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'I' ITEM NOTE

From:	Presidency/General Secretariat of the Council
To:	Permanent Representatives Committee (Part 2)
Subject:	Proposal for a Regulation of the European Parliament and of the Council on the public sector loan facility under the Just Transition Mechanism - Mandate for negotiations with the Parliament

I. INTRODUCTION

1. On 11 December 2019, the Commission adopted a Communication on the European Green Deal, setting out its roadmap towards a new growth policy for Europe. In line with the objective of achieving EU climate neutrality by 2050 in an effective and fair manner, the European Green Deal proposed a Just Transition Mechanism to provide means for facing the climate challenge while leaving no one behind.
2. On 14 January 2020, the Commission adopted a Communication on the European Green Deal Investment Plan establishing the Just Transition Mechanism which focuses on the regions and sectors that are most affected by the transition given their dependence on fossil fuels, including coal, peat and oil shale or greenhouse gas-intensive industrial processes but have less capacity to finance the necessary investments. The Mechanism consists of three pillars: (1) a Just Transition Fund (JTF) implemented under shared management, (2) a dedicated

scheme under InvestEU, and (3) a public sector loan facility to mobilise additional investments to the regions concerned.

3. On 28 May 2020, the Commission submitted to the Council the proposal for a Regulation of the European Parliament and of the Council on the public sector loan facility under the Just Transition Mechanism.
4. On 17-21 July, the European Council concluded that in order to address the social and economic consequences of the objective of reaching climate neutrality by 2050 and the Union's new 2030 climate target, a Just Transition Mechanism will be created.

II. WORK WITHIN THE COUNCIL

5. The proposal was examined by the Working Party of Financial Counsellors on 8 June, 23 June, 14 July, 22 July and 9 September. During those meetings Member States expressed support for the Commission proposal but also expressed their will to make changes, concerning, namely:
 1. an alignment of the text with the conclusions of the European Council as regards the objective of climate neutrality by 2050 and the Union's new 2030 climate target ;
 2. a cross-reference to the JTF's list of excluded activities;
 3. the clarification of the procedure for the Commission to follow in order to extend the facility to finance partners other than the EIB;
 4. the clarification of the notion of additionality in the specific objectives of the facility and hence also on the eligibility of projects;
 5. the possibility for projects receiving support under the facility to also be able to receive advisory and technical support from other Union programmes;
 6. the adoption of the work programmes via implementing acts;
 7. the possibility for the Commission to modify the indicators contained in Annex II only if the interim evaluation shows the need; and,
 8. the clarification that appropriations can only be entered beyond 2027 for technical and advisory administrative assistance for the implementation of the facility.

6. Following the Financial Counsellors Working Party of 9 September 2020, the Presidency is of the view that a balanced compromise text has emerged which was supported by a majority of Member States.

III. CONCLUSION

7. Against this background the Permanent Representatives Committee is invited to:
- agree on the mandate with regard to the proposed Regulation, as set out in Annex to this note;
 - invite the Presidency to conduct negotiations with the European Parliament on the basis of this mandate.
8. Unless objected by Coreper, this document will be made public by the General Secretariat of the Council after endorsement.
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Changes to the Commission proposal are highlighted as follows: new text is set out in **bold underlining**, while ~~strikethrough~~ indicates deletions.

2020/0100 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
on the public sector loan facility under the Just Transition Mechanism

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 the third paragraph of Article 175 and the first paragraph of Article 322 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 Committee¹,
Having regard to the opinion of the Committee of the Regions²,
Having regard to the opinion of the Court of Auditors,
Acting in accordance with the ordinary legislative procedure,
Whereas:

- (1) The Commission adopted a Communication on the European Green Deal on 11 December 2019³, drawing its roadmap towards a new growth policy for Europe and setting ambitious objectives to counter climate change and for environmental protection. In line with the objective to achieve **the Union's 2030 climate targets and** climate neutrality ~~in the Union~~ by 2050 in an effective and fair manner, the European Green Deal announced a Just Transition Mechanism to provide means for facing the climate challenge while leaving no one behind. The most vulnerable regions and people are the most exposed to the harmful effects of climate change and environmental degradation. At the same time, managing the transition requires significant structural changes.

