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COMMISSION REGULATION (EU) …/…

of XXX

declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union, amending Regulations (EU) 2022/2472, (EU) 2022/2473, and (EU) 2026/562

(Text with EEA relevance)

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(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 108(4) thereof,

Having regard to Council Regulation (EU) 2015/1588 of 13 July 2015 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to certain categories of horizontal State aid[1], and in particular Article 1(1), points (a) and (b), thereof,

Having regard to Council Regulation (EU) 2022/2586 of 19 December 2022 on the application of Articles 93, 107 and 108 of the Treaty on the Functioning of the European Union to certain categories of State aid in the rail, inland waterway and multimodal transport sector[2], and in particular Article 1 thereof,

After consulting the Advisory Committee on State aid,

Whereas:

(1) State funding meeting the criteria in Article 107(1) of the Treaty constitutes State aid and requires notification to the Commission by virtue of Article 108(3) of the Treaty. However, according to Article 109 of the Treaty, the Council may determine categories of aid that are exempted from this notification requirement. In accordance with Article 108(4) of the Treaty the Commission may adopt regulations relating to those categories of State aid. The Commission can declare, in areas where it has sufficient experience to define general compatibility criteria, that specific aid categories may, under certain conditions, be exempted from the notification requirement.

(2) As a derogation to the general obligation to notify under Article 108(3) of the Treaty, the conditions for block exemption laid down in this Regulation must be interpreted

[1] OJ L 248, 24.9.2015, p. 1, ELI: http://data.europa.eu/eli/reg/2015/1588/oj.
[2] OJ L 338, 30.12.2022, p. 35, ELI: http://data.europa.eu/eli/reg/2022/2586/oj.

strictly[3]. The adoption of a block exemption regulation does not amount to a transfer to Member States of the Commission's exclusive power to assess the compatibility of aid[4]. By adopting a block exemption regulation, the Commission declares compatible *ex ante* all State aid which meets the conditions for exemption[5]. The conditions for block exemption must be clear and easily enforceable by the national authorities[6].

(3) This Regulation should allow for better prioritisation of State aid enforcement activities and greater simplification and control of compliance with the State aid rules at national and Union levels, while preserving the institutional competences of the Commission and the Member States. In accordance with the principle of proportionality this Regulation does not go beyond what is necessary in order to achieve those objectives.

(4) The general conditions for the application of this Regulation are defined based on a set of common principles ensuring that the aid is necessary, has an incentive effect, is proportionate, granted in a transparent manner, and does not adversely affect competition and trading conditions to an extent that is contrary to the common interest.

(5) Aid that meets all the conditions set out in this Regulation, both general and specific to the relevant categories of aid, should be exempted from the notification obligation set out in Article 108(3) of the Treaty. State aid within the meaning of Article 107(1) of the Treaty not covered by this Regulation remains subject to the notification requirement. This Regulation is without prejudice to the possibility for Member States of notifying aid the objectives of which correspond to objectives covered by this Regulation.

(6) State aid enforcement is highly dependent on the cooperation of Member States. Therefore, Member States should take all necessary measures to ensure compliance with this Regulation, including compliance of individual aid granted under block-exempted schemes.

(7) One of the objectives of the Commission's Communication on A Competitiveness Compass for the EU[7] is to simplify frameworks and rules, which will help boosting competitiveness in Europe. In its Communication on The Clean Industrial Deal: A joint roadmap for competitiveness and decarbonisation[8], the Commission declared that the simplification of existing State aid rules was essential and that the review of Commission Regulation (EU) No 651/2014[9], which expires on 31 December 2026,

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3 Judgment of 21 July 2016, *Dilly's Wellnesshotel I*, C-493/14, EU:C:2016: 577, para. 37.

4 Judgment of 29 July 2019, *BMW*, C-654/17 P, EU:C:2019:634, paras. 132-134.

5 *Ibid*, para. 135.

6 Judgment of 5 March 2019, *Eesti Pagar*, C-349/17, EU:C:2019:172, para. 61.

7 COM(2025) 30 final, 29.1.2025.

8 COM(2025) 85 final, 26.2.2025.

9 Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 187, 26.6.2014, p. 1; ELI: http://data.europa.eu/eli/reg/2014/651/oj).

would significantly reduce the bureaucratic burden for both undertakings and Member States and thereby facilitate necessary support for the industry, while preserving the integrity of the internal market.

(8) The Commission's experience has allowed it to better define the necessary conditions under which certain categories of aid can be considered compatible with the internal market. In light of this, with a view to alleviate the administrative burden of Member States and beneficiaries, the Commission aims to simplify certain provisions under which aid can be block-exempted under this Regulation, where this does not risk resulting in significant distortions of competition in the internal market. Furthermore, this Regulation is adapted to policy developments as regards State aid for social enterprises, training and employment, such as the Commission's Communications on Building an economy that works for people: an action plan for the social economy[10] and on The Union of Skills[11].

(9) This Regulation should apply across most sectors of the economy. Without prejudice to the applicable sectoral block exemptions[12], in order to facilitate multisectoral aid schemes and support these sectors effectively, the scope of this Regulation should include aid in the sectors of fisheries, aquaculture and agriculture, including primary agricultural production. Member States should have a choice whether to grant aid in compliance with this Regulation or with other block exemption regulations. This Regulation should not apply to aid to facilitate the closure of uncompetitive coal mines.

(10) Aid granted to undertakings in difficulty should in principle be excluded from the scope of this Regulation. This is because, by enabling a failing undertaking to remain on the market, such aid is particularly distortive of competition and should be subject to the specific conditions of the Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty[13]. To encourage innovation, the assessment of whether a loss-making undertaking is in difficulty should take into account financial instruments absorbing losses on a going concern basis, as recorded in the financial statements and in compliance with the applicable accounting standards. This includes

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[10] COM(2021) 778 final, 9.12.2021.

[11] COM(2025) 90 final, 5.3.2025.

[12] Commission Regulation (EU) 2022/2472 of 14 December 2022 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union (OJ L 327, 21.12.2022, p. 1); Commission Regulation (EU) 2022/2473 of 14 December 2022 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union (OJ L 327, 21.12.2022, p. 82); Commission Regulation (EU) 2026/562 of 16 March 2026 declaring certain categories of aid in the rail, inland waterways and multimodal transport sector compatible with the internal market in application of Articles 93, 107 and 108 of the Treaty on the Functioning of the European Union (OJ L, 2026/562, 30.3.2026, ELI: http://data.europa.eu/eli/reg/2026/562/oj).

[13] [reference to new R&R Guidelines when available]

financial instruments that a company continuing trading activity is not obliged to reimburse or remunerate in the absence of positive distributable net earnings, such as preferred shares, silent participations or bonds that are perpetual or convertible into shares at the will of the beneficiary. For the avoidance of doubt, this excludes debt or financial instruments that are convertible into shares only in the event of default or if the beneficiary ceases trading activity on a 'gone concern' basis.

(11) However, the exclusion of aid to undertakings in difficulty from the scope of this Regulation should not apply in certain exceptional situations, such as newly created undertakings. Because of their specific growth model in their early years, innovative start-ups within five years from their registration should be able to receive any aid under this Regulation, provided that they are not in insolvency or meet the criteria to be placed in eligible to or undergoing collective insolvency proceedings at the request of their creditors. Beyond five years, undertakings, whether in difficulty or not, may still receive dedicated or specific types of aid, such as aid for access to finance and aid for innovative start-ups.

(12) This Regulation exempts from notification State aid, which meets the conditions set out in Chapters I and III. In case of failure to meet such conditions, aid is not covered by this Regulation and constitutes unlawful aid in breach of the notification and standstill obligations under Article 108(3) of the Treaty. Such breach of Union law by the national authorities cannot give rise to legitimate expectations on the part of the beneficiary of favourable treatment contrary to Union law. Consequently, once it realises that it has made a mistake, the Member State must, on its own initiative, recover aid granted in breach of this Regulation[14].

(13) In order to enhance legal certainty, this Regulation provides that compliance with the compatibility conditions is assessed by the granting authority at the level of the 'undertaking' within the meaning of State aid law and at the date of granting, namely the date when the legal right to receive the aid is conferred on the beneficiary under the applicable national legal regime.

(14) As infrastructure can have a long lifetime, some compatibility conditions continue to apply, and hence require monitoring by the granting authorities, after the date of granting. For the sake of simplification and legal certainty, it is necessary to limit the period during which compatibility conditions for aid for infrastructure should be met. For infrastructure other than those covered by Section 4 of this Regulation, the compatibility conditions should also ensure that any concession or other entrustment to a third party to construct, upgrade, operate or rent aided infrastructure is assigned in a manner that does not provide an indirect advantage for the third party.

(15) Unless otherwise specified, aid under this Regulation can be provided by means of financial instruments channelled through financial intermediaries. It is necessary to ensure that such aid meets its objective of supporting an investment, a project or an

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14 Judgement of 5 March 2019, *Eesti Pagar*, C-349/17, ECLI:EU:C:2019:172, paras 92-94 and 134-135.

activity carried out by final beneficiaries of the aid and does not support the activity of the financial intermediary. Under the safeguards provided in this Regulation (in particular, the requirement for financial intermediaries to operate a mechanism to pass through advantages to the final beneficiaries to the largest extent possible), any indirect advantages to financial intermediaries do not have the objective to preserve or restore the viability, liquidity or solvency of the credit institutions. As a result, such aid will not be qualified as extraordinary public financial support under Directive 2014/59/EU of the European Parliament and of the Council[15] or under Regulation (EU) 806/2014 of the European Parliament and of the Council[16], and will not be assessed under the State aid rules applicable to the banking sector.

(16) Due to the high risk of adversely affecting trading conditions, large amounts of aid granted either individually or cumulatively should be assessed by the Commission upon notification. Thresholds should therefore be set for each category of aid falling within the scope of this Regulation at a level, which takes into account the specificities of the category of aid concerned and its likely effect on competition and trading conditions. Any aid granted above those thresholds should remain subject to the notification requirement of Article 108(3) of the Treaty. The thresholds set out in this Regulation should not be circumvented by artificially splitting up aid schemes or aid projects into several aid schemes or projects with similar characteristics, objectives or beneficiaries.

(17) In light of the high level of inflation in the recent past and the cumulated inflation anticipated during the lengthy period of application of this Regulation, it is appropriate to increase all monetary thresholds, including notification thresholds, beyond the 10 % increase carried out by Commission Regulation (EU) 2023/1315 of 23 June 2023[17]. Updating monetary thresholds will keep the scope of this Regulation's constant in real terms, throughout the duration of this Regulation. The update reflects the real inflation observed between 2020 and 2025, not taken into account thus far; it also reflects the future estimated inflation of 2 % per year, in line with the European Central Bank's

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15 Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (OJ L 173, 12.6.2014, p. 190, ELI: http://data.europa.eu/eli/dir/2014/59/oj).

16 Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 (OJ L 225, 30.7.2014, p. 1).

17 Commission Regulation (EU) 2023/1315 of 23 June 2023 amending Regulation (EU) No 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty and Regulation (EU) 2022/2473 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 167, 30.6.2023, p. 1).

inflation target, for the period 2026-2034. This increase will be carried out in two steps in order to reflect more accurately the progressive nature of inflation in time. The Regulation will therefore lay down updated values applicable as from 1 January 2027 and, in a second step, as from 1 January 2031.

(18) In order to facilitate the verification of compliance with the notification thresholds and maximum aid amounts or aid intensities set out in this Regulation, this Regulation should only apply to aid in respect of which the aid amount can easily be determined, without undertaking a too complex economic assessment. This Regulation should therefore define the conditions under which the use of different aid forms can be considered as not involving a complex economic assessment.

(19) With a view to ensuring that aid is proportionate and limited to the amount necessary and in order to limit the administrative burden for beneficiaries and granting authorities, maximum aid amounts should, whenever possible, be defined in terms of aid intensities in relation to a set of eligible costs. For the calculation of aid intensity, only eligible costs should be included. The identification of eligible costs should be supported by clear, specific and contemporary documentary evidence. Where the maximum aid intensity cannot be set, because eligible costs cannot be identified, or in order to provide simpler instruments for small amounts, maximum aid amounts should be set out in order to ensure proportionality of aid measures. The aid intensity and the maximum aid amounts should be fixed, in the light of the Commission's experience, at a level that minimises distortions of competition in the aided sector while appropriately addressing the market failure or cohesion issue.

(20) The use of simplified cost options, namely flat rates, unit costs or lump sums can help simplifying the calculation of the amounts of eligible costs. The option of using reliable and verifiable simplified costs options can therefore be made available for all aid categories where the costs are established *ex ante* in accordance with a fair, equitable and verifiable method based on relevant and reliable data. The use of simplified costs options under certain conditions will reduce the administrative burden for beneficiaries, granting authorities, and auditors, as well as provide clarity without resulting in undue distortions of competition in the internal market.

(21) In order to ensure that the aid is necessary and has an incentive effect, this Regulation should not apply to aid for activities or projects, which the beneficiary would have carried out in any event in the absence of the aid. As a general rule, aid should only be exempted from the notification requirement if the work on the project or the activity concerned starts after the beneficiary has submitted a written application for the aid. This condition is simple, pertinent and adequate, as it enables to presume that the aid has an incentive effect[18]. In specific situations provided for in this Regulation, the incentive effect should either be verified on the basis of different criteria or be presumed to exist where it is inherent in the relevant compatibility conditions. Limited amounts, in proportion of total costs, committed before an aid application is submitted

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[18] Judgment of 5 March 2019, *Eesti Pagar*, C-349/17, EU:C:2019:172, para. 64.

should not constitute the start of works, as it is likely that such a commitment does not make the investment irreversible.

(22) To determine whether the notification thresholds and the maximum aid intensities set out in this Regulation are met, the total amount of State aid measures for the aided activity or project should be taken into account. In order to prevent overcompensation and ensure that public financial support is proportionate, this Regulation should also specify the circumstances under which different categories of aid may be cumulated and how Union funding centrally managed by the institutions, agencies, joint undertakings or other bodies of the Union that is not directly or indirectly under the control of the Member State, i.e. Union funding not constituting State aid, may be combined with State aid.

(23) Given that State aid within the meaning of Article 107(1) of the Treaty is in principle prohibited, it is important for all parties to be able to check whether an aid is granted in compliance with the applicable rules. This Regulation should lay down in which cases and under which conditions aid measures are to be published. Transparency of State aid is essential for the correct application of the rules and leads to better compliance, greater accountability, peer review and ultimately more effective public spending.

(24) To ensure effective monitoring of aid measures, it is appropriate that Member States report to the Commission on aid measures, which have been exempted under this Regulation and on the application of this Regulation.

(25) To eliminate differences that might give rise to distortions of competition and to facilitate coordination between different Union and national initiatives concerning SMEs, as well as for reasons of administrative clarity and legal certainty, the definition of SME used for the purpose of this Regulation should be based on the definition in Commission Recommendation 2003/361/EC[19] and the definition of small mid-caps used for the purpose of this Regulation should be based on the definition in Commission Recommendation (EU) 2025/1099[20]. For the sake of simplicity and legal certainty and in order to reduce administrative burden for granting authorities, this Regulation should provide an exhaustive list of criteria for determining when an undertaking qualifies as an SME or small mid-cap.

