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WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party of Financial Counsellors
Subject:	JTM 3rd pillar - Consolidated table of Member States comments

Delegations will find attached the consolidated table of Member States comments on the public sector loan facility under the Just Transition Mechanism to be discussed at the Financial Counsellors Working Party on 23 June 2020.

MS replies: AT, RO, SE, LT, EL, PL, FR, LV, IE, DE, NL, BE, ES, PT, IT, DK, LU, PL

General comments:

AT

In general: The EIB has provided comments and suggestions on the COM's proposal on Friday. Before commenting the EIB's input, could we ask the COM to respond? While part of them seem to be supportable in principle, this does not hold true for all the comments provided.

SE

Comment regarding KPIs in Annex II: The suggested KPIs are very output oriented and do not look at the results achieved (outcome/impact), except for indicator 7. Greenhouse gas emission reduced. Sweden would suggest to add additional KPIs to measure the actual results of the investments, for example some of the regional policy common result indicators used for the Just Transition Fund, such as population served by waste recycling facilities/water/district heating, waste recycled, population benefiting from measures for air quality, annual users of new or modernised public transport.

Question regarding how much of the 1.525 billion euro that will be counted towards the 25% climate target in MFF: How will the assessment be made on how much of the 1.525 billion euro that will be counted towards the 25% climate target in MFF. Where is this regulated? While we support that some of the proposed investments will not have a green impact as main goal (while they should do no harm) such as social infrastructure, we do not want them to be counted towards the 25% climate target.

PL

Please be informed that we are still working internally on PL position towards the JTM 3rd pillar Regulation. At this stage I would like to inform you that we see positively comments presented last week by the EIB. I will come back to you with PL comments as soon as possible

ES

What are the loan conditions for the facility in terms of interest rates, maturities, etc?

IT

General remarks: please note that this comments are preliminary

First of all, Italy shares EIB's views and proposals for amending the related provisions of the proposal for a Regulation on the public sector loan facility under the Just Transition Mechanism.

Italy believes that the Facility should be attractive to allow Member States to conceive projects (under the approved National Transition Plans) which can meet the criteria for eligibility: unnecessary restrictions risk to limit such planning and make the Facility unattractive.

In order to provide greater flexibility given the scale and the multitude of the challenges raised by the transition towards climate neutral economy, Italy deems it essential that the public sector loan facility would cover a wider range of investments both from a sectoral and geographical perspective than the JTF. In particular, Italy asks for a better clarification about the possibility that eligible projects would be located in territories other than those indicated in the Just transition plans (art. 8).

Moreover, in order to ensure an effective use of national resources, it should be clearly stated that synergies between the Loan facility and resources from other national measures are allowed, even if on the same projects. In addition, Italy believes that the provision not to co-finance projects with other Union's Funds is unwarranted

Finally, Italy is of the view that there is room for improvement regarding the allocation key proposed for calculating the respective share of the grant component for each Member State.

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	Commission proposal	Comments
1.	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the public sector loan facility under the Just Transition Mechanism	
2.	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	
3.	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,	
4.	Having regard to the proposal from the European Commission,	
5.	After transmission of the draft legislative act to the national parliaments,	
6.	Having regard to the opinion of the European	

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	Economic and Social Committee ¹ ,	
7.	Having regard to the opinion of the Committee of the Regions ² ,	
8.	Having regard to the opinion of the Court of Auditors,	
9.	Acting in accordance with the ordinary legislative procedure,	
10.	Whereas:	
11.	(1) The Commission adopted a Communication on the European Green Deal on 11 December 2019 ³ , drawing its roadmap towards a new growth policy for Europe and setting ambitious objectives to counter climate change and for environmental	SE: (Drafting): The Commission adopted a Communication on the European Green Deal on 11 December 2019 ⁴ , 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 <u>the EU emission reduction target for 2030 and</u> climate neutrality in the Union by 2050 in an effective and fair manner, the European Green Deal announced a Just

¹ OJ C , , p. .
² OJ C , , p. .
³ COM(2019) 640 final.
⁴ COM(2019) 640 final.

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	protection. In line with the objective to achieve 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.	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. SE: (Comments): There should be an explicit reference also to the 2030 targets. PL: (Drafting): (1) The Commission adopted a Communication on the European Green Deal on 11 December 2019⁵, 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 EU 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.

⁵ COM(2019) 640 final.

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12.	(2) The Commission adopted a Communication on the European Green Deal Investment Plan ⁶ 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	PT: (Comments): The 35% provisioning rate for the facility is based on an assessment carried out by the Commission in 2016; while an EIB Group assessment for estimated losses, calculated at 31-12-2019, points to a lower percentage. Given the current context, it would be interesting to know if the Commission intends to review the provisioning fee and, if so, if it will do that in cooperation of the EIB.

⁶ COM(2020) 21 final.

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	concerned.	
13.	(3) The proposal for establishing the Just Transition Fund was adopted by the Commission on 14 January 2020 ⁷ . 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.	RO: (Comments): Second sentence to be aligned with the results of the negotiations on the JTF Regulation.
14.	(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	BE: (Drafting): (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

⁷ COM(2020) 22 final

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	in their investments. Such investments should meet the development needs resulting from the transition challenges described in the territorial just transition plans as adopted 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.	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. BE: (Comments): To be in line with the 1 st pillar text (JTF) PT: (Comments): In the EIB financing there is the issue if gas projects are eligible or not. As such, there is the issue of how this is articulated with the MFF (in particular in the trade-off with cohesion funds). Given that the JTF includes the most affected regions (in the case of PT, Alentejo) and having in mind that the privileged areas of intervention will be energy and transport infrastructure, public transport, energy efficiency and social infrastructure.
15.	(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 climate neutral economy, as described in the territorial just	AT: (Drafting): (...) The investments supported may cover 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.

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	transition plans. The investments supported may cover energy and transport infrastructure, district heating networks, green mobility, smart waste management, clean 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 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	(...) In order to help identify investments with a high positive environmental impact eligible under the Facility, the EU taxonomy on environmentally sustainable economic activities may shall be used. AT: (Comments): Since the term “clean” is not defined, it should be replaced by “sustainable”. Use of EU taxonomy to be obligatory: As outlined in EC COM(2020) 456 “Europe's moment: Repair and Prepare for the Next Generation” the EU sustainable finance taxonomy will guide investment in Europe’s recovery and public investments in the recovery should respect the green oath to “do no harm”. Therefore, a binding link to criteria developed under the Taxonomy Regulation has to be included to ensure the application of respective eligibility criteria. SE: (Drafting): (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 climate neutral economy by 2050, as described in the territorial just transition plans, and are in line with the EU taxonomy. The investments supported may cover energy and transport infrastructure, district

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	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 under the Facility, the EU taxonomy on environmentally sustainable economic activities may be used.	heating networks, green mobility, smart waste management, clean 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 solutions leading to their enhanced resilience to withstand <u>climate or environmental</u> 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 under the Facility, the EU taxonomy on environmentally sustainable economic activities may<u>will</u> be used. <u>No investments in the production, processing, distribution, storage or combustion of fossil fuels will be made.</u> SE: (Comments): • The EU taxonomy should be used to determine the projects funded by the facility, in the same way as for InvestEU.