¹ OJ C , , p. .

² OJ C , , p. .

³ COM(2019) 640 final.

- (2) The Commission adopted a Communication on the European Green Deal Investment Plan⁴ on 14 January 2020, establishing the Just Transition Mechanism which focuses on the regions and sectors that are most affected by the transition given their dependence on fossil fuels, including coal, peat and oil shale or greenhouse gas-intensive industrial processes but have less capacity to finance the necessary investments. The Just Transition Mechanism consists of three pillars: a Just Transition Fund implemented under shared management, a dedicated just transition scheme under InvestEU, and a public sector loan facility to mobilise additional investments to the regions concerned.
- (2a) On 17-21 July, the European Council concluded that in order to address the social and economic consequences of the objective of reaching climate neutrality by 2050 and the Union's new 2030 climate targets, which will be updated by the end of 2020, a Just Transition Mechanism, including a Just Transition Fund, should be created. As a general principle, all EU expenditure should be consistent with Paris Agreement objectives. Equality between women and men, as well as rights and equal opportunities for all, and the mainstreaming of these objectives should be taken into account and promoted throughout the preparation, implementation and monitoring of relevant programmes.**
- (3) The proposal for establishing the Just Transition Fund was adopted by the Commission on 14 January 2020⁵. For the better programming and implementation of the Fund, territorial just transition plans are to be adopted, setting out the key steps and timeline of the transition process and identifying the territories most negatively affected by the transition towards a climate neutral economy and with less capacity to deal with the transition challenges.
- (4) A public sector loan facility (the 'Facility') should be provided. It constitutes the third pillar of the Just Transition Mechanism, supporting public sector entities in their investments. Such investments should meet the development needs resulting from the transition challenges described in the territorial just transition plans as ~~adopted~~ **approved** by the Commission. The activities envisaged for support should be consistent with and complement those supported under the other two pillars of the Just Transition Mechanism.
- (5) In order to enhance the economic diversification of territories impacted by the transition, the Facility should cover a wide range of investments, on condition that they contribute to meet the development needs in the transition towards a **EU climate neutrality economy by 2050**, as described in the territorial just transition plans. The investments supported may cover **low-carbon and renewable** energy and transport infrastructure, district heating networks, green mobility, smart waste management, ~~clean~~ **sustainable** energy and energy efficiency measures including renovations and conversions of buildings, support to transition to a circular economy, land restoration and decontamination, as well as up- and re-skilling, training and social infrastructure, including social housing. Infrastructure developments may also include **cross-border projects and** solutions leading to ~~their~~ enhanced resilience to withstand disasters. Comprehensive investment approach should be favoured in particular for territories with important transition needs. Investments in other sectors could also be supported if they are consistent with the adopted territorial just transition plans. By supporting investments that do not generate sufficient revenues, the Facility aims at providing public sector entities with additional resources necessary to address the social, economic and environmental challenges resulting from the adjustment to climate transition. In order to help identify investments with a high positive environmental impact eligible

⁴ COM(2020) 21 final.

⁵ COM(2020) 22 final

under the Facility, the EIB should implement its new energy lending policy for the assessment of the projects and all finance partners should use, where applicable, the EU taxonomy on environmentally sustainable economic activities, including the ‘do no significant harm’ principle, to provide for transparency on sustainable projects may be used.

- (5a) By addressing investment needs stemming from the transition towards climate neutral economy of the territories the most negatively impacted, the Facility should provide a key contribution to mainstream climate actions. Resources from the grant component of the Facility will therefore contribute to the achievement of the climate objectives to the same extent as the Just Transition Fund.
- (6) 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~~ other conditionalities to protect the budget.⁶
- (7) The Facility should provide support in the form of grants provided by the Union combined with loans provided by a finance partner. The loan component should be provided in accordance with the respective rules, policies and procedures of the finance partner. The financial envelope of the grant component, implemented by the Commission in direct management should take the form of financing not linked to costs, in accordance with Article 125 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council (the ‘Financial Regulation’)⁷. That form of financing should help incentivise project promoters to participate and contribute to the achievement of the Facility’s objectives in an efficient way relative to the size of the loan. The loan component should be provided by the European Investment Bank (‘the EIB’). The Facility may also be extended to other finance partners providing the loan component, where additional resources for the grant component become available or where it is required for the correct implementation. In this case, the Commission should inform Member States about the intention to extend the Facility and select additional finance partners taking into account their capacity to fulfil the objectives of the Facility, to contribute own resources and to ensure an appropriate geographical coverage.
- (8) EUR [250 000 000] of the grant component of the Facility are expected to be financed from the Union budget in accordance with ~~[new MFF proposal]~~ Council Regulation EU 2020/[new Regulation] laying down the multiannual financial framework for the years 2021 to 2027 and should constitute the prime reference amount, within the meaning of point ~~47~~ [16] of the Inter-institutional Agreement of ~~2 December 2013~~ [date of new Agreement] between the European Parliament, the Council and the Commission on budgetary discipline,