(26) By addressing the handicaps of disadvantaged regions, regional aid promotes the economic, social and territorial cohesion of Member States and the Union as a whole. Regional aid is designed to assist the development of the most disadvantaged areas by supporting investment and job creation in a sustainable context.

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19 OJ L 124, 20.5.2003, p. 36. The Commission prepared the SME User Guide to guide national authorities and businesses when applying the SME Definition: https://ec.europa.eu/docsroom/documents/42921

20 OJ L [XX], 28.5.2026, p. X.

(27) Due to the overcapacity in the steel sector in the Union and given the negative environmental externalities of the lignite and coal sectors, it is considered that the negative effects of regional aid in those sectors cannot be outweighed by the positive cohesion effects. Therefore, regional aid cannot be granted in these sectors. Furthermore, the transport sector, energy generation, distribution and infrastructure and the broadband sector are subject to sector-specific internal market legislation, and therefore covered by other specific provisions of Chapter III of this Regulation or other block exemption regulations. The compatibility conditions applicable to regional aid are very different and should therefore in principle not apply to aid in those areas.

(28) SMEs play a decisive role in job creation and, more generally, act as a factor of social stability and economic development. However, their development may be hampered by market failures, leading to these SMEs suffering from the following typical handicaps. SMEs often have difficulties in obtaining capital or loans, given the risk-averse nature of certain financial markets and the limited collateral that they may be able to offer. Their limited resources may also restrict their access to information, notably regarding new technology and potential markets. To facilitate the development of the economic activities of SMEs, this Regulation should therefore exempt certain categories of aid when they are granted in favour of SMEs (such as investment aid) or should provide for more favourable conditions compared to companies that are not SMEs (such as higher aid intensities).

(29) Determining the SME status can, however, be administratively burdensome, especially for local authorities with limited capacity. For certain aid that is capped at a small aid amount, typically benefitting SMEs with smaller aided projects or activities, the Commission considers that Member States should be able to grant this aid without having to carry out a verification process whether the beneficiary is an SME.

(30) SMEs active in the press sector play an essential role in safeguarding media pluralism, cultural and linguistic diversity, democratic participation and citizens' access to reliable information, particularly at local and regional level. However, their development may be hampered by structural challenges resulting from the digital transformation of media markets, changing consumer behaviour, rising production and distribution costs, and increasing competitive pressure from online platforms and large digital operators. Certain support measures aimed at safeguarding and promoting media pluralism, fostering digitalisation, modernisation and resilience of such SMEs, and supporting the production and dissemination of journalistic content, should be exempted from the notification requirement under certain conditions.

(31) SMEs bring innovative solutions to address challenges like climate change, inefficient use of resources and loss of social cohesion, which helps supporting the green and digital transition and strengthening the Union's resilience or technological sovereignty. To be able to grow and unleash their full potential, SMEs need access to finance. However, the level of risk finance provided in the market may be too restricted due to imperfect or asymmetric information that investors have on the

creditworthiness of unlisted SMEs. State aid in the form of risk finance measures should be exempted from the notification requirement under certain conditions.

(32) In principle, risk finance aid measures should be deployed through financial intermediaries, except for fiscal incentives on direct investments in eligible undertakings. Nevertheless, in order to avoid disproportionate administrative burden involved in the selection of financial intermediaries, small amounts of risk-finance aid provided directly to eligible SMEs by entrusted entities, should be covered by block exemption. Similarly, aid for young enterprises and innovative start-ups should be exempted from the notification requirement under certain conditions.

(33) Aid for research and development and innovation aid can contribute to sustainable economic growth, strengthen competitiveness and boost employment. Experience with the application of Regulation (EU) No 651/2014 and the Community framework for State aid for research and development and innovation[21] shows that market failures may prevent the market from reaching optimal output and lead to inefficiencies related to externalities, knowledge spillovers, imperfect and asymmetric information, and coordination failures.

(34) As regards aid for research and development projects, the aided part of the research and development project should completely fall within the categories of fundamental research, industrial research and/or experimental development. State aid for innovation activities at mass production or commercial stage (i.e. at technology readiness level 9) is considered to go beyond the scope of the definition of experimental development and should consequently be excluded from the eligible costs of a research and development project. When a project encompasses different tasks, each task should be classified into one of those eligible categories or as not falling under any of those categories.

(35) As an alternative, and for reasons of administrative simplicity, aid can also be granted for 'applied research', meaning any combination of both industrial research and experimental development. Higher aid intensities are allowed for SMEs and small aid amounts typically benefiting undertakings of a limited size, as well as for effective collaborations and knowledge dissemination. In order to speed up the implementation of certain research and development activities related to projects involving several Member States, it is appropriate to maintain higher notification thresholds and aid intensities where such projects deliver cross-border benefits in terms of effective collaborations and knowledge dissemination.

(36) Where State aid for research and development is linked to Union funding programmes that are centrally managed and subject to safeguards stemming from the selection and evaluation process of such programmes, it should be exempted from the notification requirement under certain conditions. Similarly, this also applies as regards research and development projects funded by means of the financial support to third parties

[21] OJ C 414, 28.10.2022, p. 1.

mechanism, also known as cascade funding, based on Article 207 of Regulation (EU, Euratom) of the European Parliament and of the Council 2024/2509[22], which allows the recipient of Union funding to further distribute, in line with the Union funding programme rules, funds to third parties, which are considered as beneficiaries of State aid.

(37) High-quality research infrastructure and testing and experimentation infrastructure are necessary for ground-breaking research and innovation because they are essential in supporting, among others, new information and communication technologies, digitalisation and key enabling technologies and may attract global talent. Constructing or upgrading a state-of-the-art research infrastructure and testing and experimentation infrastructure involves high up-front investment costs which, together with an uncertain client base, can render access to private financing difficult due to imperfect and asymmetric information or coordination failures. State aid for research infrastructures to the extent they perform economic activities, and for testing and experimentation infrastructures should be exempted from the notification requirement under certain conditions.

(38) Investment and operating aid for innovation clusters aims at tackling persisting market failures linked with coordination failures hampering the development of innovation clusters or limiting the interactions and knowledge flows within the clusters. Operating aid for innovation clusters shall be limited to support only personnel and administrative costs relating to animation and marketing of the cluster and the management of the cluster's facilities, organisation of training programmes, workshops and conferences to support knowledge sharing and networking and transnational cooperation. Such operating aid shall only be allowed for a period of maximum 20 years.

(39) Where Member States opt to facilitate access to the aided research infrastructure, testing and experimentation infrastructure, and innovation cluster facilities or participation in the innovation cluster’s activities, this may be done by means of passing on of aid by the research infrastructure, testing and experimentation infrastructure or innovation clusters through reduced access fees for SMEs and small mid-caps. The aid that is passed on to SMEs and small mid-caps must meet the conditions set out in this Regulation and be granted to them according to a scheme set up by the Member States. The aid which is passed on to SMEs and small mid-caps does not count towards the notification thresholds of research infrastructures, testing and experimentation infrastructures or innovation clusters.

(40) Digitalisation by means of adoption of innovative technologies plays an important role in innovation efforts of SMEs and small mid-caps. Such costs incurred by SMEs and small mid-caps can be supported as innovation aid and should be exempted from the notification requirement under certain conditions.

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22 Regulation (EU, Euratom) 2024/2509 of the European Parliament and of the Council of 23 September 2024 on the financial rules applicable to the general budget of the Union (OJ L, 2024/2509, 26.9.2024)

(41) Process and organisational innovation, including digitalisation activities, may suffer from market failures in the form of imperfect information and positive externalities, mainly affecting SMEs.

(42) Social enterprises operate by providing goods and services for the market, while pursuing social objectives, which may include environmental impacts. Social enterprises adopt a variety of legal forms depending on the national context, for example cooperatives, mutual benefit societies, associations (including charities), and foundations, and they reinvest all or large part of their profits, if any, with a view to achieving their social objectives.

(43) Social enterprises should be able to fulfil their social mission in the most appropriate way taking into consideration their specific governance structure and financing needs. In particular, legal entities that pursue social objectives and in practice have independent power of decision should, for example, receive up to the maximum aid amount that a given article of this Regulation stipulates for an undertaking. For this reason, this Regulation should include a limited derogation from the notion of undertaking for social enterprises connected to the same public body or the same non-profit entity. This derogation shall not affect the application of the definition of SME and small mid-cap.

(44) SMEs, in particular when in their early phases, need to attract and retain skilled workers in order to achieve their growth potential, bring innovative products and services to the market, and retain skills in the Union, but due to labour and capital market failures, may be unable to attract and retain such skilled workers. To mitigate these market failures, a component of the workers' remuneration in addition to salary paid in cash by SMEs, in the form of shares, share options or share warrants, may fall under a favourable tax treatment for the worker (typically, deferral of taxation and/or taxation under capital gains tax instead of personal income tax). Such share-based remuneration schemes only have limited potential to distort competition and affect trade in the internal market. Hence, such measures should be covered by the block exemption. Eligible shares, share options or share warrants schemes should be granted without prejudice to the workers' rights to adequate minimum wages and collectively bargained wages set out in Directive (EU) 2022/2041 of the European Parliament and of the Council[23], as well as in applicable national law and practice, respecting the specific industrial relations systems in Member States and the autonomy of the social partners. In particular, such share-based remuneration agreements should not result in the substitution of salary paid in cash and applicable social security contributions, and take into account the special needs of vulnerable groups in the labour market, including disadvantaged workers and workers with disabilities.

(45) Training usually generates positive externalities for society as a whole, since it increases the pool of skilled workers from which other firms may draw, improves the

[23] Directive (EU) 2022/2041 of the European Parliament and of the Council of 19 October 2022 on adequate minimum wages in the European Union, OJ L 275, 25.10.2022, p. 33.

competitiveness of the Union economy and advances the objectives of the Union of Skills. Aid to promote training should therefore be exempted from the notification requirement under certain conditions. Higher aid intensities can be allowed in certain circumstances, such as for training in assisted areas, for SMEs, for workers with disabilities or disadvantaged workers, for social enterprises and for skilled workers in the field of science, technology, engineering and mathematics.

(46) Disadvantaged workers and workers with disabilities experience particular difficulties in entering and remaining in the labour market. Their participation in the labour market is, however, essential for their own development but also for the economy as a whole. State aid may provide incentives to undertakings to increase the level of employment of these categories of workers and should, under some conditions, be block exempted from the notification requirement. Supported employment of workers with disabilities in the labour market can be an effective instrument of labour-market integration and should be eligible for aid under the conditions applicable to aid that compensates the costs of assistance provided to workers with disabilities, and for training aid.

(47) Sustainable growth for a resource efficient, greener and more competitive economy is based on a high level of protection and improvement of the quality of the environment, including a higher adaptive capacity or reduced vulnerability to climate impacts. Under normal market conditions, undertakings may not necessarily have an incentive to reduce the pollution caused by them since any such reduction may increase their costs without corresponding benefits. When undertakings are not obliged to internalise the costs of pollution, society as a whole bears these costs.

(48) Introducing mandatory environmental standards can address such market failure. In order to incentivise undertakings to improve the level of environmental protection beyond these mandatory Union standards, or to comply with Union standards that have been adopted but are not yet in force, State aid in this area should be exempted from the notification requirement under certain conditions.

(49) Investment aid aimed at supporting recharging and refuelling infrastructure, as well as the acquisition and leasing of zero-emission and clean vehicles, clean mobile service equipment, zero-emission non-road mobile machinery, and the retrofitting of vehicles, allowing them to qualify as zero-emission or clean vehicles, contributes to the shift towards zero-emission mobility and to the reduction of greenhouse gas emissions in the transport sector and should be exempted from the notification requirement under some conditions.

(50) In order to facilitate the achievement of the targets set out by Directive (EU) 2023/1791 of the European Parliament and of the Council[24], measures

[24] Directive (EU) 2023/1791 of the European Parliament and of the Council of 13 September 2023 on energy efficiency and amending Regulation (EU) 2023/955 (OJ L 231, 20.9.2023, p. 1)

supporting energy efficiency, high-efficiency cogeneration as well as energy efficient district heating and cooling should be exempted from the notification requirement.

(51) Measures increasing the energy performance of buildings contributes to a shift towards a low carbon economy. Member States should have the possibility to support energy performance investments in buildings by granting aid in the form of direct grants to the building owners or tenants, including by supporting social and affordable housing projects.

(52) To achieve the Union's renewable energy targets set out in Directive (EU) 2018/2001 of the European Parliament and of the Council[25], aid granted to investments supporting energy from renewable sources should be exempted from the notification requirement under certain conditions.

(53) Aid covered by this Regulation should only be granted to sustainable forms of renewable energy. Aid to renewable energy produced from biomass should only be covered by this Regulation in so far as it is granted for sustainable renewable energy produced from biomass in accordance with the Directive (EU) 2018/2001.

(54) Aid in the form of tax reductions under Council Directive 2003/96/EC[26] favouring environmental protection covered by this Regulation can indirectly benefit the environment. Similarly, where environmental taxes or parafiscal levies could not be enforced without putting the economic activities of certain undertakings at risk, granting a more favourable treatment to some undertakings may allow to achieve a higher general level of contribution to the environmental taxes or parafiscal levies and thus indirectly contributing to a higher level of environmental protection.

(55) Compensation measures for direct greenhouse gas emissions of undertakings active in the manufacturing and construction industries, pursuant to Annex III to Directive 2003/87/EC of the European Parliament and of the Council[27] and the Annex to Commission Delegated Decision (EU) 2019/708[28], can contribute to the protection of activities at risk of carbon leakage and ensure a level playing field between undertakings of different sizes and should be exempted from the notification requirement under certain conditions.

(56) Investment aid for the remediation of environmental damage, the conservation or restoration of nature and the implementation of nature-based solutions for climate

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25 Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 328, 21.12.2018, p. 82).

26 Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (OJ L 283, 31.10.2003, p. 51).

27 Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32; ELI: http://data.europa.eu/eli/dir/2003/87/oj).

28 Commission Delegated Decision (EU) 2019/708 of 15 February 2019 supplementing Directive 2003/87/EC of the European Parliament and of the Council concerning the determination of sectors and subsectors deemed at risk of carbon leakage for the period 2021 to 2030 (OJ L 120, 8.5.2019, pp. 20).

resilience and climate change mitigation can contribute to the Commission's objectives for biodiversity, climate resilience and sustainable carbon cycles and should be exempted from the notification requirement under certain conditions.

(57) In accordance with the Commission's Communication on A New Circular Economy Action Plan[29], the replacement of primary raw materials or feedstock with secondary (re-used or recycled) or recovered raw materials or feedstock help reducing pressure on natural resources, create sustainable growth and jobs and will strengthen resilience of the Union economy. Aid measures in line with the waste hierarchy established in the European Union's Waste Framework Directive, and the Eighth Environment Action Programme should be exempted from the notification requirement.

(58) In accordance with Article 107(2)(b) of the Treaty, aid to make good the damage caused by natural disasters is compatible with the internal market. The compensation should not exceed what is necessary to enable the beneficiary to return to the situation prevailing before the disaster occurred.

(59) Aid for cultural institutions and projects, including aid for exclusively cultural magazines and press publications in national minority languages linked to the culture of a given linguistic minority, do not typically give rise to any significant distortion of competition and should be exempted from the notification requirement under certain conditions. Exclusively cultural magazines are publications the purpose of which is the promotion of culture, artistic expression, heritage, languages or intellectual debate, to the exclusion of the provision of general news or commercial press services.

