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COVER NOTE

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To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union

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Delegations will find attached document C(2025) 3802 final.

Encl.: C(2025) 3802 final



EUROPEAN
COMMISSION

Brussels, 28.8.2025
C(2025) 3802 final

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

of 28.8.2025

**amending Delegated Regulation (EU) 2021/1078 as regards strategic investments in the
field of defence set out in the investment guidelines for the InvestEU Fund**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

The White Paper for European Defence – Readiness 2030¹ set out a plan for the ReArm Europe Initiative 2030, a defence package providing financial levers to Member States to drive an investment surge in defence capabilities. Making business easier and deepening the Single Market are among the plan's key goals. There is urgency to ramp up European defence readiness to ensure that Europe has a strong and sufficient European defence posture by 2030 at the latest. Based on projections of gradual take-up of the instruments proposed under the ReArm Europe Plan/Readiness 2030, defence investment could reach at least EUR 800bn over the next four years. On 6 March 2025, the European Council called upon the Commission to swiftly take work forward on simplifying the legal and administrative framework, for public procurement, industry cooperation, permitting and reporting requirements, to address all obstacles and bottlenecks hindering a rapid ramping up of the defence industry. This targeted amendment of the Delegated Regulation on InvestEU guidelines is part of this effort of clarification and simplification.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

Rebuilding European defence will require massive investment over a sustained period, both public and private. Pursuant to Article 8(9) of Regulation (EU) 2021/523, the Commission has prepared this amendment of the investment guidelines in the Annex to Delegated Regulation (EU) 2021/1078 in close dialogue with relevant stakeholders.

The public consultation in 2025 was comprehensive, and allowed the Commission services to collect data, evidence and suggestions from Member States, industry and other stakeholders on legal, regulatory and administrative obstacles that restrict the ability of the European defence industry to scale up production with enhanced agility to achieve defence readiness by 2030 including within the Invest EU fund.

In accordance with Article 34(1) of the Invest EU Regulation, the European Investment Bank Group and other potential implementing partners of the InvestEU fund were consulted during the process. Implementing partners highlighted the difficulty to implement the limitations currently imposed on strategic investments in defence. The amendments to the investment guidelines proposed by the Commission aim at addressing the issues raised and the proposals received during this consultation.

Member States' experts were consulted during the drafting process of this amending regulation in accordance with the Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making². Limited comments focused on the scope of application of the limitations. The Commission considers this issue covered and therefore no amendment was proposed in this regard.

¹ Joint White Paper for European Defence Readiness 2030 : JOIN/2025/120 final, 19.03.2025.

² Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making, (OJ L 123, 12.5.2016, p. 1–14, ELI: http://data.europa.eu/eli/agree_interinst/2016/512/oj)

3. LEGAL ELEMENTS OF THE DELEGATED ACT

This amendment is a targeted modification of the investment guidelines for the InvestEU Fund which take the form of an annex to the Commission Delegated Regulation (EU) 2021/1078 of 14 April 2021 supplementing Regulation (EU) 2021/523 of the European Parliament and of the Council by setting out the investment guidelines for the InvestEU Fund.

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amending Delegated Regulation (EU) 2021/1078 as regards strategic investments in the field of defence set out in 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 InvestEU Programme aims to support financing and investment operations contributing to the achievement of the Union's policy objectives set out in Articles 3 and 8 of, and Annex II to Regulation (EU) 2021/523. These financing and investment operations aim to support the development of, among others, the defence industry in order to contribute to the Union's strategic autonomy.
- (2) Pursuant to Article 14(1), point (d), of Regulation (EU) 2021/523, financing and investment operations under each of the policy windows referred to in Article 8 of that Regulation are to be consistent with the investment guidelines set out in the Annex to Commission Delegated Regulation (EU) 2021/1078⁴ (the current 'investment guidelines'), and based on Article 8(3) and (10) of Regulation (EU) 2021/523. For strategic investments in defence, those investment guidelines set out limitations with respect to final recipients controlled by a third country or third country entities and final recipients having their executive management outside the Union in view of protecting the Union's and Member States' security.
- (3) The Joint White Paper European Defence – Readiness 2030⁵ emphasizes the pressing need to improve access to capital for companies established in the Union, including small and medium-sized enterprises and mid-caps, so that they can bring their solutions to industrial scale and drive the industrial ramp-up that the Union is striving for. The financial sector shows a growing interest in defence. Yet, the defence sector remains an under-served market including due to limitations in investment policies of public and private financial institutions. Mobilising the full potential of InvestEU in support of the defence sector is key to address these challenges.
- (4) Based on the feedback received from stakeholders, through a public consultation and targeted consultations with Invest EU's implementing partners and Member States, it appears that the limitations set out in the current investment guidelines for strategic investments may hinder the deployment of the InvestEU fund in support of the

³ OJ L 107, 26.3.2021, p. 30, ELI: <http://data.europa.eu/eli/reg/2021/523/oj>.