⁶ This recital may have to be updated pending the outcome of negotiations on the conditionality regime.

⁷ Regulation (EU Euratom) 2018/1046.

on cooperation in budgetary matters and on sound financial management⁸, for the European Parliament and the Council during the annual budgetary procedure.

- (9) EUR 275 000 000 of the grant component of the Facility is to be financed by repayments from the financial instruments established by the programmes listed in Annex I to this Regulation. Such revenue stems from terminated programmes independent of the Facility, and should be considered external assigned revenue by derogation to Article 21(3)(f) of the Financial Regulation on the basis of Article 322(1) TFEU.
- (10) EUR 1 000 000 000 of the grant component of the Facility should be financed by the foreseeable surplus of the provisioning for the EU guarantee established by Regulation (EU) 2015/1017 of the European Parliament and of the Council which also establishes the European fund for strategic investments (the ‘EFSI Regulation’)⁹. Therefore, a derogation should be made from point a) of Article 213(4) of the Financial Regulation, which envisages an obligation for any surplus of provisions for a budgetary guarantee to be returned to the budget, in order to assign that surplus to the Facility. That assigned revenue should be considered external assigned revenue by derogation to Article 21(3)(f) of the Financial Regulation on the basis of Article 322(1) TFEU.
- (11) In accordance with point (c) of Article 12(4) of the Financial Regulation, the appropriations corresponding to external assigned revenue should be automatically carried over to the successive programme or action. That provision allows matching the multiannual schedule of assigned revenue with the implementation path of the projects financed by the Facility.
- (12) Resources for advisory support should also be provided for in order to promote the preparation, development and implementation of projects.
- (13) In order to ensure that all Member States are granted the possibility to benefit from the grant component, a mechanism should be set up to establish earmarked national shares to be respected during a first stage, based on the distribution key proposed in the Just Transition Fund Regulation. However, in order to reconcile that objective with the need to optimise the economic impact of the Facility and its implementation, such national allocations should not be earmarked after 31 December 2024. Thereafter, the remaining resources available for the grant component should be provided without any pre-allocated national share and on a competitive basis at Union level, while ensuring predictability for investment and following a needs-based and regional convergence approach.
- (14) Specific eligibility conditions and award criteria should be set out in the work programme and the call for proposals. Those eligibility conditions and award criteria should take into account the relevance of the project in the context of the development needs described in the territorial just transition plans, the overall objective of promoting regional and territorial convergence and the significance of the grant component for the viability of the project. Union Support established by this Regulation should thus only be made available to Member

⁸ **[new reference]** OJ C 373, 20.12.2013, p. 1.—

[http://eur-lex.europa.eu/legal-](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2013.373.01.0001.01.ENG&toe=OJ:C:2013:373:TOC)

[content/EN/TXT/?uri=uriserv:OJ.C_.2013.373.01.0001.01.ENG&toe=OJ:C:2013:373:TOC](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2013.373.01.0001.01.ENG&toe=OJ:C:2013:373:TOC)

⁹ 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).

States with at least one territorial just transition plan adopted. The work programme and calls for proposals will also take into account the territorial just transition plans submitted by Member States to ensure that coherence and consistency across the different pillars of the mechanism is ensured.