(60) Audiovisual works play an important role in shaping European identities and reflect the different traditions, languages and cultural heritage of Member States and regions. Such works generate positive externalities, including by fostering cultural diversity, strengthening European cultural identity, promoting linguistic pluralism and supporting innovation in creative expression, which are not fully captured by market revenues. Videogames, where they constitute cultural or creative audiovisual works, can also contribute to those objectives through interactive storytelling, the dissemination and preservation of European narratives, values and heritage, and the development of innovative forms of cultural expression at the intersection of audiovisual creation and digital technologies. Well-targeted aid to support the production, pre-production and distribution of such audiovisual works, including videogames, is less likely to give rise to undue distortions of competition and trade and should therefore be exempted from the notification requirement under certain conditions.

(61) Investments in digital infrastructure should aim to ensure connectivity accessible to all and everywhere in the Union, in order to close the digital divide across the Union[30]. Investment aid for broadband infrastructure aims at fostering the deployment of such

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[29] COM(2020) 98 final, 11.3.2020.

[30] Decision (EU) 2022/2481 of the European Parliament and of the Council of 14 December 2022 establishing the Digital Decade Policy Programme 2030 (OJ L 323, 19.12.2022, p. 4)

infrastructure in areas where no comparable infrastructure exists nor is likely to be deployed by market operators in the near future. Such aid should be exempted from the notification requirement under certain conditions, in particular technological neutrality[31].

(62) State aid in the form of connectivity vouchers and social connectivity vouchers for consumers helps bridging the digital divide and should be exempted from the notification requirement under certain conditions, in particular technological neutrality. Such vouchers must be targeted to address situations where the aid is necessary to address a market failure in the take-up of the relevant broadband services. Aid in the form of social vouchers must be reserved for particular categories of individual consumers whose social and financial circumstances justify the granting of aid for social reasons. Such aid that is adequately targeted and of limited scale is less likely to give rise to undue distortions of competition and trade and should therefore be exempted from the notification requirement under certain conditions.

(63) Investment aid to airports with average annual passenger traffic of up to three million passengers can improve both the accessibility of certain regions and local development, depending on the specificities of each airport and should be exempted from the notification requirement under certain conditions. The notification exemption should not apply to investment aid granted to airports located in the vicinity of an existing airport from which scheduled air services are operated, because aid to such airports entails a higher risk of distortion of competition and should therefore be notified to the Commission, with the exception of investment aid granted to small airports with up to 500 000 annual passengers, which is unlikely to result in significant distortion of competition. Operating aid to small airports with up to 500 000 annual passengers generally does not give rise to undue distortion of trade and competition, and should therefore be exempted from the notification requirement, provided certain conditions are met.

(64) Ports are of strategic importance for achieving the smooth functioning of the internal market and the strengthening of economic, social and territorial cohesion. The effective operation of ports in all Union regions requires efficient public and private investment. The Union rules explicitly aim at reinforcing transport inter-modality and the shift towards more environmentally friendly modes of transport such as rail and sea/inland waterway transport. Aid for ports, including for port cybersecurity, should be exempted from the notification obligation under certain conditions.

(65) Financial products supported by the InvestEU Fund established by Regulation (EU) 2021/523 of the European Parliament and of the Council[32] may involve funds

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[31] Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (OJ L 321, 17.12.2018, p. 36)

[32] Regulation (EU) 2021/523 of the European Parliament and of the Council of 24 March 2021 establishing the InvestEU Programme and amending Regulation (EU) 2015/1017 (OJ L 107, 26.3.2021, p. 30).

controlled by Member States and constituting State aid. Such State aid should be exempted from the notification requirement under certain conditions, reflecting the design of and safeguards already reflected in the InvestEU programme.

(66) State aid policy should periodically be revised. Pursuant to Article 4(1) of the Enabling Regulation, the period of application of this Regulation should therefore be limited. It is appropriate to lay down transitional provisions, including the rules applicable to exempted aid schemes at the end of the period of application of this Regulation.

(67) In order to provide Member States with time to adapt their aid measures, this Regulation should set a period of adjustment of six months. In addition, in order to facilitate the continued implementation of aid measures when Regulation (EU) No 651/2014 expires and when this Regulation expires, it is necessary to lay down transitional provisions ensuring in particular the continued application of Regulation (EU) No 651/2014 and of this Regulation, for a limited period of time after their respective expiry dates. This is particularly necessary for aid granted under Union funds implemented under shared management under the 2021-2027 and 2028-2034 Multiannual Financial Frameworks, for tax measures and risk finance aid measures.

(68) This Regulation includes a series of clarifications, simplifications, updated definitions and other modifications of the common provisions. Those changes should also be reflected in the other block exemption regulations that rely on the same common provisions. Therefore, those regulations should be amended accordingly.

CHAPTER I

COMMON PROVISIONS

Article 1

Subject matter and scope

1. This Regulation sets out exemptions to the obligation for Member States to notify the Commission of any plans to grant State aid pursuant to Article 108(3) of the Treaty and shall apply to the categories of aid listed in Chapter III of this Regulation.

2. This Regulation shall not apply to:

(a) aid granted in the sectors of primary agricultural production or primary production of fishery and aquaculture products, where the aid amount is fixed on the basis of price or quantity;

(b) aid granted in the sectors of processing and marketing of agricultural, fishery and aquaculture products, where the amount of the aid is fixed on the basis of the price or quantity either of the final product or of such products purchased from primary producers;

(c) aid granted in the fishery and aquaculture sector under Article 15, Article 20, Article 51, Article 52, Article 53, Article 55, Article 80 and Section 10 for:

(i) the purchase of fishing vessels;

(ii) the modernisation or replacement of main or ancillary engines of fishing vessels;

(iii) operations increasing the fishing capacity of a fishing vessel or equipment increasing the ability of a fishing vessel to find fish;

(iv) the construction of new fishing vessels or importation of fishing vessels;

(v) the permanent or temporary cessation of fishing activities with the exception of aid that meets the conditions laid down in Articles 20 and 21 of Regulation (EU) 2021/1139 of the European Parliament and of the Council[33];

(vi) exploratory fishing;

(vii) the transfer of ownership of a business;

(viii) direct restocking, unless explicitly provided for as a conservation measure by a Union legal act or in the case of experimental restocking;

(ix) fishing ports and auction halls;

(d) aid granted under Article 15, Article 20, Article 51, Article 52, Article 55 and Article 80 to an undertaking active in the fishery and aquaculture sector that:

(i) has committed a serious infringement under Article 42 of Council Regulation (EC) No 1005/2008[34] or Article 90 of Council Regulation (EC) No 1224/2009[35];

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33 Regulation (EU) 2021/1139 of the European Parliament and of the Council of 7 July 2021 establishing the European Maritime, Fisheries and Aquaculture Fund and amending Regulation (EU) 2017/1004 (OJ L 247, 13.7.2021, p. 1, ELI: http://data.europa.eu/eli/reg/2021/1139/oj).

34 Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999. (OJ L 286, 29.10.2008, p. 1, ELI: http://data.europa.eu/eli/reg/2008/1005/oj).

35 Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006. (OJ L 343, 22.12.2009, p. 1, ELI: http://data.europa.eu/eli/reg/2009/1224/oj).

(ii) has been involved in the operation, management or ownership of a fishing vessel included in the Union Illegal, unreported and unregulated fishing vessel list as set out in Article 40, point (3), of Regulation (EC) No 1005/2008, or of a vessel flying the flag of countries identified as non-cooperating third countries as set out in Article 33 of that Regulation;

(e) and aid granted under Article 15, Article 20, Article 51, Article 52 and Article 55 of this Regulation to an undertaking active in the aquaculture sector that has committed any of the environmental offences set out in Articles 3 and 4 of Directive 2024/1203 of the European Parliament and of the Council[36];

(f) aid to facilitate the closure of uncompetitive coal mines, falling within the scope of Council Decision 2010/787/EU[37].

3. Where an undertaking is active in excluded sectors and in sectors which fall within the scope of this Regulation, this Regulation shall apply to aid granted in respect of the latter sectors or activities, if Member States ensure by appropriate means, such as separation of activities or distinction of costs, that the activities in the excluded sectors do not benefit from the aid granted in accordance with this Regulation.

4. This Regulation shall not apply to:

(a) aid schemes which do not explicitly exclude the payment of individual aid to an undertaking subject to an outstanding recovery order following a previous Commission decision declaring an aid granted by the same Member State unlawful and incompatible with the internal market. However, it shall apply to such schemes when they concern aid for European territorial cooperation covered by Article 18, aid for community-led local development ('CLLD') projects covered by Article 19(3), aid to make good the damage caused by certain natural disasters covered by Article 68 and aid involved in financial products supported by the InvestEU Fund covered by Section 10 of Chapter III;

(b) ad hoc aid in favour of an undertaking as referred to in point (a).

5. This Regulation shall not apply to aid to undertakings in difficulty. By way of derogation, this Regulation shall apply to the following categories of aid, if the undertakings in difficulty are not treated more favourably than other undertakings under the same aid scheme:

(a) aid to small and medium-sized enterprises ('SMEs') within three years from registration, if they qualify as undertakings in difficulty under Article 2, point (32)(a)

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36 Directive (EU) 2024/1203 of the European Parliament and of the Council of 11 April 2024 on the protection of the environment through criminal law and replacing Directives 2008/99/EC and 2009/123/EC (OJ L, 2024/1203, 30.4.2024, ELI: http://data.europa.eu/eli/dir/2024/1203/oj)

37 Council Decision 2010/787/EU of 10 December 2010 on State aid to facilitate the closure of uncompetitive coal mines (OJ L 336, 21.12.2010, p. 24; ELI: http://data.europa.eu/eli/dec/2010/787/oj).

or (b); for undertakings that are not subject to registration, the three-year period shall start from either the moment when the undertaking starts its economic activity or the moment it becomes liable to tax with regard to its economic activity, whichever is earlier;

(b) aid to innovative start-ups within five years from registration, if they qualify as undertakings in difficulty under Article 2, point (32)(a) or (b); for undertakings that are not subject to registration, the three-year period shall start from either the moment when the undertaking starts its economic activity or the moment it becomes liable to tax with regard to its economic activity, whichever is earlier;

(c) aid to credit institutions as defined in Article 2, point (2), of Directive 2014/59/EU and aid to insurance and reinsurance undertakings as defined in Article 13, points (1) and (4), of Directive 2009/138/EC of the European Parliament and of the Council[38], also when they act as financial intermediaries. Any such aid shall not be qualified as extraordinary public financial support under Directive 2014/59/EU or Regulation (EU) 806/2014.

(d) regional operating aid schemes covered by Article 16;

(e) aid schemes to SMEs participating in CLLD projects covered by Article 19(3);

(f) aid for access to finance for SMEs covered by Article 25, Article 26, Article 27, Article 28 and Article 29, if they qualify as undertakings in difficulty under Article 2, point(32)(a) or (b);

(g) aid in the form of reductions in taxes under Directive 2003/96/EC covered by Article 61;

(h) aid schemes to make good the damage caused by certain natural disasters covered by Article 68;

(i) aid to SMEs and small mid-caps under Article 82(10), point (a)(i) or (ii), and Article 83;

6. This Regulation shall not apply to

(a) aid measures, which entail, by themselves, by the conditions attached to them or by their financing method a non-severable violation of Union law, in particular the following:

    (i) aid measures where the grant of aid is subject to the obligation for the beneficiary to have its headquarters in the relevant Member State or to be predominantly established in that Member State. However, the requirement to

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[38] Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (recast) (OJ L 335 17.12.2009, p. 1, http://data.europa.eu/eli/dir/2009/138/oj).

have an establishment or branch in the aid granting Member State at the moment of granting or payment of the aid is allowed;

(ii) aid measures where the grant of aid is subject to the obligation for the beneficiary to use nationally produced goods or national services;

(iii) aid measures restricting the possibility for the beneficiaries to exploit the research, development and innovation results in other Member States;

(b) aid to export-related activities towards third countries or Member States, namely aid directly linked to the quantities exported, to the establishment and operation of a distribution network or to other current costs linked to the export activity.

7. Member States may choose, where applicable, to grant aid in compliance with this Regulation or with other block exemption regulations.

Article 2

Definitions

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

Definitions of terms that first appear in Chapter I

(1) ‘aid’ or ‘State aid’ means any measure meeting all the criteria set out in Article 107(1) of the Treaty;

(2) ‘small and medium-sized enterprises’ or ‘SMEs’ means undertakings meeting the criteria set out in Annex I;

(3) ‘undertaking’ means any entity engaged in an economic activity, including a group of several separate legal entities that, because of controlling shares and other functional, economic and organic links, form one economic unit. The mere fact of holding shares, even controlling shareholdings, is insufficient to characterise such a link;

(4) ‘operating aid’ means aid to reduce an undertaking's operating costs, but excluding depreciation charges and the costs of financing related to an investment that benefited from investment aid;

(5) ‘operating costs’ means categories of current costs such as personnel costs, materials, contracted services, communications, energy, maintenance, rent, administration, depreciation charges and costs of financing;

(6) ‘environmental protection’ means any action or activity designed to reduce or prevent pollution, negative environmental impacts or other damage to physical surroundings (including to air, water and soil), ecosystems or natural resources by human activities, including to mitigate climate change, to reduce the risk of such damage, to protect and restore biodiversity or to lead to more efficient use of natural

resources, including energy-saving measures and the use of renewable sources of energy and other techniques to reduce greenhouse gas emissions and emissions of other pollutants, as well as to shift to circular economy models to reduce the use of primary materials and increase efficiencies;

(7) 'climate resilience' means the capacity of interconnected social, economic and ecological systems to cope with a hazardous climate event, climate trend or climate disturbance, responding or reorganizing in ways that maintain their essential function, identity and structure;

(8) 'ecosystem' means ecosystem as defined in Article 3, point (1), of Regulation (EU) 2024/1991 of the European Parliament and of the Council[39];

(9) 'biodiversity' means biodiversity as defined in Article 2, point (15), of Regulation (EU) 2020/852 of the European Parliament and of the Council[40];

(10) 'worker with disabilities' means any person who:

(a) is recognised as worker with disabilities under national law; or

(b) has long-term physical, mental, intellectual or sensory impairment(s) which, in interaction with various barriers, may hinder their full and effective participation in a work environment on an equal basis with other workers;

(11) 'disadvantaged worker' means any person who meets at least one of the following conditions:

(a) has not been in regular paid employment for the previous six months;

(b) is between 15 and 29 years of age;

(c) has not attained an upper secondary educational or vocational qualification (International Standard Classification of Education 3) or is within two years after completing full-time education and who has not previously obtained their first regular paid employment;

(d) is over 50 years of age;

(e) lives as a single adult with one or more dependents;

(f) works in a sector or profession in a Member State where the gender imbalance is at least 25 % higher than the average gender imbalance across all economic sectors in that Member State, and belongs to that underrepresented gender group;

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39 Regulation (EU) 2024/1991 of the European Parliament and of the Council of 24 June 2024 on nature restoration and amending Regulation (EU) 2022/869.

40 Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13–43, ELI: http://data.europa.eu/eli/reg/2020/852/oj).