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		It should be clarified that no investments in fossil fuel can be made from the facility (same as in the negative list in JTF). Even if EIB is introducing such restriction in its lending, this facility can potentially be used by other finance partners in the future and the restriction not to finance fossil fuel should therefore be made explicitly. It should also be clarified that possible investments for enhanced resilience to withstand disasters should be only for climate/environmental related disasters. FR: (Drafting): “[...] The investments supported may cover low-carbon energy and transport infrastructure, district heating networks, green mobility, smart waste management, clean 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. [...]” “[...] In order to help identify investments with a high positive environmental impact eligible under the Facility, <u>the EIB will implement its new energy lending policy for the assessment of the projects and</u> the EU taxonomy on environmentally sustainable economic activities <u>may shall</u> be used.” FR: (Comments):

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		<i>We suggest being precise as to what type of energy will benefit from these loans, especially insisting on the fact that no gas may be financed as this contradicts the EIB's own criteria.</i> NL: (Drafting): (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 climate neutral economy, as described in the territorial just transition plans. The investments supported may cover energy and transport infrastructure, district heating networks, green mobility, smart waste management, clean 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, as long as they are in line with finance partners policies on climate and energy. Infrastructure developments may also include solutions leading to their enhanced resilience to withstand disasters. Comprehensive investment approach should be favoured in particular for territories with important transition needs. NL: (Comments): Alignement with EIB policies on energy (Energy Lending Policy) and climate included just to be sure since investments under the loan facility 'may cover energy and transport

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		infrastructure' while the EIB is phasing out financing gas from 2021 onwards. BE: (Drafting): 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 climate neutral economy, as described in the territorial just transition plans. The investments supported may cover energy and transport infrastructure, district heating networks, green mobility, smart waste management, clean 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 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, environmental and economic economic and environmental challenges resulting from the adjustment to climate transition. In order to help identify investments with a high positive environmental impact eligible under the Facility,

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		the EU Taxonomy Delegated Act as well as the disclosure “comply or explain” process shall be used for those targeted activities BE: (Comments): -We would like to see this taken up in the articles, not only in the recitals. -‘comprehensive investment approach’: what does it mean ? what are the requirements to be qualified as a comprehensive investment approach ? PT: (Drafting): The investments supported may cover energy and transport infrastructure, district heating networks, green mobility, bioeconomy, smart waste management, clean 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. PT: (Comments): It is noted the absence of a reference to bioeconomy. We suggest to include it here (considered that it is closely linked to the circular economy). IT: (Drafting):

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		 The investments supported may cover energy and transport infrastructure, district heating networks, green mobility, smart waste management, clean energy and energy efficiency measures including renovations and conversions of buildings, support to transition to a circular economy, land restoration and decontamination, <u>urban renewal/regeneration, environmental infrastructure (water & sanitation), urban renewal and regeneration, cultural and historical heritage</u> as well as up- and re-skilling, training and social infrastructure, including social housing. Infrastructure developments may also include solutions leading to their enhanced resilience to withstand disasters..... IT: (Comments): <i>All these domains generally falling under the public sector responsibility need to implement a climate transition to guarantee better quality services and lower costs for the public use.</i> LU: (Drafting): (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 climate neutral economy, as described in the territorial just transition plans. The investments supported may cover energy and transport infrastructure, district heating networks, green mobility, smart waste management, clean energy and energy efficiency measures including renovations and

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		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 solutions leading to their enhanced resilience to withstand disasters. A particular emphasis should be placed on cross-border projects. 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 under the Facility, the EU taxonomy on environmentally sustainable economic activities may be used. LU: (Comments): In order to strengthen the European character of the instrument, cross-border projects should be prioritised. PL: (Drafting): (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

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		contribute to meet the development needs in the transition towards a climate neutral economy, as described in the territorial just transition plans. The investments supported may cover energy and transport infrastructure, district heating networks <u>systems</u>, green mobility, smart waste management, clean 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 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 under the Facility, the EU taxonomy on environmentally sustainable economic activities may be used.
16.	(6) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 of the Treaty on the	

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	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.	
17.	(7) The Facility should provide support in the form of grants provided by the Union combined with loans provided by a finance	RO: (Drafting): The Facility may also be extended to other finance partners providing the loan component together with the EIB, where additional resources for the grant component become available or

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	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’)⁸. 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	where it is required for the correct implementation. RO: (Comments): We suggest to make clear that the participation of other financial partners involves EIB participation as well. FR: (Comments): <i>The possibility to extend the facility to other implementing partners is welcome but could be more clearly specified in the regulation, especially regarding the process. If the instrument is to be open to other implementing partners, the regulation should include provisions that specifies how other institutions can become implementing partners.</i> BE: (Comments): In what conditions would the facility be opened to “other finance partners “ ? Definition of those finance partners other than the EIB Group is required. Access only to NPBs from MS. LU: (Drafting): (7) The Facility should provide support in the form of grants provided by the Union combined with loans provided by a finance partner. The financial envelope of the grant

⁸ Regulation (EU Euratom) 2018/1046.

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	additional resources for the grant component become available or where it is required for the correct implementation.	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’)⁹. 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 will 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. LU: (Comments): Seeing as the EIB is set to be the only finance partner – with potential extension to other institutions only under special circumstances – the language should be clearer in that regard. We don’t see the reason behind this wording. In which cases would the EIB not be able to correctly implement its mandate under this regulation? PL: (Drafting): (7) The Facility should provide support in the form of grants provided by the Union

9 Regulation (EU Euratom) 2018/1046.

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		combined with loans provided by a 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’)¹⁰. 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. PL: (Comments): Such a wording allows only theoretically for NPBI and other financial institutions to use the facility. The wording in recital 7 in practice eliminates such a possibility putting a condition that new funds will be available (this is extremely uncertain when and if this can materialize). In our view such a solution in practice means that entire facility will be used by one financial partner – EIB. The facility should remain open to other operators and should not be limited to EIB group potential support. Level playing field with respect to the possibility to use the facility should be ensured from the beginning. NPBI have best knowledge of the local

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		situation in the region, being sometimes the only source of financing for local hospitals and other public entities. Limiting the scope to EIB participation creates unfair competition when one participant of the market can promote projects with grant support while others do not have this possibility.
18.	(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] and should constitute the prime reference amount, within the meaning of point 17 of the Inter-institutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management ¹¹ ,	AT: (Comments): See line 30. SE: (Drafting): Put whole paragraph in brackets pending finalisation of MFF SE: (Comments): Sweden wants the next MFF to be reduced.