- (15) Support under this Facility should only be provided to projects that do not generate a sufficient stream of own revenues that would allow them to ~~be financially viable and to be financed solely by loans provided on market terms~~ **cover investment costs**. Own revenues should correspond to revenues, budgetary transfers excepted, generated directly by the activities carried out by the project, such as sales, fees or tolls and as incremental savings generated by the upgrade of existing assets.
- (16) Since the grant component should reflect the divergent development needs of regions across Member States, such support should be modulated. Taking into account that public sector entities in less developed regions, as defined in Article 102(2) of Regulation [new CPR], generally experience lower public investment capacity, the grant rates applied to loans provided to such entities should be comparatively higher.
- (17) In order to ensure an effective implementation of the Facility, it may be necessary to provide advisory support for the preparation, development, and implementation of projects. This support should be provided through the InvestEU Advisory Hub.
- (18) In order to speed up implementation and ensure that resources are used in a timely fashion, this Regulation should lay down specific safeguards to be included in the grant agreements. In view of that objective, the Commission, in line with the principle of proportionality, should be able to reduce or terminate any Union support in case of serious lack of progress in the implementation of the project. The Financial Regulation lays down rules on the implementation of the Union budget. In order to ensure coherence in the implementation of Union funding programmes, the Financial Regulation should apply to the grant component and to resources for advisory support provided under this Facility.
- (19) In accordance with the Financial Regulation and Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council and Council Regulations (Euratom, EC) No 2988/95, (Euratom, EC) No 2185/96 and (EU) 2017/1939, the financial interests of the Union are to be protected through proportionate measures, including the prevention, detection, correction and investigation of irregularities, including fraud, the recovery of funds lost, wrongly paid or incorrectly used, and, where appropriate, the imposition of administrative penalties. In particular, in accordance with Regulations (Euratom, EC) No 2185/96 and (EU, Euratom) No 883/2013, 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 offences against the financial interests of the Union, as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council. In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the financial interests of the Union, grant the necessary rights and access to the Commission, OLAF, the EPPO in respect of those Member States participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939, and the European Court of Auditors (ECA), and ensure that any third parties involved in the implementation of Union funds grant equivalent rights.

- (20) In order to supplement and amend certain non-essential elements of this Regulation, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of delegating further certain implementation tasks to executive agencies as well as of the amendment of the elements contained in Annex II of this Regulation regarding the key performance indicators. It is of particular importance that the Commission can 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 Inter-institutional Agreement of 13 April 2016 on Better Law-Making. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (21) In order to set out an appropriate financial framework for the grant component of this Facility until 31 December 2024, implementing powers should be conferred on the Commission to set out the available national allocations expressed as shares of the overall financial envelope of the Facility for each Member State in accordance with the methodology set out in Annex I of Regulation [the JTF Regulation]. The implementing powers should be conferred without comitology procedures given that the shares derive directly from the application of a pre-defined calculation methodology.
- (22) The objective of this Regulation, namely to leverage public investment in territories, most impacted by the transition towards climate neutrality by addressing the corresponding development needs, cannot be sufficiently achieved by the Member States alone. The main reasons in this regard are the difficulties for public entities to support investments, which do not generate sufficient streams of own revenues **to cover investment costs** and benefit the territories most negatively impacted by climate transition, ~~without EU grant support~~ and the need for a coherent implementation framework under direct management. Since those objectives can be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter and scope

This Regulation provides for the public sector loan facility (the 'Facility') in support of public sector entities by combining grants from the Union budget with loans granted by the finance partners and lays down the objectives of the Facility. It lays down rules for the grant component of Union support provided under this Facility covering in particular its budget for the period 2021-2027, the forms of Union support and provisions on eligibility.

The Facility shall provide support benefitting Union territories facing serious social, environmental and economic challenges deriving from the transition process towards **the Union's 2030 climate targets and the objective of a EU climate neutrality economy of the Union by 2050.**

Article 2 *Definitions*

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

1. 'administrative agreement' means the legal instrument establishing the cooperation framework between the Commission and a finance partner setting out the respective tasks and responsibilities for the implementation of the Facility in accordance with the provisions of this Regulation;
2. 'beneficiary' means a ~~public sector~~ legal entity established in a Member State as a public law body, or as a body governed by private law entrusted with a public service mission, with whom a grant agreement has been signed under the Facility;
3. 'finance partners' means the EIB, other international financial institutions, national promotional banks and financial institutions, with which the Commission signs an administrative agreement to cooperate within the Facility;
4. 'project' means any action identified by the Commission as eligible, financially and technically independent, which has a pre-defined objective and a set period during which it must be implemented and finalised;
5. 'territorial just transition plan' means a plan established in accordance with Article 7 of Regulation [JTF Regulation] and approved by the Commission;
6. 'loan scheme' means a loan granted to a beneficiary by finance partners aimed at financing a set of several pre-identifiable projects under the Facility.