(g) is a member of an ethnic minority within a Member State and who requires development of their linguistic, vocational training or work experience profile to enhance prospects of gaining access to stable employment;

(h) in the preceding 48 months has been granted refugee status or subsidiary protection status within the meaning of the Regulation (EU) 2024/1347 of the European Parliament and of the Council[41] or is applicant for international protection within the meaning of that Regulation;

(i) is a family member of a disadvantaged worker referred to in point (h), within the meaning of Council Directive 2003/86[42];

(j) is recognised as a victim of domestic violence under national law, or who is a victim of an act of physical, sexual, psychological or economic violence that occurs within the family or domestic unit, irrespective of biological or legal family ties, or between former or current spouses or partners, whether or not the offender shares or has shared a residence with the victim;

(k) has been released from imprisonment in the preceding 24 months;

(l) is a former addicted substance user who has followed a rehabilitation programme in the preceding 24 months;

(m) belongs to a category of workers with an unemployment rate that is double the national average unemployment rate;

(12) 'transport' means transport of passengers by aircraft, maritime transport, road, rail, or by inland waterway or freight transport services for hire or reward;

(13) 'remote regions' means outermost regions, Malta, Cyprus, Ceuta and Melilla, islands which are part of the territory of a Member State and sparsely populated areas;

(14) 'outermost regions' means regions as defined in Article 349 of the Treaty;

(15) 'sparsely populated areas' means areas designated in a regional aid map that has been approved in application of Article 107(3), points (a) and/or (c) of the Treaty and is in force at the time the aid is granted;

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41 Regulation (EU) 2024/1347 of the European Parliament and of the Council of 14 May 2024 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection and for the content of the protection granted, amending Council Directive 2003/109/EC and repealing Directive 2011/95/EU of the European Parliament and of the Council (OJ L, 2024/1347, ELI: http://data.europa.eu/eli/reg/2024/1347/oj).

42 Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification (OJ L 251, 3.10.2003, p. 12).

(16) ‘broadband infrastructure’ means a broadband network without any active component and comprises the physical infrastructure (including ducts, inspection chambers, manholes, cabinets, antenna installations, towers, poles and masts), and cables (including dark fibre and copper cables);

(17) ‘ducts’ means underground pipes or conduits used to house (fibre, copper or coax) cables of a broadband network.

(18) ‘marketing of agricultural products’ means holding or displaying with a view to sale, offering for sale, delivery or any other manner of placing on the market, except the first sale by a primary producer to resellers or processors and any activity preparing a product for such first sale; a sale by a primary producer to final consumers shall be considered to be marketing if it takes place in separate premises reserved for that purpose;

(19) ‘primary agricultural production’ means production of products of the soil and of stock farming, listed in Annex I to the Treaty, without performing any further operation changing the nature of such products;

(20) ‘processing of agricultural products’ means any operation on an agricultural product resulting in a product which is also an agricultural product, except on-farm activities necessary for preparing an animal or plant product for the first sale;

(21) ‘agricultural product’ means the products listed in Annex I to the Treaty, except fishery and aquaculture products listed in Annex I to Regulation (EU) No 1379/2013 of the European Parliament and of the Council[43];

(22) ‘fishery and aquaculture products’ means the products defined in Article 5, points (a) and (b), of Regulation (EU) No 1379/2013;

(23) ‘primary production of fishery and aquaculture products’ means all operations relating to the fishing, rearing or cultivation of aquatic organisms, as well as on-farm or on-board activities necessary for preparing an animal or plant for the first sale, including cutting, filleting or freezing, and the first sale to resellers or processors;

(24) ‘processing and marketing of fishery and aquaculture products’ means all operations, including handling, treatment and transformation, performed following the time of landing – or harvesting in case of aquaculture – that result in a processed product, as well as distribution thereof;

[43] Regulation (EU) No 1379/2013 of the European Parliament and of the Council on the common organisation of the markets in fishery and aquaculture products, amending Council Regulation (EC) No 1184/2006 and (EC) No 1224/2009 and repealing Council Regulation (EC) No 104/2000 (OJ L 354, 28.12.2013, p. 1)

(25) ‘fishery and aquaculture sector’ means the sector of the economy which comprises all activities of production, processing and marketing of fishery or aquaculture products;

(26) ‘fishing capacity’ means a vessel’s tonnage in GT (Gross Tonnage) and its power in kW (kilowatt) as defined in Articles 4 and 5 of Regulation (EU) 2017/1130 of the European Parliament and of the Council[44];

(27) ‘fishing port’ means a maritime or inland area of land and water which is officially recognised by a Member State and made up of such infrastructure and equipment so as to permit, mainly, the reception of fishing vessels, loading and unloading their catches, the storage, receipt and delivery of those catches and the embarkation and disembarkation of fishers;

(28) ‘coal’ means high-grade, medium-grade and low-grade category A and B coal within the meaning of the international codification system for coal established by the United Nations Economic Commission for Europe and clarified in Decision 2010/787/EU;

(29) ‘individual aid’ means ad hoc aid and awards of aid to individual beneficiaries on the basis of an aid scheme;

(30) ‘aid scheme’ means any act on the basis of which, without further implementing measures being required, individual aid awards may be made to undertakings defined within the act in a general and abstract manner and any act on the basis of which aid which is not linked to a specific project may be granted to one or several undertakings for an indefinite period of time and/or for an indefinite amount;

(31) ‘ad hoc aid’ means aid not granted on the basis of an aid scheme;

(32) ‘undertaking in difficulty’ means an undertaking in respect of which at least one of the following circumstances occurs:

(a) In the case of a limited liability company, where more than half of its subscribed share capital has disappeared as a result of accumulated losses. This is the case when deduction of accumulated losses from reserves and all other elements generally considered as part of the equity of the company, including financial instruments absorbing losses on a going concern basis as recorded in the financial statements in compliance with the applicable accounting standards, leads to a negative cumulative amount that exceeds half of the subscribed share capital. For the purposes of this provision, ‘limited liability company’ refers in particular to the types of company

44 Regulation (EU) 2017/1130 of the European Parliament and of the Council of 14 June 2017 defining characteristics for fishing vessels. (OJ L 169, 30.6.2017, p. 1).

mentioned in Annex I to Directive 2013/34/EU of the European Parliament and of the Council[45] and 'share capital' includes, where relevant, any share premium.

(b) In the case of a company where at least some of its members have unlimited liability for the debt of the company, where more than half of its capital, including financial instruments absorbing losses on a going concern basis as recorded in the financial statements in compliance with the applicable accounting standards, and as shown in the company accounts has disappeared as a result of accumulated losses. For the purposes of this provision, 'a company where at least some of its members have unlimited liability for the debt of the company' refers in particular to the types of company mentioned in Annex II to Directive 2013/34/EU.

(c) Where the undertaking is subject to collective insolvency proceedings or meets the criteria under its domestic law for being placed in collective insolvency proceedings at the request of its creditors.

(d) In the case of an undertaking that is not an SME, where, for the past two years:

(i) the undertaking's book debt to equity ratio has been greater than 7.5 and

(ii) the undertaking's earnings before interest, taxes, depreciation, and amortisation (EBITDA) interest coverage ratio has been below 1.

(e) Where the undertaking has received rescue aid and has not yet reimbursed the loan or terminated the guarantee, or has received restructuring aid and is still subject to a restructuring plan.

(33) 'financial intermediary' means any financial institution regardless of its form and ownership, including funds of funds, private investment funds, public investment funds, banks, micro-finance institutions and guarantee societies;

(34) 'innovative start-up' means an undertaking which fulfils all of the following criteria:

(a) it is an innovative enterprise;

(b) it is an autonomous enterprise within the meaning of point 3.1 of Annex I;

(c) it employs fewer than 100 persons and its annual turnover or annual balance sheet total, or both, does not exceed EUR 10 million; and

(d) it has been operating for less than 10 years following its registration; for undertakings that are not subject to registration, the ten-year period shall start from

[45] Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

either the moment when the undertaking starts its economic activity or the moment it becomes liable to tax with regard to its economic activity, whichever is earlier;

(35) 'dedicated infrastructure' means infrastructure built for one or a small group of *ex ante* identifiable users and tailored to their needs;

(36) 'repayable advance' means a loan for a project which is paid in one or more instalments and the conditions for the reimbursement of which depend on the outcome of the project;

(37) 'gross grant equivalent' means the discounted amount of the aid if it had been provided in the form of a grant to the beneficiary, before taxes or other charges, as calculated at the date of award of the aid on the basis of the reference rate applicable on that date;

(38) 'start of works' means the earliest of the following events: the start of construction works relating to an investment project, the start of the eligible activity, or the first legally binding commitment relating to the eligible project or activity, other than construction works. A first legally binding commitment relating to an investment project does not constitute the start of works if it amounts to less than 2 % of the total eligible costs of the project. A first legally binding commitment relating to an activity does not constitute the start of works if it amounts to less than 2 % of the total eligible costs of the activity over the period of time to be covered by the aid. Buying or renting land and preparatory works, such as obtaining permits and conducting feasibility studies, are not considered to be the start of works. For take-overs, 'start of works' means the moment of acquiring the assets directly linked to the acquired establishment;

(39) 'large enterprises' means undertakings not meeting the criteria set out in Annex I;

(40) 'aid intensity' means the gross aid amount expressed as a percentage of the eligible costs;

(41) 'simplified cost options' means the best possible approximation of the real eligible costs and may involve the use of unit costs, lump sums or flat-rate financing within the meaning of Article 125(1), points (c), (d) and (e), of Regulation (EU, Euratom) 2024/2509;

(42) 'date of granting' of the aid means the date when the legal right to receive the aid is conferred on the beneficiary under the applicable national legal regime;

(43) 'wage cost' means the gross wage (a) before tax, and (b) including (i) the compulsory contributions, such as social security charges; and (ii) other wage components, such as child care and parent care costs, on the basis of the employment contract or the service agreement in respect of the employment or service concerned;

(44) ‘fair rate of return’ means the expected internal rate of return equivalent to a risk-adjusted discount rate which reflects the level of risk of the investment and the nature and volume of the capital to be invested by the private investors;

(45) ‘total financing’ means the overall investment amount made into an eligible undertaking or project under Section 3 or under Article 17 or Article 56 to the exclusion of entirely private investments provided on market terms and outside the scope of the relevant State aid measure;

(46) ‘competitive bidding process’ means a bidding process which complies with all of the following conditions:

(a) the bidding process is open, clear, transparent, non-discriminatory and based on objective criteria defined ex ante and published sufficiently in advance to enable effective competition;

(b) the budget or volume related to the bidding process is a binding constraint in that it can be expected that not all bidders will receive aid; in case of undersubscription during the implementation of a scheme, the design of said process shall be corrected to restore effective competition in the subsequent bidding processes, for example, by reducing the budget or volume;

(c) the aid amount is determined based on the initial bid or a clearing price; and

(d) ex post adjustments to the bidding process outcome (such as subsequent negotiations on bid results or rationing) are excluded;

(47) ‘simplified funding gap’ means the expected net costs of the project, calculated as the net present value (‘NPV’) of all expected future positive and negative cash-flows generated by the project over its lifetime, including a terminal value, discounted using an appropriate discount rate, with those cash flows being estimated *ex ante* on the basis of reasonable projections;

(48) ‘arm's length’ means that the conditions of the transaction between the contracting parties do not differ from those which would be stipulated between independent undertakings and contain no element of collusion. Any transaction that results from a competitive, transparent, non-discriminatory and unconditional procedure is considered as meeting the arm's length principle;

Definitions of terms that first appear in Section 1 of Chapter III

(49) ‘steel sector’ means the production of one or more of the following:

(a) pig iron and ferro-alloys:

pig iron for steelmaking, foundry and other pig iron, spiegeleisen and high-carbon ferro-manganese, not including other ferro-alloys;

(b) crude and semi-finished products of iron, ordinary steel or special steel:

liquid steel cast or not cast into ingots, including ingots for forging semi-finished products: blooms, billets and slabs; sheet bars and tinplate bars; hot-rolled wide coils, with the exception of production of liquid steel for castings from small and medium-sized foundries;

(c) hot finished products of iron, ordinary steel or special steel:

rails, sleepers, fishplates, soleplates, joists, heavy sections of 80 mm and over, sheet piling, bars and sections of less than 80 mm and flats of less than 150 mm, wire rod, tube rounds and squares, hot-rolled hoop and strip (including tube strip), hot-rolled sheet (coated or uncoated), plates and sheets of 3 mm thickness and over, universal plates of 150 mm and over, with the exception of wire and wire products, bright bars and iron castings;

(d) cold finished products:

tinplate, terneplate, blackplate, galvanised sheets, other coated sheets, cold-rolled sheets, electrical sheets and strip for tinplate, cold-rolled plate, in coil and in strip;

(e) tubes:

all seamless steel tubes, welded steel tubes with a diameter of over 406.4 mm;

(50) 'lignite' means low-rank C or ortho-lignite and low-rank B or meta-lignite as defined by the international codification system for coal established by the United Nations Economic Commission for Europe;

(51) 'transport sector' means the following activities in terms of the statistical classification of economic activities (NACE Rev. 2.1), established by Regulation (EC) No 1893/2006 of the European Parliament and of the Council[46]:

(a) NACE 49: Land transport and transport via pipelines, excluding NACE 49.33 On-demand passenger transport service activities by vehicle with driver, 49.34 Passenger transport by cableways and ski lifts, 49.42 Removal services, 49.5 Transport via pipeline;

(b) NACE 50: Water transport;

(c) NACE 51: Air transport, excluding NACE 51.22 Space transport;

(52) 'tourism activity' means the following activities in terms of NACE Rev. 2.1:

(a) NACE 55: Accommodation;

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[46] Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains (OJ L 393, 30.12.2006, p. 1).

(b) NACE 56: Food and beverage service activities;

(c) NACE 79: Travel agency, tour operator reservation service and related activities;

(d) NACE 90: Arts creation and performing arts activities;

(e) NACE 91: Libraries, archives, museums and other cultural activities;

(f) NACE 93: Sports activities and amusement and recreation activities.

(53) 'assisted areas' means areas designated in a regional aid map that has been approved in application of Article 107(3), points (a) and (c) of the Treaty and is in force at the time of the award of the aid;

(54) 'initial investment' means one of the following:

(a) an investment in tangible and intangible assets related to one or more of the following:

  (i) the setting-up of a new establishment;

  (ii) the extension of the capacity of an existing establishment;

  (iii) the diversification of the output of an establishment into products or services not previously produced in the establishment; or

  (iv) a fundamental change in the overall production process of the product(s) or the overall provision of the service(s) concerned by the investment in the establishment;

(b) an acquisition of assets belonging to an establishment that has closed or would have closed had it not been purchased. The sole acquisition of the shares of an undertaking does not qualify as initial investment;

(55) 'initial investment that creates a new economic activity' means one of the following:

(a) an investment in tangible and intangible assets related to one or both of the following:

  (i) the setting up of a new establishment;

  (ii) the diversification of the activity of an establishment, if the new activity is not the same or a similar activity to the activity previously performed in the establishment;

(b) an acquisition of assets belonging to an establishment that has closed or would have closed had it not been purchased, if the new activity to be carried out using the acquired assets is not the same or a similar activity than the one carried out in the establishment before the acquisition.