¹¹ OJ C 373, 20.12.2013, p. 1.
http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2013.373.01.0001.01.ENG&toc=OJ:C:2013:373:TOC

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	for the European Parliament and the Council during the annual budgetary procedure.	
19.	(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.	AT: (Comments): See line 30. SE: (Drafting): Put the whole paragraph in brackets pending finalisation of MFF SE: (Comments): Sweden does not support using repayments from financial instruments under other programs to be used to finance this facility. Sweden does not support the derogation to the Financial Regulation. DE: (Drafting): [(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.] DE: (Comments):

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		Recital 9 should be put in brackets in order to not pre-empt negotiations of the MFF in the European Council on the use of reflows (similar to InvestEU para 31 of the last draft conclusions of the special meeting of the European Council as of 14 February 2020 (5846/20)). PT: (Comments): The COM's rationale on the EU budget reallocation would benefit with some additional. particularly due to its reallocation being regarded as externally assigned revenue i.e., the budgetary guarantee is regarded as such only because it is aiding external revenue (according to the wording of the proposal and the Financial Regulation). On another hand, unless specified by a Union act, a budget surplus must return to the budget, and hence be considered internal assigned revenue. DK: (Comments): Generally sceptical about deviations from the principle laid down in the financial regulation that revenues shall flow back to the general budget and not the instrument in question.
20.	(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	AT: (Comments): According to the explanatory memorandum "1.17 billion of provisioning would not be consumed"

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	Regulation (EU) 2015/1017 of the European Parliament and of the Council which also establishes the European fund for strategic investments (the ‘EFSI Regulation’)¹². 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.	by the EU guarantee”. We conclude that 1,17 billion could be used as external revenue for the instrument instead of 1 billion, reducing the need for budgetary appropriations from 0,25 bn. to 0,08 bn.. Further assuming that the 0,275 bn. of repayments are a conservative assessment and that 0,0297 bn. are foreseen for administrative expenditure, it becomes very questionable whether there is any need for resources from budgetary appropriations at all. SE: (Drafting): Put the whole paragraph in brackets pending finalisation of MFF SE: (Comments): Sweden does not support using surplus from another program to be used to finance this facility. Sweden does not support the derogation to the Financial Regulation. DE: (Drafting): [(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)

¹² 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).

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		2015/1017 of the European Parliament and of the Council which also establishes the European fund for strategic investments (the ‘EFSI Regulation’)¹³. 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.] DE: (Comments): Recital 10 should be put in brackets in order to not pre-empt negotiations of the MFF in the European Council on the use of reflows (similar to InvestEU para 31 of the last draft conclusions of the special meeting of the European Council as of 14 February 2020 (5846/20)). BE: (Comments): Reflows should fall into the general revenue of the EU Budget

¹³ 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).

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21.	(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.	SE: (Drafting): In accordance with point (c) of Article 12(4) of the Financial Regulation, the <u>possibility to carry over</u> appropriations corresponding to external assigned revenue should be automatically carried over to the successive programme or action <u>limited to a time period of 2 years</u>. That provision allows matching the multiannual schedule of assigned revenue with the implementation path of the projects financed by the Facility <u>in a similar manner as cohesion policy</u>. SE: (Comments): SE attaches great importance to the application to n+2 rules and principles. The construction of this instrument should be aligned with these principles.
22.	(12) Resources for advisory support should also be provided for in order to promote the preparation, development and implementation of projects.	SE: (Comments): <u>Cannot this paragraph be deleted in order not to duplicate para 17?</u>
23.	(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	LT: (Comments): Clarify, what are the conditions and the mechanism foreseen for a Member State to participate during a first stage and seek for financing.

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	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.	Clarify, what conditions and mechanism is foreseen to be respected during the second stage if a Member State will not participate during the first stage call for proposals to seek for financing. Clarify, if Member State can seek for a benefit only one time during first or second stage or it is possible to multiply participations. FR: (Comments): <i>The allocation key of the JTF is not acceptable and has to be revised.</i> <i>Support for the highlighted provision to maximise the absorption of the funds.</i> BE: (Comments): 31 december 2024 if the review clause and the interim report on june 2024 will indicate a necessary change of the national share allocations. LU: (Drafting): (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 a distribution key proposed in Annex [I] of this Regulation.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

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		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 needs basis, taking into account the quality of the project, at Union level, while ensuring predictability for investment and following a needs-based and regional convergence approach. LU: (Comments): The Commission has emphasized the complementarity between the first and third pillars of the JTM, the third being broader in scope. A broader scope implies that investment needs among MS may be different than in the context of the JTF. It is worth reflecting on whether the allocation criteria for this instrument could be adjusted to better take this into account. In such a case, a dedicated annex to this regulation could be inserted to define these criteria. A competitive “first come, first served approach” would come at the detriment of smaller MS with limited administrative capacities which may need more time to prepare potentially eligible projects. Additionally, the quality should also play a role in project selection.
24.	(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	SE: (Drafting): 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

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	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 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.	just transition plans, <u>respect the green oath to “do no harm” in line with the Green Deal, systematically apply a gender equality perspective including gender-responsive budgeting</u>, 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 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. SE: (Comments): It is important to respect the green oath to “do no harm”. A gender equality perspective should be part of the planning, implementation and monitoring of the facility and the projects.
25.	(15) Support under this Facility should only be provided to projects that do not	LU: (Drafting): (15) Support under this Facility should only be provided to projects that do not generate a

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	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. 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.	sufficient stream of own revenues that would allow them to be financially viable and to be financed solely by loans provided on market terms. 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.] LU: (Comments): We wonder how these savings could be taken into account in the revenue streams as they are difficult to measure adequately?
26.	(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	PT: (Comments): Why is there a specific focus on cohesion regions for these grants? Could we not extend the grants to transition regions? We suggest the inclusion of transition regions.

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	should be comparatively higher.	
27.	(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.	IT: (Drafting): (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 <u>through the relevant finance partner.</u> IT: (Comments): <i>reference to art. 3.3.</i> LU: (Drafting): (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 via the relevant finance partner. LU: (Comments): Under the InvestEU Advisory Hub, a split is foreseen between the EIB and other implementing partners. Under this program, the EIB is set to be the only finance partner and the abovementioned split should thus not apply.

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28.	(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.	PT: (Drafting): (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, <u>after appropriate dialogue with the Member State</u>. 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. PT: (Comments): The safeguard clause is not fully understood, particularly due to COM involvement in the project monitoring phase (according to the last of investEU). We suggest smoothing the language.
29.	(19) In accordance with the Financial	LU: (Drafting):

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	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	(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 and subject to the provisions of any relevant agreements concluded between the finance partner and the relevant EU institution , 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

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	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	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. LU: (Comments): We believe that due regard needs to be given to the Tripartite Agreement between ECA, EC and EIB, which governs the access and documentary rights of ECA vis-à-vis the EIB.

