament and of the Council of 24 March 2021 establishing the InvestEU Programme and amending Regulation (EU) 2015/1017³, and in particular Article 8(9) thereof,

Whereas:

- (1) The aim of the InvestEU Programme is to support financing and investment operations contributing to the achievement of the Union's policy objectives set out in Articles 3 and 8 of Regulation (EU) 2021/523.
- (2) Pursuant to Article 8 of Regulation (EU) 2021/523, the InvestEU Fund is to operate under four policy windows reflecting Union policy priorities, namely, sustainable infrastructure, research, innovation and digitalisation, small and medium-sized enterprises, and social investment and skills.
- (3) Pursuant to Article 14(1)(d) of Regulation (EU) 2021/523, financing and investment operations under each of those policy windows are to be consistent with the investment guidelines established by the Commission, in order to be eligible under the InvestEU Fund. To that effect, pursuant to Article 24(1)(b) of Regulation (EU) 2021/523, the Investment Committee is to verify that the proposals for financing and investment operations submitted by implementing partners comply with the requirements laid down in those investment guidelines.
- (4) The investment guidelines consist of a horizontal part, which applies to all financing and investment operations under the InvestEU Fund, and a 'policy windows' part, which lays down specific provisions for financing and investment operations under each policy window.
- (5) Pursuant to Article 8(9) of Regulation (EU) 2021/523, the Commission has prepared the investment guidelines in close dialogue with the European Investment Bank Group and other potential implementing partners.
- (6) In order to allow for the prompt application of the measures provided for in this Regulation, this Regulation should enter into force on the day following that of its publication in the Official Journal of the European Union,

³ OJ L 107, 26.3.2021, p. 30.

HAS ADOPTED THIS REGULATION:

Article 1

The investment guidelines for the financing and investment operations under the InvestEU Fund established by Regulation (EU) 2021/523, as laid down in the Annex, are adopted.

Article 2

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

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

Done at Brussels, 14.4.2021

For the Commission
The President
Ursula VON DER LEYEN