Article 3 *Objectives*

1. The general objective of the Facility is to address serious socio-economic challenges deriving from the transition process towards **the Union's 2030 climate targets set out in Article 2(11) of Regulation (EU) 2018/1999 [as amended] and the objective of a EU climate neutrality economy by 2050** for the benefit of the Union territories identified in the territorial just transition plans prepared by the Member States in accordance with Article 7 of Regulation [JTF Regulation].
2. The Facility shall have the specific objective of increasing public sector investments, which address the development needs of regions identified in the territorial just transition plans, by facilitating the financing of projects that do not generate a sufficient stream of own revenues **to cover investment costs** and ~~would not be financed without the element of grant support from the Union budget.~~
3. In pursuing the achievement of the specific objective referred to in paragraph 2, this Regulation also aims at providing advisory support for the preparation, development, and implementation of eligible projects where necessary. That advisory support shall be

provided in accordance with the rules and implementation methods for the InvestEU Advisory Hub established by Article [20] of Regulation [InvestEU Regulation].

Article 4
Budget

1. Without prejudice to additional resources allocated in the Union budget for the period 2021-2027, the grant component of support provided under this Facility shall be financed from:
 - (a) resources from the Union budget for an amount of EUR 250 000 000 in current prices, and
 - (b) assigned revenue as referred to in paragraph 2 up to a maximum amount of EUR 1 275 000 000 in current prices.

2. The resources referred to in paragraph 1(b) shall be provided by repayments stemming from financial instruments established under the programmes listed in Annex I to this Regulation up to a maximum amount of EUR 275 000 000 and from the surplus of the provisioning for the EU guarantee established by the EFSI Regulation up to a maximum amount of EUR 1 000 000 000.
3. The resources referred to in paragraph 1 may be complemented by financial contributions from Member States, third countries and from non-Union bodies. These resources shall constitute external assigned revenue within the meaning of Article 21(5) of the Financial Regulation.
4. {By derogation to Article 21(3)(f) of the Financial Regulation, resources stemming from repayments referred to in paragraph 1(b) shall constitute external assigned revenue within the meaning of Article 21(5) of the Financial Regulation. By derogation from point a) of Article 213(4) of the Financial Regulation, the resources stemming from the EFSI provisioning surplus referred to in paragraph 1(b) shall constitute external assigned revenue within the meaning of Article 21(5) of the Financial Regulation.}
5. An amount up to 2% of the resources referred to in paragraph 1 may be used for technical and administrative assistance for the implementation of the Facility such as preparatory, monitoring, control, audit and evaluation activities including corporate information and technology systems, as well as administrative expenditure and fees of the finance partners.
6. Resources up to an amount of EUR 25 000 000 included in those referred to in paragraph 1, shall be provided for activities set out in Article 3(3).
7. Budgetary commitments for actions extending over more than one financial year may be broken down over several years into annual instalments.

CHAPTER II

UNION SUPPORT

Article 5

Forms of Union support and methods of implementation

1. Union support provided under the Facility shall be provided in the form of grants in accordance with Title VIII of the Financial Regulation.
2. Union support provided under the Facility shall be implemented in direct management in accordance with the Financial Regulation.
3. The Commission may delegate powers to implement tasks of the Union support provided under the Facility to executive agencies in accordance with Article 69 of the Financial Regulation with a view to the optimum management and efficiency of the Facility.