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	European Court of Auditors (ECA), and ensure that any third parties involved in the implementation of Union funds grant equivalent rights.	
30.	(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	SE: (Comments): Why is delegated act needed to revise the KPIs in annex 2 considering that it is important for MS how the results from the facility are measured and the KPIs are quite general?

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	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.	
31.	(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	LU: (Drafting): (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 this Regulation [the JTF Regulation] should be established. The implementing powers should be conferred without comitology procedures given that the shares derive directly from the application of a pre-defined calculation methodology.

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	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.	LU: (Comments): The Commission has emphasized the complementarity between the first and third pillars of the JTM, the third being broader in scope. A broader scope implies that investment needs among MS may be different than in the context of the JTF. It is worth reflecting on whether the allocation criteria for this instrument could be adjusted to better take this into account. In such a case, a dedicated annex to this regulation could be inserted to define these criteria.
32.	(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 and benefit the territories most negatively impacted by	BE: (Comments): Definition of benefit the territories most negatively impacted by climate transition?

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	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,	
33.	HAVE ADOPTED THIS REGULATION:	
34.	CHAPTER I GENERAL PROVISIONS	
35.	Article 1 Subject matter and scope	
36.	This Regulation provides for the public sector loan facility (the ‘Facility’) in support of	LT: (Comments): Clarify, is it possible to attract financing from Facility into the existing Investment platform

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	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.	(LT case has multi-apartment building renovation programme for which long-term Investment platform is being developed and financed from different financial resources) as additional financing. Investment platform is implemented during 2014-2020 programming period and is expected to be continued during 2021-2027 programming period by attracting additional finances. DE: (Drafting): 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. DE: (Comments): “in particular” should be put in brackets in order to not pre-empt negotiations of the MFF in the European Council (similar to para 9 of the last draft conclusions of the special meeting of the European Council as of 14 February 2020 (5846/20)).
37.	The Facility shall provide support benefitting Union territories facing serious social, environmental and economic challenges	AT: (Drafting): The Facility shall provide <u>forward-looking long-term</u> support benefitting Union territories

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	deriving from the transition process towards a climate-neutral economy of the Union by 2050.	facing serious social, environmental and economic challenges deriving from the transition process towards a climate-neutral economy of the Union by 2050. AT: (Comments): It should be highlighted that the facility shall provide support for sustainable investments with long-term goals. SE: (Drafting): The Facility shall provide support benefitting Union territories facing serious social, environmental and economic challenges deriving from the transition process towards <u>the EU emission reduction target for 2030 and</u> a climate-neutral economy of the Union by 2050. SE: (Comments): An explicit reference should also be made to the 2030 targets. LT: (Comments): Clarify, what eligibility period of the Facility will be. FR: (Drafting): “The Facility shall provide support benefitting Union territories facing serious social, environmental and economic challenges deriving from the transition process towards <u>the Union’s 2030 target for climate and</u> a climate-neutral economy of the Union by 2050.”

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		FR: (Comments): <i>Addition to be consistent with the last compromise of the JTF regulation.</i> BE: (Comments): Definition of “serious”? LU: (Drafting): The Facility shall provide support benefitting Union territories facing serious social, environmental and economic challenges deriving from the transition process towards a climate-neutral economy of the Union by 2050. LU: (Comments): “Serious” is too vague a term. What is considered a serious challenge? If this is laid out too strictly, then there is a risk that a number of otherwise highly relevant projects may not be financed. This objective further does not seem specific enough to this instrument and the complementarities with the other two pillars cannot immediately be detected.
38.	Article 2 Definitions	
39.	For the purposes of this Regulation, the	

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	following definitions apply:	
40.	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;	
41.		BE: (Comments): To ADD: definition and qualification of 'third countries' and 'non-Union bodies'(line 100)
42.	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;	RO: (Comments): Having in view that a grant agreement will be also concluded, mirroring the definition of the administrative agreement, we suggest defining the grant agreement as well. LT: (Comments): Clarify, what type of legal entity is eligible and can be a beneficiary. National Promotional

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		Institution could be eligible as public sector legal entity or not? Clarify, what is the mechanism of financial scheme and the role of beneficiary. Does beneficiary in a Member State sign a grant agreement under Facility and implements the project directly? PL: (Comments): The definition of „beneficiary” should be further clarified in order to achieve complete legal clarity, this clarification should be included in the preamble.
43.	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;	RO: (Comments): It is our understanding that the Facility implementation requires EIB participation (see preamble 7). We suggest to make clear that the loans could be provided also by other financial institutions than the EIB if they not finance together with the EIB. BE: (Drafting): 3. 'finance partners' means the EIB Group other international financial institutions, national promotional banks and financial institutions, with which the Commission signs an administrative agreement to cooperate within the Facility; BE: (Comments): Only EIB Group, in line with the Communication on the JTM. Loans policy of EIB Group as

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		well as the list of excluded activities are not the same between the EIB Group and other finance partners. We believe it is important not to have differences in loans policy. That is why it might be better to work only with the EIB Group.
44.		BE: (Comments): To ADD: definition of 'sufficient stream of own revenues' (line 86)
45.	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;	RO: (Comments): We suggest rephrasing the definition of the project by considering that a project should refer to an investment, not an action. Moreover, COM involvement in projects identification is not clear. Kindly also see our comment in line 80.
46.		BE: (Comments): To ADD : definition of 'serious socio-economic challenges' (line 84)
47.	5 'territorial just transition plan' means a plan established in accordance with Article 7 of Regulation [JTF Regulation] and approved by the Commission;	
48.	6. 'loan scheme' means a loan granted to	RO: (Drafting):

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	a beneficiary by finance partners aimed at financing a set of several pre-identifiable projects under the Facility.	'loan scheme' means a loan granted to a beneficiary by one or more finance partners aimed at financing one or a set of several pre-identifiable projects under the Facility. RO: (Comments): We ask COM to clarify what pre-identifiable projects means, since all the investments under JTF should comply with the territorial just transition plans. PT: (Drafting): 6. 'loan scheme' means a loan granted to <u>financial intermediaries</u> and to a beneficiary by finance partners aimed at financing a set of several pre-identifiable projects under the Facility. PT: (Comments): The definition of loan scheme is somewhat restrictive. Its application should not be limited to final beneficiaries but should also apply to financial intermediaries (e.g. NPBs) as well as any other products/instruments that are not traditionally considered "loans".
49.		BE: (Comments): To ADD : Definition of 'serious social or environmental and economic challenges' (line 140)
50.	Article 3 Objectives	
51.	1. The general objective of the Facility is	SE: (Drafting):

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	to address serious socio-economic challenges deriving from the transition process towards a climate-neutral economy 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].	The general objective of the Facility is to address serious socio-economic challenges deriving from the transition process towards <u>the EU emission reduction target for 2030 and</u> a climate-neutral economy <u>by 2050</u> 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]. SE: (Comments): Good to be more explicit. LU: (Drafting): The general objective of the Facility is to address serious socio-economic challenges deriving from the transition process towards a climate-neutral economy 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]. LU: (Comments): “Serious” is too vague a term. What is considered a serious challenge? If this is laid out too strictly, then there is a risk that a number of otherwise viable projects may not be financed. This objective further does not seem specific enough to this instrument and the complementarities with the other two pillars cannot immediately be detected.