Sole acquisition of the shares of an undertaking does not qualify as initial investment that creates a new economic activity;

(56) ‘tangible assets’ means assets consisting of land, buildings and plant, machinery and equipment;

(57) ‘intangible assets’ means assets that do not have a physical or financial embodiment such as patents, licences, know-how or other intellectual property;

(58) ‘same or a similar activity’ means an activity in the same class (four-digit numerical code) of the NACE Rev. 2.1 statistical classification of economic activities;

(59) ‘completion of the investment’ means the moment when the investment is considered by the competent authorities as completed or, in the absence thereof, three years after the start of works;

(60) ‘net increase in the number of employees’ means a net increase in the number of employees in the establishment concerned compared to the average over a given period in time, after deducting from the number of jobs created any job losses during that period. The number of persons employed full-time, part-time and seasonal has to be considered with their annual labour unit fractions;

(61) ‘large investment project’ means an initial investment with eligible costs exceeding EUR 70 million, or, as from 1 January 2031, EUR 75 million, calculated at prices and exchange rates on the date of granting the aid;

(62) ‘transport costs’ means the costs of transport for hire or reward actually paid by the beneficiaries per journey, comprising:

(a) freight charges, handling costs and temporary stocking costs, in so far as these costs relate to the journey;

(b) insurance costs applied to the cargo;

(c) taxes, duties or levies applied to the cargo and, if applicable, to the deadweight, both at point of origin and point of destination; and

(d) safety and security control costs, surcharges for increased fuel costs;

(63) ‘journey’ means the movement of goods from the point of origin to the point of destination, including any intermediary sections or stages within or outside the Member State concerned, made using one or more means of transport;

(64) ‘point of destination’ means the place where the goods are unloaded;

(65) ‘point of origin’ means the place where the goods are loaded for transport;

(66) ‘urban development fund’ means a specialised investment vehicle set up for the purpose of investing in urban development projects under an urban development aid measure, managed by an urban development fund manager;

(67) ‘urban development fund manager’ means a professional management undertaking with legal personality, selecting and making investments in eligible urban development projects;

(68) ‘urban development project’ means an investment project that has the potential to support the implementation of interventions envisaged by an integrated approach to sustainable urban development and contribute to achieving of the objectives defined therein, including projects with an internal rate of return which may not be sufficient to attract financing on a purely commercial basis. An urban development project may be organised as a separate block of finance within the legal structures of the beneficiary private investor or as a separate legal entity;

(69) ‘in-kind contribution’ means the contribution of land or real estate where the land or real estate forms part of the urban development project;

(70) ‘relocation’ means a transfer of the same or similar activity or part thereof from an establishment in one contracting party to the European Economic Area (EEA) Agreement (initial establishment) to the establishment in which the aided investment takes place in another contracting party to the EEA Agreement (aided establishment). There is a transfer if the product or service in the initial and in the aided establishments serves at least partly the same purposes and meets the demands or needs of the same type of customers and jobs are lost in the same or similar activity in one of the initial establishments of the beneficiary in the EEA;

Definitions of terms that first appear in Section 3 of Chapter III

(71) ‘quasi-equity investment’ means a type of financing that ranks between equity and debt, having a higher risk than senior debt and a lower risk than common equity and whose return for the holder is predominantly based on the profits or losses of the underlying target undertaking and which are unsecured in the event of default and which can be structured as debt, unsecured and subordinated, including mezzanine debt, and in some cases convertible into equity, or as preferred equity;

(72) ‘guarantee’ in the context of Sections 1, 2, 6 and Article 82(8)(d)(iii) means a written commitment to assume responsibility for all or part of a third party's newly originated loan transaction or quasi-equity instruments;

(73) ‘guarantee rate’ means the percentage of loss coverage by a public investor of each and every transaction eligible under the relevant aid measure;

(74) ‘exit’ means the liquidation of holdings by a financial intermediary or investor, including trade sale, write-offs, repayment of shares or loans, sale to another financial intermediary or another investor, sale to a financial institution and sale by public offering, including an initial public offering;

(75) ‘financial endowment’ means a repayable public investment made to a financial intermediary, and where all the proceeds shall be returned to the public investor;

(76) ‘risk finance investment’ means equity and quasi-equity investments, loans and guarantees, or a combination thereof, to eligible undertakings for the purposes of making new investments, to the exclusion of entirely private investments provided on market terms and outside the scope of the relevant aid measure;

(77) ‘independent private investor’ means an investor who (a) irrespective of their ownership structure, pursue a purely commercial interest, use their own resources and bear the full risk in respect of their investment, including: credit institutions investing at own risk and from own resources, private endowments and foundations, family offices and business angels, corporate investors, insurance undertakings, pension funds, academic institutions, as well as natural persons who either conduct an economic activity or not, but excluding the European Investment Bank, the European Investment Fund, an international financial institution in which a Member State is a shareholder, or a legal entity that carries out financial activities on a professional basis which has been given a mandate by a Member State or a Member State’s entity at central, regional or local level to carry out development or promotional activities (national promotional bank or another promotional institution; (b) is not a shareholder of the eligible undertaking in which it invests. In the context of follow-on investments, an investor remains ‘independent’ if it was considered as an independent investor in a previous investment round. Upon the creation of a new company, any investors, including the founders, of such new company, are considered to be independent from that company;

(78) ‘equity investment’ means the provision of capital to an undertaking, invested directly or indirectly in return for the ownership of a corresponding share of that undertaking;

(79) ‘first commercial sale’ means the first sale by a company on a product or service market, excluding limited sales to test the market. Member States may presume that the first commercial sale took place on 1 January of the year in which the undertaking’s annual turnover exceeded EUR 250 000 for the first time;

(80) ‘unlisted SME’ means an SME which is not listed on the official list of a stock exchange, except for alternative trading platforms;

(81) ‘follow-on investment’ means additional risk finance investment in a company subsequent to one or more previous risk finance investment rounds, or follow-on investments supported by the InvestEU Fund;

(82) ‘replacement capital’ means the acquisition of existing shares in a company from an earlier investor or shareholder;

(83) ‘entrusted entity’ means the European Investment Bank and the European Investment Fund, an international financial institution in which a Member State is a shareholder, or a legal entity that carries out financial activities on a professional basis which has been given mandate by a Member State or a Member State’s entity at central, regional or local level to carry out development or promotional activities (a

promotional bank or another promotional institution). The entrusted entity can be selected or directly appointed in accordance with the provisions of Directive 2014/24/EU of the European Parliament and of the Council[47] or in accordance with Article 38(4), point (b)(iii), of Regulation (EU) No 1303/2013 of the European Parliament and of the Council[48] or Article 59(3) of Regulation (EU) 2021/1060 of the European Parliament and of the Council[49], whichever is applicable;

(84) 'innovative enterprise' means an undertaking which fulfils at least one of the following criteria:

(a) in at least one of the three preceding financial years, it has incurred research and development costs representing either at least 10 % of its total operating costs or at least 5 % of its total net sales;

(b) it can demonstrate, by means of an evaluation carried out by an external expert, that, having the objective of commercialisation, in the last three financial years it has developed, is developing or will, in the foreseeable future, develop products, services or business processes, which are new or substantially improved compared to the state of the art in its industry, and which carry a risk of technological or industrial failure;

(85) 'alternative trading platform' means an "SME growth market" as defined in Article 4(1), point (12) of Directive 2014/65/EU of the European Parliament and of the Council[50];

(86) 'loan' means an agreement which obliges the lender to make available to the borrower an agreed amount of money for an agreed period of time and under which the borrower is obliged to repay the amount within the agreed period. It may take the form of any funding instrument, including a lease, which provides the lender with a

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47 Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

48 Regulation (EU) No 1303/2013 of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (OJ L 347, 20.12.2013, p. 320).

49 Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy (OJ L 231, 30.6.2021, p. 159, ELI: http://data.europa.eu/eli/reg/2021/1060/oj).

50 Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).

predominant component of minimum yield. The refinancing of existing loans shall not be an eligible loan;

(87) ‘social enterprise’ means an undertaking, regardless of its legal form and regardless whether it is set up to generate profits, which in accordance with its articles of association, statutes or with any other legal document that may result in liability under the rules of the Member State where a social enterprise is located, has the achievement of measurable, positive social impacts, as its primary objective and complies with the principles of democratic or participatory governance, in particular by involving workers, customers and stakeholders on whom its business activities have an impact. If it generates profits, it uses at least half of its profits to achieve its primary social objective, and it has predefined procedures and rules that ensure that the distribution of profits does not undermine the primary social objective. For the purposes of applying Article 3(2), point (b), social enterprises that have no relationship with each other, except for the fact that each of them has a direct link to the same public body or bodies, or to the same non-profit entity or entities, shall not be treated as one economic unit, and therefore not as one undertaking. This is without prejudice to the definitions of small and medium-sized enterprises and of small mid-caps;

(88) ‘non-profit entity’ means an entity irrespective of its legal status (organised under public or private law) or way of financing, whose primary purpose is to undertake social tasks, which reinvests any profits gained and which predominantly engages in non-commercial activities. Where such entity also pursues commercial activities, it must ensure accounting separation for the financing, the costs and the revenues of those commercial activities from the non-commercial activities.

Definitions of terms that first appear in Section 4 of Chapter III

(89) ‘fundamental research’ means experimental or theoretical work undertaken primarily to acquire new knowledge of the underlying foundations of phenomena and observable facts, without any direct commercial application or use in view;

(90) ‘industrial research’ means the planned research or critical investigation that aim at the acquisition of new knowledge and skills for developing new products, processes or services or at bringing about a significant improvement in existing products, processes or services, including digital products, processes or services, in any area, technology, industry or sector (including, but not limited to, digital industries and technologies, such as super-computing, quantum technologies, block chain technologies, artificial intelligence, cyber security, big data and cloud technologies) and that comprises the creation of components parts of complex systems, and can include the construction of prototypes in a laboratory environment or in an environment with simulated interfaces to existing systems as well as of pilot lines, when necessary for the industrial research and notably for generic technology validation;

(91) ‘experimental development’ means acquiring, combining, shaping and using existing scientific, technological, business and other relevant knowledge and skills with the aim of developing new or improved products, processes or services, including digital products, processes or services, in any area, technology, industry or sector (including, but not limited to, digital industries and technologies, such as for example super-computing, quantum technologies, block chain technologies, artificial intelligence, cyber security, big data and cloud or edge technologies). This may also encompass, for example, activities aiming at the conceptual definition, planning and documentation of new products, processes or services.

Experimental development may comprise prototyping, demonstrating, piloting, testing and validation of new or improved products, processes or services in environments representative of real life operating conditions where the primary objective is to make further technical improvements on products, processes or services that are not substantially set, including the development of a commercially usable prototype or pilot which is necessarily the final commercial product and which is too expensive to produce for it to be used only for demonstration and validation purposes.

Experimental development does not include routine or periodic changes made to existing products, production lines, manufacturing processes, services and other operations in progress, even if those changes may represent improvements;

(92) ‘feasibility study’ means the evaluation and analysis of the potential of a project, which aims at supporting the process of decision-making by objectively and rationally uncovering its strengths and weaknesses, opportunities and threats, as well as identifying the resources required to carry it through and ultimately its prospects for success;

(93) ‘effective collaboration’ means collaboration between at least two independent parties to exchange knowledge or technology, or to achieve a common objective based on the division of labour where the parties jointly define the scope of the collaborative project, contribute to its implementation and share its risks, as well as its results. One or several parties may bear the full costs of the project and therefore relieve other parties of its financial risks. Contract research and provision of research services are not considered forms of collaboration;

(94) ‘research and knowledge-dissemination organisation’ means an entity (such as universities or research institutes, technology transfer agencies, innovation intermediaries, research-oriented physical or virtual collaborative entities), irrespective of its legal status (organised under public or private law) or way of financing, whose primary goal is to independently conduct fundamental research, industrial research or experimental development and to widely disseminate the results of such activities by way of teaching, publication or knowledge transfer. Where such entity also pursues economic activities the financing, costs and revenues of those economic activities must be accounted for separately. Undertakings that can

exert a decisive influence upon such an entity, in the quality of, for example, shareholders or members, may not enjoy preferential access to the results generated by it;

(95) ‘research infrastructure’ means facilities, resources and related services that are used by the scientific community to conduct research in their respective fields and covers scientific equipment or sets of instruments, knowledge-based resources such as collections, archives or structured scientific information, enabling information and communication technology-based infrastructures such as grid, computing, software and communication, or any other entity of a unique nature essential to conduct research. Such infrastructures may be ‘single-sited’ or ‘distributed’ (an organised network of resources) in accordance with Article 2, point (a), of Council Regulation (EC) No 723/2009[51];

(96) ‘testing and experimentation infrastructure’ means facilities, equipment, capabilities and resources, such as test beds, pilot lines, demonstrators, testing facilities or living labs, and related support services that are used predominantly by undertakings, especially SMEs, which seek support for testing and experimentation, in order to develop new or improved products, processes and services, and to test and upscale technologies, including digital technologies, to advance through industrial research and experimental development;

(97) ‘innovation clusters’ means structures or organised groups of independent parties (such as innovative start-ups, small, medium and large enterprises, as well as research and knowledge dissemination organisations, research infrastructures, testing and experimentation infrastructures, digital innovation hubs, non-for-profit organisations, regulatory sandboxes and other related economic actors) designed to stimulate innovative activity and new ways of collaboration, such as by digital means, by sharing and/or promoting the sharing of facilities and exchange of knowledge, and expertise and by contributing effectively to knowledge transfer, networking, information dissemination and collaboration among the undertakings and other organisations in the cluster. Digital innovation hubs, including European Digital Innovation Hubs funded under the centrally managed Digital Europe Programme established by Regulation (EU) 2021/694 of the European Parliament and of the Council[52], are entities whose aim is to stimulate the broad uptake of digital technologies, such as artificial intelligence, cloud, edge and high-performance computing and cybersecurity, by industry (in particular by SMEs) and public sector organisations. Digital innovation hubs may qualify as an innovation cluster by themselves for the purposes of this Regulation;

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51 Council Regulation (EC) No 723/2009 of 25 June 2009 on the Community legal framework for a European Research Infrastructure Consortium (ERIC) (OJ L 206, 8.8.2009, p. 1, ELI: http://data.europa.eu/eli/reg/2009/723/oj).

52 Regulation (EU) 2021/694 of the European Parliament and of the Council of 29 April 2021 establishing the Digital Europe Programme and repealing Decision (EU) 2015/2240 (OJ L 166, 11.5.2021, p. 1).