Article 6
Availability of resources

1. The resources referred to in Article 4(1), after deduction of a provision for technical and administrative expenditure referred to in Article 4(5), shall be used to finance projects, in accordance with paragraphs 2 and 3.
2. For grants awarded pursuant to calls for proposals launched no later than 31 December 2024, Union support awarded to eligible projects in a Member State shall not exceed the national shares set out in the decision to be adopted by the Commission pursuant to paragraph 4.
3. For grants awarded pursuant to calls for proposals launched as from 1 January 2025, Union support awarded to eligible projects shall be provided without any pre-allocated national share and on a competitive basis at Union level until exhaustion of remaining resources. The award of such grants shall take into account the need to ensure predictability of investment and the promotion of regional convergence.
4. The Commission shall adopt a decision by means of an implementing act setting out the respective shares for each Member State **in accordance with** ~~resulting from the application of~~ the methodology set out in Annex I of Regulation [JTF Regulation] in the form of percentages of the total available resources.

Article 7
Administrative agreements with finance partners

An administrative agreement shall be signed between the Commission and the finance partner prior to the implementation of the Facility with that finance partner. The agreement shall set out the respective rights and obligations of each party to the agreement, including on audit and communication arrangements.

CHAPTER III **ELIGIBILITY**

Article 8
Eligible projects

1. Only projects contributing to the objectives referred to in Article 3 and fulfilling all the conditions set out below shall be eligible for Union support under the Facility:

- (a) the projects achieve measurable impact in addressing serious social, economic or environmental challenges deriving from the transition process towards **the Union's 2030 climate targets and the objective of a EU climate neutrality economy by 2050** and benefit territories identified in a territorial just transition plan, even if they are not located in those territories;

- (b) the projects do not receive support under any other Union programmes;
 - (c) the projects receive a loan by the finance partner under the Facility; and
 - (d) the projects do not generate a sufficient stream of own revenues **to cover investment costs**~~allowing them to be financed without Union support.~~
- 2. By derogation to paragraph 1(b), projects receiving Union support under the Facility may also receive advisory and technical assistance support for their preparation, development and implementation from other Union programmes.**
- 3. The Facility shall not support activities excluded under Article [5] of Regulation [JTF Regulation].**

Article 9
Eligible persons and entities

Notwithstanding the criteria set out in Article 197 of the Financial Regulation, only public sector legal entities established in a Member State as a public law body, or as a body governed by private law entrusted with a public service mission, are eligible to apply as potential beneficiaries under this Regulation.

CHAPTER IV GRANTS

Article 10
Grants

- 1. Grants shall take the form of financing not linked to costs in accordance with Article 125(1)(a) of the Financial Regulation.
- 2. The amount of the grant shall not exceed 15% of the amount of the loan provided by the finance partner under this Facility. For projects located in territories in NUTS level 2 regions with a GDP per capita not exceeding 75% of the average GDP of the EU-27 as referred to in Article [102(2)] of Regulation [new CPR], the amount of the grant shall not exceed 20% of the amount of the loan provided by the finance partner.
- 3. Payments of an awarded grant may be split into several instalments linked to the progress in implementation as set out in the grant agreement.

Article 11
Reduction or termination of the grants

1. In addition to the grounds specified in Article 131(4) of the Financial Regulation and after consulting the finance partner, the amount of the grant may be reduced or the grant agreement may be terminated, if within two years from the date of signature of the grant agreement, the economically most significant supply, works or services contract has not been signed, in cases where the conclusion of such contract is envisaged pursuant to the grant agreement.
2. When Union support is combined with loan schemes ~~and~~**or** when supply, works or services contracts are not envisaged, paragraph 1 shall not apply.

In such cases and after consulting the finance partner, the amount of the grant may be reduced or the grant agreement may be terminated, and any related amounts paid may be recovered, in accordance with the conditions set out in the grant agreement.

CHAPTER V **ADVISORY SUPPORT SERVICES**

Article 12
Advisory support services

1. Advisory support under this Regulation shall be implemented in indirect management, in accordance with the rules and implementation methods for the InvestEU Advisory Hub established by Article [20] of Regulation [InvestEU Regulation].
2. Activities necessary to support the preparation, development and implementation of projects shall be eligible for advisory support.

CHAPTER VI **PROGRAMMING, MONITORING, EVALUATION AND CONTROL**

Article 13
Work programmes

In order to implement ~~The Facility, the Commission~~ shall **adopt** ~~be implemented by~~ work programmes **referred to** ~~established in accordance with~~ Article 110 of the Financial Regulation. The work programmes shall set out the national shares of resources, including any additional resources, for each Member State in accordance with Articles 4(1) and 6(2) of this Regulation.