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52.	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 and would not be financed without the element of grant support from the Union budget.	AT: (Comments): We appreciate a strict definition of additionality; in our view, with EFSI and other programmes, additionality requirements have been defined in a rather lenient way. If a project can be implemented without EU financing that should not pose a problem. FR: (Drafting): “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 and would not be financed, <u>or not to the same extent</u>, without the element of grant support from the Union budget.” FR: (Comments): <i>The definition of additionality is key to make sure the facility effectively targets investments that would not have been carried without its support. However, it may happen that projects would have been carried out with a lesser extent without the instrument’s support, justifying the use of the facility’s funds.</i> IE: (Comments): Under this provision the facility would only finance projects that do not generate a sufficient

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		stream of own revenues and would not be financed without the element of grant support from the Union budget. This presumably would take some commercial state body projects out of the reckoning and make it more likely that they would seek to apply for market funding or to InvestEU under Pillar 2 of the JTM. DE: (Comments): Germany supports the additionality of the measures under the Facility. IT: (Drafting): 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, and would not be financed without the element of grant support from the Union budget. IT: (Comments): <i>The provision could be counterproductive and limit the ability of promoters to efficiently decide which projects could take better advantage of this Facility. This holds true especially since the grant component would represent just 10% of project costs which, in itself, could discourage from taking advantage of the Facility if the administrative burden that the promoter has to activate to take advantage of the facility outweighs the expected benefits from activating the same Facility.</i>
53.	3. In pursuing the achievement of the specific objective referred to in paragraph 2,	IT: (Drafting): In pursuing the achievement of the specific objective referred to in paragraph 2, this

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	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].	Regulation also aims at providing advisory support for the preparation, development, and implementation of eligible projects where necessary. That advisory support shall be provided <u>by the relevant finance partner</u> in accordance with the rules and implementation methods for the InvestEU Advisory Hub established by Article [20] of Regulation [InvestEU Regulation]. IT: (Comments): <i>We agree with EIB considerations. Advisory support is also needed to make a project eligible, so it should be made available in the preparation phase to set the project fit for eligibility. Consequently, advisory resources should be channeled through the EIB under the InvestEU Advisory Hub.</i> LU: (Drafting): 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 potentially 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]. LU: (Comments): Advisory support should not be linked to eligibility as it may not yet be possible to determine eligibility at the initial advisory stage.

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54.	Article 4 Budget	DE: (Comments): Art. 4 (1) (b), (2) and (4) should be put in brackets in order to not pre-empt negotiations of the MFF in the European Council on the use of reflows (similar to InvestEU para 31 of the last draft conclusions of the special meeting of the European Council as of 14 February 2020 (5846/20)).
55.	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:	RO: (Comments): Given the higher risk expectations, we ask the COM to provide an updated non-paper explaining the breakdown for the repayments stemming from financial instruments and the provisioning of EFSI . SE: (Drafting): Put the whole article in brackets pending finalisation of MFF SE: (Comments): Sweden wants the next MFF to be reduced.
56.	(a) resources from the Union budget for an amount of EUR 250 000 000 in current prices, and	AT: (Comments): See line 30. NL: (Drafting): *Amounts should be put into brackets

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		NL: (Comments): To be determined by the European Council
57.	(b) assigned revenue as referred to in paragraph 2 up to a maximum amount of EUR 1 275 000 000 in current prices.	AT: (Comments): See line 30. DE: (Drafting): [(b) assigned revenue as referred to in paragraph 2 up to a maximum amount of EUR 1 275 000 000 in current prices.] DE: (Comments): See above. NL: (Drafting): *Amounts should be put into brackets NL: (Comments): To be determined by the European Council
58.	2. The resources referred to in paragraph 1(b) shall be provided by repayments stemming from financial instruments established under the programmes listed in	AT: (Comments): See line 30. SE: (Drafting):

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	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.	Put the whole article in brackets pending finalisation of MFF SE: (Comments): Sweden does not support using repayments from financial instruments or surplus under other programs to be used to finance this facility. Sweden does not support the derogation to the Financial Regulation. DE: (Drafting): [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.] DE: (Comments): See above. NL: (Drafting): *Amounts should be put into brackets NL: (Comments): To be determined by the European Council

	Commission proposal	Comments
59.	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.	RO: (Drafting): The resources referred to in paragraph 1 may, under certain conditions to be defined, 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. RO: (Comments): This additional contributions should be set up in a specific time frame and under certain conditions (especially for third countries and from non-Union bodies). If a MS decides to contribute, its contribution could be earmarked to a specific territory. BE: (Comments): Why would third countries want to complement the resources of this instrument, if the funds are to be used on EU soil? What is the definition of ‘non-Union bodies’? Wich qualication of “third countries “ (EFTA, DCFTA ...?) PT: (Comments): It may be relevant to extend the possibility of complementing the Facility with appropriations from European funds.

	Commission proposal	Comments
60.	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.	SE: (Drafting): Put the whole article in brackets pending finalisation of MFF SE: (Comments): Sweden does not support using repayments from financial instruments or surplus under other programs to be used to finance this facility. Sweden does not support the derogation to the Financial Regulation. DE: (Drafting): [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.] DE: (Comments): See above. BE: (Comments): Reservation on this derogation

	Commission proposal	Comments
		PT: (Comments): Identical comment to the one made to recital 9 (2)
61.	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.	RO: (Comments): Please clarify if this amount will be implemented through the InvestEU Advisory Hub. It is not clear who will manage this amount and if it is included in the administrative agreement. Please also refer to the preamble 12 and article 12. LV: (Drafting): 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. Advisory support for the preparation, development and implementation of projects shall also be directly available to beneficiaries and shall be included in eligibility costs of the project. LV: (Comments): Latvia considers that advisory support for the preparation, development and implementation of

	Commission proposal	Comments
		projects should be <u>directly available in accordance with the request of the beneficiaries</u>, as well as it <u>should be included in the eligible costs of the project</u> in order to motivate Member States to use the public sector loan facility under Just Transition Mechanism. NL: (Drafting): 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. Also the Commission must engage with the finance partners of the mandate on its cost coverage to ensure a sustainable level of profitability. NL: (Comments): Included language on the cost coverage of mandates given by the Commission to finance partners BE: (Comments): Into the 2%, what is the maximum key for fees ? Do we have a cap for fees ?
62.	6. Resources up to an amount of EUR 25 000 000 included in those referred to in	NL: (Drafting): *Amounts should be put into brackets

	Commission proposal	Comments
	paragraph 1, shall be provided for activities set out in Article 3(3).	NL: (Comments): To be determined by the European Council PT: (Comments): Advisory supports cannot be pre-allocated by country. LU: (Drafting): 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). This amount shall not be subject to national pre-allocations and should be fully channelled via the EIB under the InvestEU Advisory Hub. LU: (Comments): Under the InvestEU Advisory Hub, a split is foreseen between the EIB and other implementing partners. Under this program, the EIB is set to be the only finance partner and the abovementioned split should thus not apply.
63.	7. Budgetary commitments for actions extending over more than one financial year	

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	may be broken down over several years into annual instalments.	
64.	CHAPTER II UNION SUPPORT	
65.	Article 5 Forms of Union support and methods of implementation	
66.	1. Union support provided under the Facility shall be provided in the form of grants in accordance with Title VIII of the Financial Regulation.	
67.	2. Union support provided under the Facility shall be implemented in direct management in accordance with the Financial Regulation.	
68.	3. The Commission may delegate powers to implement tasks of the Union support provided under the Facility to executive	RO: (Comments): We would ask COM to indicate which executive agencies are forseen.