(98) ‘innovation advisory services’ means consultancy, assistance or training in the fields of knowledge transfer, acquisition, protection or exploitation of intangible assets or the use of standards and regulations embedding them, as well as consultancy, assistance or training on the introduction or use of innovative technologies and solutions (including digital technologies and solutions);

(99) ‘innovation support services’ means the provision of office space, data banks, cloud and data storage services, libraries, market research, laboratories, quality labelling, testing, experimentation and certification (including in a sandbox) or other related services, including those services provided by research and knowledge dissemination organisations, research infrastructures, testing and experimentation infrastructures or innovation clusters, or in cooperation with them, for the purpose of developing more effective or technologically advanced products, processes or services, including the implementation of innovative technologies and solutions (including digital technologies and solutions);

(100) ‘digitalisation’ means the adoption of innovative technologies carried out by electronic devices and/or systems which make it possible to increase product functionality, develop online services, modernise processes, or migrate to business models based on the disintermediation of goods production and service delivery, eventually producing a transformative impact;

(101) ‘organisational innovation’ means the implementation of a new organisational method at the level of the undertaking (at group level in the given industry sector in the EEA), workplace organisation or external relations, including for instance by making use of novel or innovative digital technologies. Excluded from this definition are changes that are based on organisational methods already in use in the undertaking, changes in management strategy, mergers and acquisitions, ceasing to use a process, simple capital replacement or extension, changes resulting purely from changes in factor prices, customisation, localisation, regular, seasonal and other cyclical changes and trading of new or significantly improved products;

(102) ‘process innovation’ means the implementation of a new or significantly improved production or delivery method, including significant changes in techniques, equipment or software, at the level of the undertaking (at group level in the given industry sector in the EEA), including for instance by making use of novel or innovative digital technologies or solutions. Excluded from this definition are minor changes or improvements, increases in production or service capabilities through the addition of manufacturing or logistical systems which are very similar to those already in use, ceasing to use a process, simple capital replacement or extension, changes resulting purely from changes in factor prices, customisation, localisation, regular, seasonal and other cyclical changes and trading of new or significantly improved products;

Definitions of terms that first appear in Section 5 of Chapter III

(103) 'severely disadvantaged worker' means any person who meets at least one of the following criteria:

(a) has not been in regular paid employment for at least 24 months;

(b) has not been in regular paid employment for at least 12 months and belongs to one of the categories referred to in point (11)(b) to (m) under the definition of 'disadvantaged worker';

(104) 'sheltered employment' means employment in an undertaking safeguarding the labour rights of workers with disabilities (i) where at least 30 % of workers are workers with disabilities or (ii) where the overall environment and work arrangements are designed specifically for workers with disabilities;

Definitions of terms that first appear in Section 6 of Chapter III

(105) 'Union standard' means any of the following:

(a) a mandatory Union standard setting the levels to be attained in environmental terms by individual undertakings, excluding standards or targets set at Union level which are binding for Member States but not for individual undertakings; or

(b) the obligation to use the best available techniques (BAT), as defined in Directive 2010/75/EU of the European Parliament and of the Council[53], and to ensure that emission levels do not exceed those that would be achieved when applying BAT; where emission levels associated with the BAT have been defined in implementing acts adopted under Directive 2010/75/EU or under other applicable directives, those levels will be applicable for the purposes of this Regulation; where those emission levels are expressed as a range, the higher end of the range will be applicable;

(106) 'renewable fuels' means renewable fuels as defined in Article 2, point (22a), of Directive (EU) 2018/2001 and its implementing or delegated acts;

(107) 'low-carbon fuels' means low-carbon fuels as defined in Article 2, point (13) in Directive (EU) 2024/1788 of the European Parliament and of the Council[54], and its implementing or delegated acts;

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[53] Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (OJ L 334, 17.12.2010, p. 17).

[54] Directive (EU) 2024/1788 of the European Parliament and of the Council of 13 June 2024 on common rules for the internal markets for renewable gas, natural gas and hydrogen, amending Directive (EU) 2023/1791 and repealing Directive 2009/73/EC (recast) (OJ L, 2024/1788, 15.7.2024, ELI: http://data.europa.eu/eli/dir/2024/1788/oj).

(108) ‘renewable electricity’ means electricity generated from renewable sources, within the meaning of Article 2, point (1), of Directive (EU) 2018/2001;

(109) ‘vehicle’ means any of the following:

(a) a road vehicle of category M1, M2, M3, N1, N2, N3 or L;

(b) an inland waterway vessel or a maritime vessel;

(c) rolling stock;

(d) aircraft.

(110) ‘zero-emission mobile service equipment’ means zero-emission mobile terminal equipment and zero-emission mobile groundhandling equipment;

(111) ‘zero-emission mobile groundhandling equipment’ means mobile equipment used in service activities incidental to air or maritime transport that has zero direct (tailpipe) CO2 emissions;

(112) ‘zero-emission mobile terminal equipment’ means mobile equipment used for the loading, unloading and transhipment of goods and intermodal loading units, and for moving cargo within a terminal area, that has zero direct (tailpipe) CO2 emissions;

(113) ‘inland waterway vessels’ means self-propelled vessels or self-propelled floating structures vessels intended solely or mainly for navigation on inland waterways or in waters within, or closely adjacent to, sheltered waters, including vessels specially built to propel a pushed convoy;

(114) ‘maritime vessels’ means self-propelled sea-going vessels intended for the transport of passengers or freight or for the performance of commercial or industrial activities at sea;

(115) ‘energy efficiency’ means energy efficiency as defined in Article 2, point (8), of Directive (EU) 2023/1791;

(116) ‘primary energy’ means energy from renewable and non-renewable sources which has not undergone any conversion or transformation process;

(117) ‘small mid-cap’ means an undertaking meeting the criteria set out in Annex IV. For the purpose of the application of Article 82(10) and Article 83, during the implementation of the InvestEU-programme under the Union’s 2021-2027 multiannual financial framework[55], ‘small mid-cap’ means an undertaking that is not an SME and employs up to 499 employees;

[55] Regulation (EU, Euratom) 2020/2093 of 17 December 2020 laying down laying down the multiannual financial framework for the years 2021 to 2027, OJ L I 433, 22.12.2020, p. 11.

(118) ‘energy savings’ means energy savings as defined in Article 2, point (9), of Directive (EU) 2023/1791;

(119) ‘high-efficiency cogeneration’ means cogeneration which satisfies the definition of high efficiency cogeneration as set out in Article 2, point (40), of Directive (EU) 2023/1791;

(120) ‘cogeneration’ means cogeneration as defined in Article 2, point (36), of Directive (EU) 2023/1791;

(121) ‘high-efficiency cogeneration based on renewable energy sources’ means high-efficiency cogeneration using 100 % energy from renewable sources as an input for the production of heat and power;

(122) ‘heat pump’ means a machine, a device or installation that transfers heat from natural surroundings such as air, water or ground to buildings or industrial applications by reversing the natural flow of heat such that it flows from a lower to a higher temperature. For reversible heat pumps, it may also transfer heat from the building to the natural surroundings;

(123) ‘energy from renewable sources’ or ‘renewable energy’ means energy produced by plants using only renewable energy sources as defined in Article 2, point (1), of Directive (EU) 2018/2001, as well as the share in terms of calorific value of energy produced from renewable energy sources in hybrid plants which also use conventional energy sources and includes renewable electricity used for filling storage systems connected behind-the-meter (jointly installed or as an add-on to the renewable installation), but excludes electricity produced as a result of storage systems;

(124) ‘biomass’ means biomass as defined in Article 2, point (24), of Directive (EU) 2018/2001;

(125) ‘biofuels’ means biofuels as defined in Article 2, point (33), of Directive (EU) 2018/2001;

(126) ‘biogas’ means biogas as defined in Article 2, point (28), of Directive (EU) 2018/2001;

(127) ‘bioliquids’ means bioliquids as defined in Article 2, point (32), of Directive (EU) 2018/2001;

(128) ‘biomass fuels’ means biomass fuels as defined in Article 2, point (27), of Directive (EU) 2018/2001;

(129) ‘renewable fuels of non-biological origin’ or ‘RFNBOs” means renewable fuels of non-biological origin as defined in Article 2, point (36), of Directive (EU) 2018/2001 and its implementing or delegated acts;

(130) ‘funding gap’ means the difference between the net present value (‘NPV’) of the project (the factual scenario) taking into account all expected future positive and negative cash-flows generated by the project over its lifetime and a terminal value, discounted using an appropriate discount rate, and the NPV of all expected cash-flows related to the counterfactual investment (the counterfactual scenario), the cash flows being estimated *ex ante* on the basis of reasonable projections;

(131) ‘remediation’ means environmental management actions, such as the removal or detoxification of contaminates or excess nutrients from soil and water, that aim to reduce, isolate or remove sources of degradation;

(132) ‘polluter pays principle’ means that the costs of measures to deal with pollution should be borne by the polluter who causes the pollution;

(133) ‘pollution’ means pollution as defined in Article 3, point (2), of Directive 2010/75/EU;

(134) ‘pollutant’ means a pollutant as defined in Article 2, point (10), of Regulation (EU) 2020/852;

(135) ‘polluter’ means someone who directly or indirectly damages the environment or who creates conditions leading to such damage;

(136) ‘resource efficiency’ means reducing the quantity of inputs needed to produce a unit of output or substituting primary inputs with secondary inputs;

(137) ‘waste heat’ means waste heat as defined in Article 2, point (9), of Directive (EU) 2018/2001;

(138) ‘energy infrastructure’ means any physical equipment or facility which is located within the Union or linking the Union to one or more third countries and falling under the following categories:

(a) electricity:

(i) transmission and distribution systems, where ‘transmission’ means the transport of electricity onshore as well as offshore on the extra high-voltage and high-voltage interconnected system with a view to its delivery to final customers or to distributors, but does not include supply and ‘distribution’ means the transport of electricity onshore as well as offshore on high-voltage, medium-voltage and low-voltage distribution systems with a view to its delivery to customers, but does not include supply;

(ii) any equipment or installation essential for the systems referred to in point (i) to operate safely, securely and efficiently, including protection, monitoring and control systems at all voltage levels and substations;

(iii) fully integrated network components, as defined in Article 2, point (51), of Directive (EU) 2019/944 of the European Parliament and of the Council[56];

(iv) smart electricity grids, which means systems and components integrating information and communications technology, through operational digital platforms, control systems and sensor technologies both at transmission and distribution level, aiming at a more secure, efficient and intelligent electricity transmission and distribution network, increased capacity to integrate new forms of generation, storage and consumption and facilitating new business models and market structures;

(v) off-shore electricity grids, which means any equipment or installation of electricity transmission or distribution infrastructure as defined in point (i), which has dual functionality: interconnection and transmission or distribution of offshore renewable electricity from the offshore generation sites to two or more countries. This also includes smart grids as well as any offshore adjacent equipment or installation essential to operate safely, securely and efficiently, including protection, monitoring and control systems, and necessary substations if they also ensure technology interoperability and among other interface compatibility between different technologies;

(b) gas (natural gas, biogas including biomethane or renewable gas of non-biological origin):

(i) transmission and distribution pipelines for the transport of gas that form part of a network, excluding high-pressure pipelines used for upstream distribution of natural gas;

(ii) underground storage facilities connected to the high-pressure gas pipelines referred to in point (i);

(iii) reception, storage and regasification or decompression facilities for liquefied or compressed gas;

(iv) any equipment or installation essential for the system to operate safely, securely and efficiently or to enable bi-directional capacity, including compressor stations;

(v) smart gas grids, which means any of the following equipment or installation aiming at enabling and facilitating the integration of renewable and low-carbon gases (including hydrogen or gases of non-biological origin) into the network: digital systems and components integrating information and

[56] Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU (OJ L 158, 14.6.2019, p. 125; ELI: http://data.europa.eu/eli/dir/2019/944/oj).

communication technologies, control systems and sensor technologies to enable the interactive and intelligent monitoring, metering, quality control and management of gas production, transmission, distribution and consumption within a gas network. Furthermore, smart grids may also include equipment to enable reverse flows from the distribution to the transmission level and related necessary upgrades to the existing network;

(c) hydrogen:

(i) transmission pipelines, for the high-pressure transport of hydrogen, as well as distribution pipelines for the local distribution of hydrogen, giving access to multiple network users on a transparent and non-discriminatory basis;

(ii) storage facilities, which means facilities used for the stocking of hydrogen of a high grade of purity, including the part of a hydrogen terminal used for storage but excluding the portion used for production operations, and including facilities reserved exclusively for hydrogen network operators, as defined in Article 2, point (25), of Directive (EU) 2024/1788 in carrying out their functions. Hydrogen storage facilities include underground storage facilities connected to the high-pressure hydrogen pipelines referred to in point (i);

(iii) dispatch, reception, storage and regasification or decompression facilities for hydrogen or hydrogen embedded in other chemical substances with the objective of injecting the hydrogen into the grid either for gas or dedicated to hydrogen;

(iv) terminals, which means installations used for the transformation of liquid hydrogen into gaseous hydrogen for injection into the hydrogen network. Terminals include ancillary equipment and temporary storage necessary for the transformation process and subsequent injection into the hydrogen network, but does not include any part of the hydrogen terminal used for storage;

(v) interconnectors, which means a hydrogen network (or part thereof) which crosses or spans a border between Member States, or between a Member State and a third country up to the territory of the Member States or the territorial sea of that Member State;

(vi) any equipment or installation essential for the hydrogen system to operate safely, securely and efficiently or to enable bi-directional capacity, including compressor stations and dedicated mobile assets for the transport and storage of hydrogen, if such mobile assets are only used to transport renewable hydrogen;

Any of the assets listed under points (i) to (vi) may be newly constructed assets or assets converted from natural gas to hydrogen, or a combination of the two.

(d) carbon dioxide:

(i) pipelines, other than upstream pipeline network, used to transport carbon dioxide from more than one source, namely industrial installations (including power plants) that produce carbon dioxide gas from combustion or other chemical reactions involving fossil or non-fossil carbon-containing compounds, for the purpose of permanent geological storage of carbon dioxide pursuant to Article 3 of Directive 2009/31/EC of the European Parliament and of the Council[57] or for the purpose of use of carbon dioxide as feedstock or to enhance the yields of biological processes;

(ii) facilities for liquefaction and buffer storage of carbon dioxide in view of its transport or storage. This does not include infrastructure within a geological formation used for the permanent geological storage of carbon dioxide pursuant to Article 3 of Directive 2009/31/EC and associated surface and injection facilities;

(iii) any equipment or installation essential for the system in question to operate properly, securely and efficiently, including protection, monitoring and control systems. This may include dedicated mobile assets for the transport and storage of carbon dioxide, if such mobile assets fulfil the definition of a clean vehicle;

(e) infrastructure used for transmission or distribution of thermal energy in the form of steam, hot water or chilled liquids from multiple producers or users, based on use of renewable energy or waste heat from industrial applications;

(f) Projects of Common Interest, as defined in Article 2, point (4), of Regulation (EU) No 347/2013 of the European Parliament and of the Council[58] and project of mutual interest referred to in Article 171 of the Treaty;

(g) other infrastructure categories that enable physical or wireless connection of renewable or carbon-free energy between producers and users from multiple access and exit points and which are open to access by third parties not belonging to the infrastructure owner or manager undertakings;

Assets listed under points (a) to (g) which constitute dedicated infrastructure shall not qualify as energy infrastructure.

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57 Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide and amending Council Directive 85/337/EEC, European Parliament and Council Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC, 2008/1/EC and Regulation (EC) No 1013/2006 (OJ L 140, 5.6.2009, p. 114).

58 Regulation (EU) No 347/2013 of the European Parliament and of the Council of 17 April 2013 on guidelines for trans-European energy infrastructure (OJ L 115, 25.4.2013, p. 39).