⁴ Commission Delegated Regulation (EU) 2021/1078 of 14 April 2021 supplementing Regulation (EU) 2021/523 of the European Parliament and of the Council by setting out the investment guidelines for the InvestEU Fund (OJ L 234, 2.7.2021, p. 18, ELI: http://data.europa.eu/eli/reg_del/2021/1078/oj).

⁵ JOIN/2025/120 final, 19.03.2025.

defence sector. Therefore, the current investment guidelines should benefit from targeted modification in order to be fully tailored to the specificities of InvestEU, namely a budgetary guarantee implemented in indirect management. The proposed changes will facilitate the deployment of InvestEU in support of the defence sector, while maintaining sufficient safeguards for strategic investments in defence, in accordance with Regulation (EU) 2021/523.

- (5) The scope of strategic investments in defence subject to limitations is defined in the current investment guidelines as defence technologies and products identified in the annual work programme for the European Defence Fund. This definition brings unnecessary complexity and legal uncertainty due to the evolving nature of the work programme of the European Defence Fund. This scope should be streamlined by referring to investments in defence technologies and products primarily developed for military applications. Such simplification would improve predictability for InvestEU implementing partners and financial intermediaries by providing them with a clear methodology to identify whether final recipients are subject to the limitations related to third countries, including to clarify how those limitations apply to technologies with defence and civilian applications (dual use).
- (6) The current investment guidelines require that in order to be eligible, an entity controlled by a third country or third country entities shall demonstrate that the Member State in which it is established has approved a guarantee in accordance with the principles concerning eligible entities set out in Regulation (EU) 2021/697 establishing the European Defence Fund⁶. That provision is not tailored to the specificities of InvestEU and constrains the deployment of the funding. Guarantees approved by a Member State under a defence programme having received the financial contribution of the Union appear to be sufficient to protect the security of the Union and its Member States in the context of the InvestEU Fund. Only entities which are not able to fulfil this criteria should be required to submit a guarantee specifically in the context of the InvestEU operation. This amendment aims at clarifying the implementation of the InvestEU fund in support of entities established in the Union and controlled by non-EU entities. Such guarantees may, as the case may be, rely on mitigation measures imposed by, or to the benefit of, the Member State screening the acquisition of control of such legal entities by another third country or by another third country entity, within the meaning of Regulation (EU) 2019/452⁷.
- (7) The current investment guidelines set out that for strategic investments in defence, the limitations relating to the control of final recipients also extend to their suppliers and subcontractors. This wide scope of application is not adapted to the type of financing provided under InvestEU and can impede the deployment of InvestEU funding by imposing unnecessary administrative burden. In order to simplify the administrative process of InvestEU funding and to ensure that the eligibility conditions for the InvestEU funding are tailored to debt and equity financing instruments, the reference to suppliers in the case of control by third countries should be removed from the investment guidelines.

⁶ Regulation (EU) 2021/697 of the European Parliament and of the Council of 29 April 2021 establishing the European Defence Fund (OJ L 170, 12.5.2021, pp. 149–177)

⁷ Regulation (EU) 2019/452 of the European Parliament and of the Council of 19 March 2019 establishing a framework for the screening of foreign direct investments into the Union (OJ L 79I, 21.3.2019, p. 1, ELI: <http://data.europa.eu/eli/reg/2019/452/oj>).

- (8) The limitations set out in the current investment guidelines for strategic investments restrict to an unnecessary level the eligibility of entities established in associated third countries or controlled by associated third country or third country entities. To ensure equal treatment with entities established in the Union and in third country associated to the InvestEU Programme, and to align the principle for eligible entities set out in the European Defence Fund as well as other defence programmes in which the Union is a financial contributor, the current investment guidelines should be adapted to ensure that limitations are applied in relation to entities established or controlled by non-associated third countries or third country entities.
- (9) Pursuant to the current investment guidelines, up to five years after the date of the final disbursement of the financing, final recipients of strategic defence investments cannot exclusively license or transfer intellectual property rights to related critical technologies and technologies instrumental to safeguarding the essential security interest of the Union and its Member States directly resulting from those strategic investments to third countries or third-country entities, unless approved by the Member State in which the final recipient is established. The implementation of that provision poses significant challenges and bottlenecks in Member States and therefore hinders the deployment of InvestEU in support of defence by requiring Member States to implement new forms of control, beyond existing mechanisms, such as for the export of military items or the screening of foreign direct investments. To address those difficulties, the current investment guidelines should be modified to ensure that beneficiaries would only be subject to existing control mechanisms implemented by Member States in which they are established, while the financing and investment operation is covered by the EU guarantee.
- (10) Delegated Regulation (EU) 2021/1078 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Delegated Regulation (EU) 2021/1078 is amended in accordance with the Annex to this Regulation.

Article 2

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, 28.8.2025

*For the Commission
On behalf of the President,
Andrius KUBILIUS
Member of the Commission*