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	agencies in accordance with Article 69 of the Financial Regulation with a view to the optimum management and efficiency of the Facility.	BE: (Comments): Could you explain the delegation powers system, the reason, the added value, the justification/ case where and why COM could delegate. Wich executive agencies ? delegation to EU agencies only or to international bodies ?
69.	Article 6 Availability of resources	
70.	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.	
71.	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	

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	pursuant to paragraph 4.	
72.	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.	LU: (Drafting): 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 needs basis, taking into account the quality of the project, 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. LU: (Comments): A competitive “first come, first served approach” would come at the detriment of smaller MS with limited administrative capacities which may need more time to prepare potentially eligible projects. Additionally, the quality should also play a role in project selection.
73.	4. The Commission shall adopt a decision by means of an implementing act setting out the respective shares for each Member State resulting from the application of the methodology set out in Annex I of Regulation [JTF Regulation] in the form of	DE: (Comments): Germany holds that COM is bound to the methodology in Annex I of the JTF-Regulation. LU: (Drafting): The Commission shall adopt a decision by means of an implementing act setting out the respective shares for each Member State resulting from the application of the methodology set

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	percentages of the total available resources.	out in Annex [I] of this Regulation [JTF Regulation] in the form of percentages of the total available resources. LU: (Comments): The Commission has emphasized the complementarity between the first and third pillars of the JTM, the third being broader in scope. A broader scope implies that investment needs among MS may be different than in the context of the JTF. It is worth reflecting on whether the allocation criteria for this instrument could be adjusted to better take this into account. In such a case, a dedicated annex to this regulation could be inserted to define these criteria.
74.	Article 7 Administrative agreements with finance partners	
75.	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	RO: (Comments): We kindly ask COM to share with CONS the draft administrative agreement and to reflect the structure of this agreement in this article. EL: (Comments): As EIB points out, will finance partners be able to provide their financing according to their rules & internal procedures?

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	Commission proposal	Comments
	communication arrangements.	
76.	CHAPTER III ELIGIBILITY	
77.	Article 8 Eligible projects	
78.	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:	DE: (Comments): Please clarify the relation between Art. 8 and Art. 7 para. 5 JTF-Regulation as of 30 April 2020 (Doc. WK 4455/2020 INIT), according to which the territorial just transition plans shall set out the sectors and areas envisaged to be supported under those pillars. LU: (Drafting): 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 in the form of grants under the Facility: LU: (Comments): To distinguish it from the advisory support provided under the InvestEU Advisory Hub.
79.	(a) the projects achieve measurable impact in addressing serious social, economic	AT: (Drafting): (a) the projects achieve measurable impact in addressing serious social, economic or

	Commission proposal	Comments
	or environmental challenges deriving from the transition process towards a climate-neutral economy and benefit territories identified in a territorial just transition plan, even if they are not located in those territories;	environmental challenges deriving from the transition process towards a climate-neutral economy and benefit territories identified in a territorial just transition plan and are in line with technical criteria developed under Regulation (2020/XXXX)¹, even if they are not located in those territories; ¹ <i>REGULATION (EU) 2020/... OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL</i> <i>of ...</i> <i>on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088</i> AT: (Comments): As outlined in EC COM(2020) 456 “Europe's moment: Repair and Prepare for the Next Generation” the EU sustainable finance taxonomy will guide investment in Europe’s recovery and public investments in the recovery should respect the green oath to “do no harm”. Therefore, a binding link to criteria developed under the Taxonomy Regulation has to be included to ensure the application of respective eligibility criteria. SE: (Drafting): the projects achieve measurable impact in addressing serious social, economic or environmental challenges deriving from the transition process towards <u>the EU emission</u>

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		<u>reduction target for 2030 and</u> a climate-neutral economy <u>by 2050</u> and benefit territories identified in a territorial just transition plan, even if they are not located in those territories; SE: (Comments): The objective should be made clearer. BE: (Drafting): (a) the projects achieve measurable impact in addressing serious social, economic or environmental environmental and economic challenges deriving from the transition process towards a climate-neutral economy and benefit territories identified in a territorial just transition plan, even if they are not located in those territories; IT: (Drafting): (a) the projects achieve measurable impact in addressing serious social, economic or environmental challenges deriving from the transition process towards a climate-neutral economy and benefit territories identified in a territorial just transition plan, even if they are not located in those territories; IT: (Comments): <i>Quantification of the impact/effect will not be feasible for many projects due to size and/or sectoral nature, hence 'measurable' is not appropriate.</i>

	Commission proposal	Comments
80.	(b) the projects do not receive support under any other Union programmes;	AT: (Comments): This definition also hints at additionality, what is welcome in principle. EL: (Comments): Complementarity & synergies with other EU programmes, and in particular ESIF could be encouraged, as it happens in InvestEU FR: (Drafting): (b) the projects do not receive support under any other Union programmes; FR: (Comments): <i>Synergies with other programmes may lead to fundings from different programmes, with a real added value for the project. Fundings from other programmes should be taken into account when assessing the additionality of the facility's intervention, but should not automatically prevent a project from benefitting from the Facility.</i> IE: (Comments): Most of our projects seeking EU support are likely to be submitted for co-funding under Pillar 1 - where the rate of grant support is 40%. BE: (Comments):

	Commission proposal	Comments
		Are the other 2 pillars of the JTM considered ‘other Union programmes’? PT: (Drafting): (b) the same expenses cannot receive support under any other Union programmes PT: (Comments): Projects can receive support via InvestEU and other programmes/instruments, and even other technical assistance supports. IT: (Drafting): (b) — the projects do not receive support under any other Union programmes; IT: (Comments): <i>There is again a risk to introduce unnecessary and counterproductive limits. It would not be understandable why, under Pillar 1 of the JTF, blending with ESIF funds is allowed whereas it is inhibited under Pillar 3 where it would be already very limited in itself (5-10% of total project costs). Combination with ESIF funds not only implies a stronger commitment of the promoter but also favours a proper and timely implementation of the projects. General EU rules are thus sufficient to apply.</i> LU: (Drafting): (b) the projects do not receive financial support under any other Union programmes; LU: (Comments): To avoid overlaps between programs but to leave the door open for advisory support under