The Commission shall adopt the work programmes by means of an implementing act in accordance with the procedure referred to in Article 5 of Regulation (EU) No 182/2011.

Article 13bis

Selection of finance partners other than the EIB

The Commission shall set out the conditions and procedures for selecting finance partners other than EIB in an implementing act in accordance with the procedure referred to in Article 5 of Regulation (EU) No 182/2011.

The eligibility conditions for selecting the finance partners other than the EIB shall reflect the objectives of the Facility. In particular, the capacity of finance partners to contribute own resources and to ensure appropriate geographical coverage of the Facility, shall be taken into account.

The Commission shall publish the selection results.

Article 14

Monitoring and reporting

1. Key performance indicators to monitor implementation and progress of the Facility towards the achievement of the objectives set out in Article 3 are established in Annex II.
2. The performance reporting system shall ensure that data regarding the indicators referred to in paragraph 1 are collected efficiently, effectively and in a timely fashion. Beneficiaries in cooperation with finance partners shall provide to the Commission the data regarding those indicators.
3. **Where the interim evaluation referred to in article 15(2) finds that the the indicators in Annex II do not allow for a proper assessment of the Facility,** the Commission shall be empowered to adopt delegated acts in accordance with Article 17 to amend Annex II by modifying the indicators referred to in paragraph 1.

Article 15

Evaluation

1. Evaluations on the implementation of the Facility and its capacity to reach the objectives set out in Article 3 shall be carried out in a sufficiently timely manner to feed into the decision-making process.
2. The interim evaluation of the Facility shall be performed by 30 June 2025, when sufficient information is expected to be available about the implementation of the Facility. The evaluation shall in particular demonstrate how the Union support provided under the Facility shall have contributed in addressing the needs of territories implementing the territorial just transition plans.
3. At the end of the implementation period and no later than 31 December 2031, a final evaluation report on the results and long-term impact of the Facility shall be established.

Article 16
Audits

1. Audits on the use of the Union support provided under the Facility carried out by persons or entities, including by other 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.
2. The finance partners shall provide to the Commission and any designated auditors all available documents that are necessary for both these authorities to carry out their obligations.

Article 17
Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 14 shall be conferred on the Commission until 31 December 2027~~8~~.
3. The delegation of power referred to in Article 14 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 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 Inter-institutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

CHAPTER VII
TRANSITIONAL AND FINAL PROVISIONS

Article 18
Information, communication and publicity

1. The beneficiaries and the finance partners shall ensure the visibility of the Union support provided under the Facility, in particular when promoting the projects and their results, by providing targeted information to multiple audiences, including the media and the public.
2. The Commission shall implement information and communication actions relating to the Facility, the funded projects and their results. Financial resources allocated to the Facility 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.

Article 19
Transitional provisions

~~Where~~If necessary, appropriations may be entered in the budget beyond 2027 to cover the expenses provided for in Article 4(5), ~~payment of instalments of grant Union support provided for in accordance with Article 6(2),~~ to enable the management of actions not completed by 31 December 2027.

Article 20
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*.

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

Done at Brussels,

For the European Parliament
The President

For the Council
The President

ANNEX I

Financial instruments from which repayments may be used for the Facility

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:

- 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).

ANNEX II

Key performance indicators

1. Volume of grants awarded
2. Volume of loans signed
 - 2.1 Individual loans
 - 2.2 Loan schemes
3. Overall investment mobilised, divided as follows
 - 3.1 Amount of private financing mobilised
 - 3.2 Amount of public financing mobilised
4. Number of projects receiving support, including geographical coverage
 - 4.1 Country
 - 4.2 NUTS 2 region
 - 4.3 Just transition territory supported
5. Number of projects receiving financing under the Facility
6. Number of projects by sector
 - 6.1 Transport
 - 6.2 Social infrastructure
 - 6.3 Public utilities (water, wastewater, district heating, energy, waste management)
 - 6.4 Direct support to transition (renewable energy, energy efficiency)
 - 6.5 Environmental protection
 - 6.6 Urban infrastructure (including housing)
 - 6.7 Others
7. Greenhouse gas emission reduced