(139) ‘investment demand response’ means investment in hardware (with the exclusion of equipment for industrial production), software and communication systems which are necessary to enable demand response within the meaning of Article 2, point (20) of Directive (EU) 2019/944, including market platforms for local services and for participation in wholesale markets or ancillary services, aggregation, data interoperability, metering and monitoring of electricity consumption;

(140) ‘electricity storage’ means deferring the final use of electricity to a moment later than when it was generated, or the conversion of electrical energy into a form of energy which can be stored, the storing of such energy, and the subsequent reconversion of such energy into electrical energy;

(141) ‘thermal storage’ means deferring the final use of thermal energy to a moment later than when it was generated, or the conversion of electrical or thermal energy into a form of energy which can be stored, the storing of such energy, and, where appropriate, the subsequent conversion or reconversion of such energy into thermal energy for final use (i.e., heating or cooling);

(142) ‘reasonable profit’ means profit determined to be reasonable with respect to the typical profit for the sector concerned;

Definitions of terms that first appear in Section 9 of Chapter III

(143) ‘unbundling’ means granting access to the end-consumer access line and allowing competitors' own transmission systems to directly transmit over it;

(144) ‘backhaul network’ means the part of a broadband network that connects the access network to the backbone network and which does not provide direct access to end-users, being the part of the network where the traffic of end users is aggregated;

(145) ‘backbone network’ means the core network that interconnects backhaul networks from different areas or regions;

(146) ‘access network’ means the segment of a broadband network that connects the backhaul network with the end users’ premises or devices;

(147) ‘peak-time’ means the time of the day with a typical duration of one hour where the network load is usually at its maximum;

(148) ‘peak-time conditions’ means the conditions under which the network is expected to operate at ‘peak-time’;

(149) ‘relevant time horizon’ means a time horizon, not shorter than two years, used for verifying planned private investments and corresponds to the time frame that the Member State estimates for deploying the planned State funded network, starting from the moment of publication of the public consultation on the planned State intervention until the entry into operation of the network which is the start of the provision of wholesale and/or retail services on the State funded network;

(150) ‘airport’ means land area specifically adapted for the provision of airport services and non-aeronautical activities connected thereto;

(151) ‘port’ means an area of land and water made up of such infrastructure and equipment, so as to permit the reception of waterborne vessels, their loading and unloading, the storage of goods, the receipt and delivery of those goods and the embarkation and disembarkation of passengers, crew and other persons and any other infrastructure necessary for transport operators in the port;

(152) ‘vessels’ means floating structures, whether self-propelled or not, with one or more surface displacement hulls;

(153) ‘infrastructure for the collection of ship-generated waste and cargo residues’ means fixed, floating or mobile port facilities capable of receiving ship-generated waste or cargo residues as defined in Directive 2000/59/EC of the European Parliament and of the Council[59];

Definitions of terms that first appear in Section 10 of Chapter III

(154) ‘financial product’, ‘national promotional banks or institutions’ and ‘implementing partner’ have the meaning set out in Article 2 of Regulation (EU) 2021/523;

(155) ‘commercial financial intermediary’ means a financial intermediary which operates on a for profit basis and at full own risk, without a public guarantee, national promotional banks or institutions are not considered to be commercial financial intermediaries;

(156) ‘socioeconomic drivers’ means entities which by their mission, nature or location can directly or indirectly generate important socioeconomic benefits to citizens, business and local communities located in their surrounding territory or in their area of influence, including among others public authorities, public or private entities entrusted with the operation of services of general interest or of services of general economic interest as set out in Article 106(2) of the Treaty and digitally intensive enterprises.

Article 3

Conditions for exemption

1. Aid schemes, individual aid granted under aid schemes and ad hoc aid shall be compatible with the internal market within the meaning of Article 107(2) or (3) of the Treaty and exempted from the notification requirement of Article 108(3) of the Treaty if such aid meets all the conditions set out in Chapter I of this Regulation, as

[59] Directive 2000/59/EC of the European Parliament and of the Council of 27 November 2000 on port reception facilities for ship-generated waste and cargo residues (OJ L 332, 28.12.2000, p. 81).

well as the specific conditions for the relevant category of aid set out in Chapter III of this Regulation.

2. Unless otherwise provided for in this Regulation:

(a) the relevant time for assessing whether the block exemption conditions set out in this Regulation are met shall be the date of granting of the aid. As regards aid to infrastructure, the conditions to be met after the date of granting, such as conditions related to the use of the infrastructure, shall be met for a time period of 10 years as from the date of the last payment of aid or for the depreciation period of the infrastructure, whichever is shorter;

(b) the granting authority shall assess whether the block exemption conditions set out in this Regulation are met at the level of the undertaking as defined in Article 2;

(c) whenever this Regulation explicitly refers to investment aid in infrastructure, and except as regards infrastructure covered by Section 4 of Chapter III:

  (i) any concession or other entrustment to a third party to construct, upgrade, operate or rent aided infrastructure shall not involve an advantage to the third party; this shall be ensured by appropriate means such as assigning the entrustment on a competitive, transparent, non-discriminatory and unconditional basis;

  (ii) the operator shall make the infrastructure available to interested users on an open, transparent and non-discriminatory basis.

3. The assessment whether or not the monetary thresholds set out in this Regulation are exceeded shall be based on amounts discounted to their value on the date of granting of the aid. The discount rate to be used to discount cash flows shall be the reference rate applicable on that same date.

Article 4

General provisions applicable to aid provided in the form of financial instruments via financial intermediaries

1. A Member State may provide aid to final beneficiaries in the form of financial instruments via one or more financial intermediaries, including other entities which are explicitly allowed to intermediate under an article in Chapter III of this Regulation. By way of derogation from Article 3(1), aid to the financial intermediaries, if any, shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and exempted from the notification requirement in Article 108(3) of the Treaty if the conditions set out in this Article are met.

2. This Article shall not apply if the Member State ensures that the aid is fully passed on by the financial intermediaries to the final beneficiaries.

3. The aid to the final beneficiaries shall fall within the scope of Chapter III and shall comply with all the conditions set out in the relevant article of that Chapter. The financial intermediaries shall verify, on behalf of Member States, that those conditions are met.

4. This Article shall not apply to aid within the scope of Article 17, Section 3 and Section 10.

5. A Member State may combine aid in the form of a financial instrument with aid in the form of a grant.

6. The financial intermediaries shall be able to demonstrate that they operate a mechanism ensuring that the aid is passed on to the final beneficiaries to the largest extent possible. If a Member State combines aid in the form of a financial instrument with aid in the form of a grant, then the aid in the form of a grant shall be passed on entirely by the financial intermediaries to the final beneficiaries.

7. The following requirements shall apply to the financial intermediaries, except if the financial intermediary is an entrusted entity selected or directly appointed by the Member State to implement the aid measure by providing financing directly to final beneficiaries:

(a) they shall be selected through an open, transparent and non-discriminatory call, in accordance with applicable Union and national laws, and all interested financial intermediaries shall have an opportunity to participate. There shall be no discrimination on the basis of their place of establishment or incorporation in any Member State.

(b) they shall be managed on a commercial basis and shall ensure that financing decisions are driven by considerations of financial viability.

(c) they shall be obliged by law or contract to act with the diligence of a professional manager in good faith and to avoid conflicts of interest.

8. The following limitations shall apply to aid provided in the form of financial instruments via financial intermediaries:

(a) if the financial instrument involves the use of a guarantee, the guarantee coverage rate shall not exceed 80 % of the underlying loan's principal to the eligible undertaking; the guaranteed amount shall decrease proportionally in such a way that the guarantee never covers more than 80 % of the underlying loan's outstanding principal; and losses after recovery shall be sustained proportionally and under the same conditions by the lender(s) and the guarantor.

(b) if the financial instrument involves asymmetric loss-sharing between public and private investors, the first loss assumed by the Member State shall not exceed 25 % of the total investment.

(c) if the financial instrument involves grant components, the grant components provided to a final beneficiary shall not exceed the sum of the nominal values of any non-grant components of the financial instrument provided to that final beneficiary.

Article 5

Notification thresholds

1. This Regulation shall not apply to aid which exceeds the thresholds set out in Chapter III.

2. The notification thresholds set out in Chapter III shall not be circumvented by artificially splitting up the aid schemes or aided projects.

Article 6

Determination of the aid amount

1. Member States shall ensure that determining the aid amount in order to verify compliance with the aid thresholds set out in this Regulation does not require a complex economic assessment.

2. Determining the aid amount shall be regarded as not involving a complex economic assessment in particular when the following alternative forms of aid are used:

(a) grants, including in the form of interest rate subsidies;

(b) aid comprised in loans, where the gross grant equivalent has been calculated on the basis of the reference rate prevailing at the time of the grant; alternatively, Member States may use the nominal amount of the loan;

(c) aid comprised in guarantees, where the gross grant equivalent has been calculated on the basis of safe-harbour premiums set out in a Commission notice; or where, before the implementation of the measure, the methodology to calculate the gross grant equivalent of the guarantee has been accepted on the basis of the Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees[60], or any successor notice, following notification of that methodology to the Commission under any regulation adopted by the Commission in the State aid area applicable at the time, and the approved methodology explicitly addresses the type of guarantee and the type of underlying transaction at stake in the context of the application of this Regulation; alternatively, Member States may use the amount of the underlying financial instrument;

(d) aid in the form of repayable advances if, before implementation of the measure, the methodology to calculate the gross grant equivalent of the repayable advance has

[60] OJ C 155, 20.6.2008, p. 10.

been accepted following its notification to the Commission; alternatively, Member States may use the nominal amount of the repayable advance;

(e) aid in the form of the sale or the lease of tangible or intangible assets, goods or services below market rates where the value is established either by an independent expert evaluation prior to the transaction or by reference to a publicly available, regularly updated and generally accepted benchmark;

(f) aid in the form of tax advantages, where the measure provides for a cap ensuring that the applicable threshold is not exceeded;

(g) nominal amounts of equity and quasi-equity investments;

(h) aid to undertakings for their participation in European territorial cooperation projects under Article 18(2), where it provides for a cap ensuring that the applicable threshold set out in Article 18(2) is not exceeded;

(i) aid to microenterprises in the form of public interventions concerning the supply of electricity, gas or heat, if the conditions set out in Article 23 are met;

(j) aid for SMEs and small mid-caps in the form of full or partial market price discounts if the conditions set out in Article 40 are met;

(k) aid schemes covering remuneration in shares, share options or share warrants, for the recruitment and employment of key workers in SMEs if the conditions set out in Article 42a are met;

(l) aid for the production of renewable energy, if the conditions set out in Article 59 or Article 60 are met.

Article 7

Aid intensity and eligible costs

1. For the purposes of calculating aid intensity and eligible costs, all figures used shall be taken before any deduction of tax or other charge. Value added tax charged on eligible costs or expenses that is refundable under the applicable national tax law shall, however, not be taken into account for calculating aid intensity and eligible costs. The eligible costs shall be supported by documentary evidence which shall be clear, specific and contemporary.

2. The amount of eligible costs as defined in the applicable exemption provision may be determined in accordance with a simplified cost option if one of the following conditions is met:

(a) the amount of eligible costs is determined ex ante in accordance with a fair, equitable and verifiable method based on relevant and reliable data, which may include statistical and historical data, market surveys, expert opinions or draft budgets; this condition shall be considered met if the amount of eligible costs is determined in accordance with a method, applicable under the rules governing a Union fund, that is or has been used for a similar operation at least partly financed through a Union fund;

(b) the aided operation is at least partly financed through a Union fund, and the amount of eligible costs is determined in accordance with a method that is or was applicable under the rules governing the Union fund.

3. Eligible investment costs shall include one-off non-amortizable costs linked directly to the investment and its initial installation such as permitting costs and feasibility studies.

4. Where aid is granted in the form of nominal amounts of repayable advances and the measure provides that in case of a successful outcome of the project, as defined on the basis of a reasonable and prudent hypothesis, the advances will be repaid with an interest rate at least equal to the discount rate applicable on the date of granting of aid, the maximum aid intensities set out in Chapter III may be increased by 10 percentage points.

Article 8

Incentive effect

1. Aid may be considered to be compatible with the internal market within the meaning of Article 107(3) of the Treaty only if it has an incentive effect. This requirement shall not apply to the following aid compatible with the internal market on the basis of Article 107(2) of the Treaty:

(a) social aid for transport for residents of remote regions covered by Article 49;

(b) aid to make good the damage caused by certain natural disasters covered by Article 68;

(c) aid for social connectivity vouchers covered by Article 76.

2. Aid shall be considered to have an incentive effect if the beneficiary has submitted a written application for State aid or EU funding before work on the project or activity starts (‘start of works’). For the purposes of complying with the incentive effect condition, the application for the aid shall contain the following information:

(a) the undertaking's name and, if relevant, its size;

(b) a description of the project or activity, its start and end dates;

(c) the location of the project or activity, if relevant;

(d) the overall costs;

(e) the amount of public funding needed for the project or activity.

3. Ad hoc aid granted to large enterprises shall be considered to have an incentive effect if, in addition to ensuring that the condition set out in paragraph 2 is met, the Member State has verified, before granting the aid concerned, that documentation prepared by the beneficiary establishes that the aid will result in one or more of the following:

(a) a material increase in the scope of the project or activity; in the case of regional investment aid, this condition shall be considered met if a project is carried out, which would not have been carried out in the area concerned or would not have been sufficiently profitable for the beneficiary in the area concerned in the absence of the aid; or

(b) a material increase in the total amount spent by the beneficiary on the project or activity; or

(c) a material increase in the speed of completion of the project or activity.

4. By way of derogation from paragraphs 2 and 3, measures in the form of tax advantages shall be deemed to have an incentive effect if the following conditions are met:

(a) the measure establishes a right to aid in accordance with objective criteria and without further exercise of discretion by the Member State; and

(b) the measure has been adopted and is in force before work on the aided project or activity has started, or, in the case of fiscal successor schemes, where the beneficiary was already covered by the previous schemes in the form of tax advantages. For the purpose of this point, ‘fiscal successor scheme’ means a scheme in the form of tax advantages which constitutes an amended version of a previously existing scheme in the form of tax advantages and which replaces it.

5. By way of derogation from paragraphs 2, 3 and 4, the following categories of aid shall be deemed to have an incentive effect, if the relevant conditions set out in the corresponding articles in Chapter III are met:

(a) regional operating aid and regional urban development aid under Article 16 and Article 17;

(b) aid for European territorial cooperation projects under Article 18;

(c) aid for CLLD projects under Article 19;

(d) aid to microenterprises in the form of public interventions concerning the supply of electricity, gas or heat, under Article 23;

(e) aid for access to finance for SMEs under Article 25, Article 26, Article 27, Article 28, Article 29, Article 30 and Article 31;

(f) aid for projects awarded a Seal of Excellence quality label, aid for Marie Skłodowska-Curie actions and ERC Proof of Concept actions, aid for co-funded research and development projects, feasibility studies or research infrastructure or testing and experimentation infrastructure, aid for Teaming actions, and aid involved in the co-funding of projects supported by the European Defence Fund or the European Defence Industrial Development Programme, under Article 33, Article 34, Article 35, Article 36 or Article 37;

(g) operating aid for innovation clusters under Article 38;

(h) innovation aid for SMEs and small midcaps under Article 41 passed on by an intermediary in line with Article 40;

(i) aid for the recruitment and employment of key workers in SMEs under Article 42a;

(j) aid for the recruitment of disadvantaged workers in the form of wage subsidies and aid for compensating the costs of assistance provided to disadvantaged workers under Article 45 and Article 46;

(k) aid for the employment of workers with disabilities in the form of wage subsidies and aid compensating for the additional costs of employing workers with disabilities, under Article 47 and Article 48;

(l) aid in the form of reductions in taxes under Directive 2003/96/EC under Article 61;

(m) operating aid for culture and heritage conservation under Article 69;

(n) aid for projects of common interest in the area of trans-European digital connectivity infrastructure financed or awarded a Seal of Excellence quality label under Regulation (EU) 2021/1153 of the European Parliament and of the Council[61] under Article 73;

(o) aid for connectivity vouchers under Article 75;

(p) operating aid for sport infrastructure under Article 77;

(q) operating aid for airports under Article 79;

(r) aid involved in financial products supported by the InvestEU Fund under Section 10 of Chapter III.