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		different programs. PL: (Drafting): (b) the projects do not receive support under any other Union programmes; PL: (Comments): This condition may lead to a lack of expected absorption in less developed regions due to difficulties in obtaining co-financing.
81.	(c) the projects receive a loan by the finance partner under the Facility; and	RO: (Drafting): the projects receive a loan by financing from one or more finance partners under the Facility; and
82.	(d) the projects do not generate a sufficient stream of own revenues allowing them to be financed without Union support.	AT: (Comments): See line 86. FR: (Drafting): (d) the projects do not generate a sufficient stream of own revenues allowing them to be financed, <u>or not to the same extent</u>, without Union support. FR: (Comments): <i>op. cit.</i> IT: (Drafting):

	Commission proposal	Comments
		d) the projects do not generate a sufficient stream of own revenues. allowing them to be financed without Union support. IT: (Comments): <i>The provision could be counterproductive and limit the ability of promoters to efficiently decide which projects could take better advantage of this Facility. This holds true especially since the grant component would represent just 10% of project costs which, in itself, could discourage from taking advantage of the Facility if the administrative burden that the promoter has to activate to take advantage of the facility outweighs the expected benefits from activating the same Facility.</i>
83.		SE: (Drafting): <u>(e) the projects are in line with the EU taxonomy or respect the green oath to “do no harm” and do not finance the production, processing, distribution, storage or combustion of fossil fuels</u> SE: (Comments): The green condition should be made more explicitly. Even if all projects do not have to have a green objective as such, they should do no harm to the environment/climate. FR: (Drafting):

	Commission proposal	Comments
		<u>“The assessment of proposals against the award criteria referred to in paragraph a) shall be adopted by the Commission by means of an implementing act to ensure that proposed actions are consistent with the work programme referred to in Article 13.”</u> DE: (Drafting): Article 8a: Exclusion from the scope of support: The Facility shall not support: (a) the decommissioning or the construction of nuclear power stations; (b) the manufacturing, processing and marketing of tobacco and tobacco products; (c) undertakings in difficulty, as defined in Article 2(18) of Commission Regulation (EU) No 651/20145, unless authorised under applicable Union State aid rules; (d) investment related to the production, processing, distribution, storage or combustion of solid fossil fuels or oil; (e) investment in broadband infrastructure in areas in which there are at least two broadband networks of equivalent category DE: (Comments): As under the other pillars of the JTM, this Regulation should contain an exclusion list to avoid any contradictions among the pillars.

	Commission proposal	Comments
		A mere referral to the eligibility criteria of the finance partner is not sufficient. NL: (Drafting): Article 8+. Exclusion from the scope of support The JTM loanfacility shall not support: (a) the manufacturing, processing and marketing of tobacco and tobacco products; (b) undertakings in difficulty, as defined in Article 2(18) of Commission Regulation (EU) No 651/2014¹⁶; (c) investment related to the production, processing, distribution, storage or combustion of fossil fuels; (d) investment in broadband infrastructure in areas in which there are at least two broadband networks of equivalent category. NL: (Comments): In our view the JTM loanfacility should, like the JTF, not be used for certain types of investments listed in this new article, such as investments in fossil fuels or the tobacco industry. This exclusion list is based on the exclusion list used in the JTF.
84.	Article 9 Eligible persons and entities	RO: (Drafting): Eligible persons and entities beneficiaries
85.	Notwithstanding the criteria set out in Article 197 of the Financial Regulation, only public sector legal entities established in a Member	LU: (Drafting): Notwithstanding the criteria set out in Article 197 of the Financial Regulation, only public

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	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.	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 for support in the form of grants under this Regulation. LU: (Comments): To distinguish it from the advisory support provided under the InvestEU Advisory Hub. Also, the grant beneficiary and the beneficiary of advisory support may not be the same entity.
86.	CHAPTER IV GRANTS	
87.	Article 10 Grants	
88.	1. Grants shall take the form of financing not linked to costs in accordance with Article 125(1)(a) of the Financial Regulation.	RO: (Drafting): Grants shall take the form of financing not linked to costs of the project in accordance with Article 125(1)(a) of the Financial Regulation. RO: (Comments): We suggest to redraft so that to be clear that the grant will not be linked with the costs of the project but with the amount of the loan to be provided. SE: (Comments):

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		Could COM explain the justification for this, given that the grant is set in relation to the loan and the loan is based on a cost assessment?
89.	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.	RO: (Comments): We propose increased levels for the grant component. These levels should be set up according with the needs identified in the just territorial plans. LV: (Drafting): 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% 40% of the amount of the loan provided by the finance partner. LV: (Comments): Latvia proposes to <u>increase the size of the grant from a maximum of 20% to 40%</u> in order to motivate Member States to use the public sector loan facility under Just Transition Mechanism, for example in energy efficiency projects of buildings, local governments, etc. priority plans in line with the Adjusted Commission Work Programme 2020, with a particular emphasis on investment in green transition and digitization activities.

	Commission proposal	Comments
		ES: (Comments): Do you foresee the option of increasing the grant percentage for projects? Could other regions apart from those with a GDP per capita not exceeding 75% of the average GDP, exceed the grant percentage? PL: (Drafting): 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 25 % of the amount of the loan provided by the finance partner. <u>For projects located in territories in NUTS level 2 regions with a GDP per capita between 75% and 100% of the average GDP of the EU-27 as referred to in Article [102(2)] of Regulation [new CPR], which in the 2014-2020 programming period were classified as less developed regions, the amount of the grant shall not exceed 25% of the amount of the loan provided by the finance partner.</u> PL: (Comments): In line with a convergence and just transition objectives there is a need to provide additional support to public entities with less public investment capacity, i.e. those located in less

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		developed regions and in transition regions which were less developed in the previous programming period.
90.	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.	
91.	Article 11 Reduction or termination of the grants	
92.	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	PT: (Comments): The definition of “economically significant” appears to be somewhat vague and weak when used to justify the termination of the EU support. We request further clarification. LU: (Drafting): 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 three 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.

	Commission proposal	Comments
	pursuant to the grant agreement.	LU: (Comments): To cater for administrative capacities of smaller MS. PL: (Comments): The provisions indicating that the amount of the grant may be reduced or the grant agreement may be terminated should be modified 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 the grant agreement (Article 11). In case of complex projects, including those implemented in the PPPs mode, the period of 2 years for the conclusion of a contract may be too short, hence we propose to extend it to 3 years.
93.	2. When Union support is combined with loan schemes and when supply, works or services contracts are not envisaged, paragraph 1 shall not apply.	RO: (Drafting): When Union support is combined with loans schemes and when supply, works or services contracts are not envisaged, paragraph 1 shall not apply. LU: (Comments): The reference to “when Union support is combined with loan schemes” is confusing. Under this instrument, Union support is always combined with a loan scheme as the former is a pre-condition for the Union to provide its financial support in the form of a grant.

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		The distinctive factor between this para and para 1 thus seems to be that supply , works or services contracts are not envisaged.
94.	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.	
95.		LU: (Comments): A dedicated chapter on the loan component should be inserted in which the EIB is clearly specified as the main implementing partner, including the amount it is asked to provide, and the modalities of potentially extending the loan component to other finance partners are laid out. With reference to Article 11(2), the possibility should also be foreseen for the EIB to take necessary measures in case of lack of progress on the project.
96.	CHAPTER V ADVISORY SUPPORT SERVICES	
97.	Article 12	

	Commission proposal	Comments
	Advisory support services	
98.	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].	LV: (Drafting): 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]. This provision is not applicable in cases if the advisory support is included in the eligible costs of the project. LV: (Comments): As previously mentioned, Latvia considers that advisory support for the preparation, development and implementation of projects <u>should be directly available in accordance with the request of the beneficiaries</u>, as well <u>as it should be included in the eligible costs of the project</u> in order to motivate Member States to use the public sector loan facility under Just Transition Mechanism.
99.	2. Activities necessary to support the preparation, development and implementation of projects shall be eligible for advisory support.	RO: (Comments): Please confirm that capacity building for beneficiaries and finance partners is included. LV: (Drafting): 2. Activities necessary to support the preparation, development and implementation of projects shall be eligible for advisory support of the InvestEU Advisory Hub or shall be

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		included in eligible costs of the project. LV: (Comments): See above.
100.	CHAPTER VI PROGRAMMING, MONITORING, EVALUATION AND CONTROL	
101.	Article 13 Work programmes	
102.	The Facility shall be implemented by work programmes 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.	SE: (Drafting): The Facility shall be implemented by work programmes 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. <u>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, respect the green oath to “do no</u>

	Commission proposal	Comments
		<u>harm” in line with the Green Deal, systematically apply a gender equality perspective including gender-responsive budgeting, 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 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.</u> SE: (Comments): The article should be more detailed in line with paragraph 14 in the preamble. BE: (Comments): From where will the ‘additional resources’ come?
103.		FR: (Drafting): <u>“The work programmes shall be adopted by the Commission by means of an implementing act. Those implementing acts shall be adopted in accordance with the examination procedure.”</u>
104.	Article 14	

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	Commission proposal	Comments
	Monitoring and reporting	
105.	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.	PT: (Comments): Social KPIs such as the impact on the labour market (e.g. upskilling or reskilling) or population are not included; additionally, the calculation of gas emissions can not be made completely in certain projects, but rather by setting an average target over project life cycle. We would suggest including these aspects in the most appropriate manner.
106.	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.	RO: (Comments): We ask COM to clarify the frequency of this reporting and mitigation measures to reduce administrative burden for the beneficiaries. How the existing reporting system could be used in this endeavour?
107.	3. 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.	SE: (Comments): Why is delegated act needed to revise the KPIs in annex 2 considering that it is important for MS how the results from the facility are measured and the KPIs are quite general? BE: (Comments):

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	Commission proposal	Comments
		Modification of annexe II : not so fine for transparency. No possibility to modify annexe II with a delegated act; it will be only authorised after the review clause in 2024.
108.	Article 15 Evaluation	
109.	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.	RO: (Comments): We suggest to mention who will perform the evaluation and how the evaluator will be selected.
110.	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	BE: (Comments): 30 june 2024 interim report accompanying the review clause to allow a possible changing of system allocation.

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	Commission proposal	Comments
	implementing the territorial just transition plans.	
111.		FR: (Drafting): <u>2 bis. “Where the Commission concludes that there is a failure to achieve at least 65% of the target established for one or more output indicators (KPI) for the Facility’s resources, it may make financial corrections by reducing the support from the Facility to the priority concerned in proportion to the achievements.”</u> FR: (Comments): <i>The regulation should provide the repayment of the grant if the commitment and the Key indicators are not fulfilled. (at least 65% like in the JTF regulation).</i>
112.	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.	LT: (Comments): Clarify, what is the deadline to implement the projects
113.	Article 16 Audits	

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	Commission proposal	Comments
114.	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.	RO: (Drafting): 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.
115.	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.	LU: (Drafting): 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 subject to the provisions of any specific audit or verification agreements concluded between the Finance Partner and the relevant EU institution. LU: (Comments): We believe that the Tripartite Agreement between ECA, EC and EIB, which governs the access and documentary rights of ECA vis-à-vis the EIB, needs to be taken into account.
116.	Article 17 Exercise of the delegation	

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	Commission proposal	Comments
117.	1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.	
118.	2. The power to adopt delegated acts referred to in Article 14 shall be conferred on the Commission until 31 December 2028.	LU: (Comments): Why is it necessary to delegate this power onto the Commission until one year after the end of the next MFF?
119.	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 <i>Official Journal of the European Union</i> or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.	
120.	4. Before adopting a delegated act, the Commission shall consult experts designated	RO: (Comments):

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	by each Member State in accordance with the principles laid down in the Inter-institutional Agreement of 13 April 2016 on Better Law-Making.	We ask COM to clarify if a dedicated expert working group is envisaged . BE: (Comments): Wich commitee ? Frequency of the consultation ? By written procedure or by organising meetings ? PT: (Comments): No references made to the EIB or financial partners. Such references are important provided that these share the same KPIs in the project evaluation phase.
121.	5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.	
122.	CHAPTER VII TRANSITIONAL AND FINAL PROVISIONS	
123.	Article 18 Information, communication and publicity	
124.	1. The beneficiaries and the finance partners shall ensure the visibility of the	

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	Commission proposal	Comments
	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.	
125.	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.	BE: (Drafting): 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. BE: (Comments): Why “corporate” term ?
126.	Article 19 Transitional provisions	
127.	Where necessary, appropriations may be entered in the budget beyond 2027 to cover	SE: (Drafting): Where necessary, appropriations may be entered in the budget beyond 2027 to cover the

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	Commission proposal	Comments
	the 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.	payment of instalments of grant Union support <u>following commitments made not later than 2027</u> , provided for in accordance with Article 6(2), to enable the management of actions not completed by 31 December 2027. SE: (Comments): We don't want there to be any doubt about the final date of the commitments. BE: (Comments): Reservation
128.	Article 20 Entry into force	BE: (Comments): To ADD: review clause based on interim report on june 2024.
129.	This Regulation shall enter into force on the [...] [twentieth] day following that of its publication in the <i>Official Journal of the European Union</i> .	
130.	This Regulation shall be binding in its entirety and directly applicable in all Member States.	
131.	Done at Brussels,	
132.	For the European Parliament For the Council	

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	Commission proposal	Comments
133.	The President The President	
134.		End