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[61] Regulation (EU) 2021/1153 of the European Parliament and of the Council of 7 July 2021 establishing the Connecting Europe Facility and repealing Regulations (EU) No 1316/2013 and (EU) No 283/2014 (OJ L 249, 14.7.2021, p. 38, ELI: http://data.europa.eu/eli/reg/2021/1153/oj).

Article 9

Cumulation

1. In determining whether the notification thresholds and the maximum aid intensities are met, the total amount of State aid for the aided activity or project or undertaking shall be taken into account.

2. Where Union funding not qualifying as State aid is combined with State aid, only the State aid shall be considered for determining whether notification thresholds and maximum aid intensities or maximum aid amounts are met. In addition, the total amount of public funding (Union funding not qualifying as State aid and State aid) granted in relation to the same eligible costs shall not exceed the most favourable funding rate set out in the applicable rules of Union law, including implementing acts, work programmes and calls. By way of derogation, the total public funding for projects supported by the European Defence Fund may reach up to the total eligible costs of the project, irrespective of the maximum funding rate applicable under this fund, if the notification thresholds and maximum aid intensities or maximum aid amounts under this Regulation are met.

3. Aid with identifiable eligible costs exempted by this Regulation may be cumulated with:

(a) any other State aid, as long as that State aid concerns different identifiable eligible costs, or any other State aid without identifiable eligible costs,

(b) any other State aid, in relation to the same eligible costs, partly or fully overlapping, only if such cumulation does not result in exceeding the highest aid intensity or aid amount applicable to this aid under this Regulation or under a Commission decision, whichever is the highest. By way of derogation, aid in favour of workers with disabilities, as provided for in Article 47 and Article 48, may be cumulated with other aid exempted under this Regulation in relation to the same eligible costs above the highest applicable threshold under this Regulation, if such cumulation does not result in an aid intensity exceeding 100 % of the relevant costs over any period for which the workers concerned are employed.

Financing provided to the final beneficiaries with support from the InvestEU Fund covered by Section 10 of Chapter III and the cost covered by this financing shall not be considered for determining compliance with the cumulation provisions set out in the first sentence of point (b) of the first subparagraph. Instead, the amount relevant for determining compliance with those provisions shall be calculated as follows:

(a) first, the nominal amount of the financing supported by the InvestEU Fund shall be deducted from the total eligible project costs, obtaining the total remaining eligible costs;

(b) second, the maximum aid shall be calculated by applying the relevant highest aid intensity or aid amount only to the total remaining eligible costs.

Where the notification threshold is expressed as a maximum aid amount, the nominal amount of financing provided to the final beneficiaries with the support from the InvestEU Fund shall also not be considered for determining whether the notification thresholds are met.

Alternatively, for senior loans or guarantees on senior loans supported by the InvestEU Fund under Section 10 of Chapter III, the gross grant equivalent of the aid entailed in such loans or guarantees provided to the final beneficiaries may be calculated, to the extent it does not involve any risk assessment. This gross grant equivalent of the aid can be used for ensuring, in line with the first sentence of point (b) of the first subparagraph, that cumulation with any other aid for the same identifiable eligible costs does not result in exceeding the highest aid intensity or aid amount applicable to the aid under this Regulation or the relevant notification threshold under this Regulation.

4. Aid without identifiable eligible costs exempted under Article 18, Article 19, Article 25, Article 26, Article 27, Article 28, Article 29, Article 30, Article 82(5), point (a)(ii), (iii) or (iv), Article 82(10) and Article 83 may be cumulated with any other State aid with or without identifiable eligible costs. Aid without identifiable eligible costs exempted under Sections 3 and 10 of Chapter III may be cumulated with any other risk finance aid or aid involved in financial products supported by the InvestEU Fund without identifiable eligible costs, up to the highest relevant total financing threshold fixed in the specific circumstances of each case by this or another block exemption regulation or decision adopted by the Commission. Aid without identifiable eligible costs exempted under Article 82(5), point (a)(ii), (iii) or (iv), Article 82(10) and Article 83 may be cumulated with other aid without identifiable eligible costs exempted under those Articles.

5. State aid exempted under this Regulation shall not be cumulated with any de minimis aid in respect of the same eligible costs if such cumulation would result in an aid intensity exceeding those set out in Chapter III.

6. By way of derogation from paragraphs 1 to 5, in determining whether the ceilings for regional operating aid in outermost regions, as set out in Article 16(4), are met, only regional operating aid in outermost regions exempted from the notification requirement under this Regulation shall be taken into account.

CHAPTER II

REPORTING AND MONITORING

Article 10

Withdrawal of the benefit of the block exemption

Where a Member State grants aid allegedly exempted from the notification requirement under this Regulation without meeting the conditions set out in Chapters I to III, the Commission may, after having provided the Member State concerned with the possibility to make its views known, adopt a decision stating that all or some of the future aid measures adopted by the Member State concerned which would otherwise meet the requirements of this Regulation, are to be notified to the Commission in accordance with Article 108(3) of the Treaty. The measures to be notified may be limited to the measures granting certain types of aid or in favour of certain beneficiaries or aid measures adopted by certain authorities of the Member State concerned.

Article 11

Publication and information

1. The Member State concerned shall ensure the publication, in the Commission's transparency award module[62] or on a comprehensive State aid website, at national or regional level, of:

(a) the summary information about each aid measure exempted under this Regulation in the standardised format set out in Annex II or a link providing access to it;

(b) the full text of each aid measure, or a link providing access to the full text;

(c) the information referred to in Annex III on each individual aid award exceeding EUR 100 000, or for aid involved in financial products supported by the InvestEU fund under Section 10 on each individual aid award exceeding EUR 500 000, or for beneficiaries active in primary agricultural production or in the fishery and aquaculture sector, other than those to which Article 18 applies, on each individual aid award exceeding EUR 10 000.

As regards aid granted to European territorial cooperation projects as referred to in Article 18(3), the information referred to in this paragraph shall be placed on the website of the Member State in which the managing authority concerned, as defined in Article 45 of Regulation (EU) 2021/1059 of the European Parliament and of the

[62] State Aid Transparency Public Search, available at: https://webgate.ec.europa.eu/competition/transparency/public?lang=en.

Council[63], is located. Alternatively, the Member States participating in the cooperation project may decide that each of them shall provide the information relating to the aid measures within their territory on their respective websites.

The publication obligations set out in the first subparagraph shall not apply to aid granted to European territorial cooperation projects referred to in Article 18(2), as well as CLLD projects under Article 19(3).

2. For schemes covered by Article 17, Article 26 and Article 29, the requirement to publish information on each individual award exceeding EUR 100 000 may be waived with respect to SMEs which have not carried out any commercial sale in any market. For schemes in the form of tax advantages, and for schemes covered by Article 17, Article 26 and Article 29, the conditions set out in paragraph 1, first subparagraph, point (c), shall be considered to be met if Member States publish the required information on individual aid amounts in the following ranges (in EUR million):

(a) 0.01-0.1 (only for fishery and aquaculture as well as primary agricultural production);

(b) 0.1-0.5;

(c) 0.5-1;

(d) 1-2;

(e) 2-5;

(f) 5-10;

(g) 10-20;

(h) 20-50 and

(i) 50 and more.

3. For social aid schemes for transport for residents of remote regions under Article 49, the publication obligations set out in this Article shall not apply to final consumers.

4. If a financial product has been implemented by a Member State under the InvestEU Member State compartment or by a national promotional bank acting as an implementing partner or acting as a financial intermediary other than an implementing partner under InvestEU, the Member State shall remain under the

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63 Regulation (EU) 2021/1059 of the European Parliament and of the Council of 24 June 2021 on specific provisions for the European territorial cooperation goal (Interreg) supported by the European Regional Development Fund and external financing instruments (OJ L 231, 30.6.2021, p. 94, ELI: http://data.europa.eu/eli/reg/2021/1059/oj).

obligation to ensure the publication of information as set out in paragraph 1, first subparagraph, point (c). However, this obligation is deemed to be met if the implementing partner provides to the Commission the information as set out in paragraph 1, first subparagraph, point (c), no later than 30 June of the year following the financial year in which the aid was granted and if the guarantee agreement signed between the Commission and the implementing partner contains a requirement to provide that information to the Commission.

5. The information referred to in paragraph 1, first subparagraph, point (c), shall be organised and accessible in a standardised manner, as set out in Annex III, and shall allow for effective search and download functions. It shall be published within six months from the date on which the aid was granted, or for aid in the form of tax advantages, within one year from the date on which the tax declaration is due, and shall be available for at least 10 years from the date on which the aid was granted. For aid in the form of tax advantages, if there is no formal requirement for an annual declaration, 31 December of the year for which the aid was granted shall be considered as the date of granting for the purposes of this paragraph.

6. The Commission shall publish on its website:

(a) the links to the State aid websites referred to in paragraph 1;

(b) the summary information referred to in paragraph 1, first subparagraph, point (a).

Article 12

Reporting

1. Member States, or in the case of aid granted to European territorial cooperation projects under Article 18(3), the Member State in which the managing authority is located, shall transmit to the Commission:

(a) via the Commission’s electronic notification system, the summary information about each aid measure exempted under this Regulation in the standardised format set out in Annex II, together with a link providing access to the full text of the aid measure, including its amendments, within 20 working days following the entry into force of the aid measure; and

(b) an annual report, as referred to in Commission Regulation (EC) No 794/2004[64] in electronic form, on the application of this Regulation, containing the information indicated in that Regulation, in respect of each whole year or each part of the year during which this Regulation applies. For financial products implemented by a Member State under the InvestEU Member State compartment or by a national

[64] Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EU) 2015/1589 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ L 140, 30.4.2004, p. 1).

promotional bank acting as an implementing partner or acting as a financial intermediary, other than an implementing partner, under InvestEU, this obligation of the Member State is deemed to be met if the implementing partner provides the annual reports to the Commission, in accordance with the relevant reporting requirements set out in the guarantee agreement signed between the Commission and the implementing partner.

2. The first paragraph shall not apply in respect of aid granted to European territorial cooperation projects referred to in Article 18(2) and in respect of aid granted to CLLD projects referred to in Article 19(3).

Article 13

Monitoring

1. Member States, or alternatively, in the case of aid granted to European territorial cooperation projects referred to in Article 18(3), the Member State in which the managing authority is located, shall maintain detailed records with the information and supporting documentation necessary to establish that all the conditions set out in this Regulation are met. Such records shall be kept for 10 years from the date on which the ad hoc aid was granted or the last aid was granted under the scheme.

   The first subparagraph shall not apply in respect of aid granted to undertakings participating in European territorial cooperation projects referred to in Article 18(2), as well as to CLLD projects referred to in Article 19(3).

2. In the case of schemes under which fiscal aid is granted automatically, such as those based on tax declarations of the beneficiaries, and where there is no ex ante verification that all compatibility conditions are met for each beneficiary, Member States shall regularly verify, at least ex post and on a sample basis, that all compatibility conditions are met, and draw the necessary conclusions. Member States shall maintain detailed records of the verifications for at least 10 years from the date of the controls.

3. The Commission may request, from each Member State, all the information and supporting documentation which the Commission considers necessary to monitor the application of this Regulation, including the information mentioned in paragraphs 1 and 2. The Member State concerned shall provide the Commission with the requested information and supporting documents within 20 working days from receipt of the request or such longer period as may be fixed in the request.

CHAPTER III

SPECIFIC PROVISIONS FOR DIFFERENT CATEGORIES OF AID

SECTION 1

Regional development and territorial cooperation

Article 14

Scope of regional aid

Articles 15, 16 and 17 shall not apply to:

(a) aid to the steel sector, the lignite sector and the coal sector;

(b) aid to the transport sector as well as the related infrastructure; aid for energy generation, storage, transmission, distribution and infrastructure; and aid to the broadband sector. Those exclusions do not apply to

(i) regional investment aid in outermost regions

(ii) regional investment aid for energy generation, storage, transmission, distribution and infrastructure in assisted areas qualifying as 'small isolated system' within the meaning of Article 2, point (42), of Directive (EU) 2019/944;

(iii) regional operating aid schemes;

(c) regional operating aid in the form of schemes which are targeted at a limited number of specific sectors of economic activity i.e. schemes which cover activities falling within the scope of fewer than five classes (four-digit numerical code) of the NACE Rev. 2 statistical classification. Schemes aimed at tourism activities or processing and marketing of agricultural products are not considered to be targeted at specific sectors of economic activity;

(d) regional operating aid granted to undertakings whose principal activities fall under Section K 'Financial and insurance activities' of NACE Rev. 2.1 or to undertakings that perform intra-group activities whose principal activities fall under classes 70.10 'Activities of head offices' or 70.22 'Business and other management consultancy activities' of NACE Rev. 2.1.

Article 15

Regional investment aid

1. This Article shall apply to regional investment aid. Regional investment aid measures shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and exempted from the notification requirement of Article 108(3) of the Treaty, if the conditions set out in this Article and Chapter I are met.

2. The aid intensity shall not exceed the maximum aid intensity in the area concerned, as established in the regional aid map which is in force at the time the aid is awarded. For large investment projects the aid amount shall not exceed the adjusted aid amount. Aid for large investment projects exceeding the adjusted aid amount shall be notified.

   The 'adjusted aid amount' is calculated in accordance with the following formula:

   adjusted aid amount = R × (A + 0.50 × B + 0 × C)

   where: R is the maximum aid intensity applicable in the area concerned, excluding the increased aid intensity for SMEs; A is the part of eligible costs equal to EUR 70 million; B is the part of eligible costs between EUR 70 million and EUR 140 million, and C is the part of eligible costs above EUR 140 million; as from 1 January 2031, A is the part of eligible costs equal to EUR 75 million; B is the part of eligible costs between EUR 75 million and EUR 150 million, and C is the part of eligible costs above EUR 150 million.

3. The aid shall be granted in assisted areas. In assisted areas under Article 107(3), point (a), of the Treaty, the aid may be granted for any form of initial investment regardless of the size of the beneficiary. In assisted areas under Article 107(3), point (c), of the Treaty, the aid may be granted to SMEs for any form of initial investment and to large enterprises only for an initial investment that creates a new economic activity in the area concerned.

4. The investment shall be maintained in the area concerned for at least five years, or three years for SMEs, after the completion of the investment. This shall not prevent the replacement of a plant or equipment that has become outdated or broken within this period, if the economic activity is retained in the area concerned for the minimum period.

5. The eligible costs shall be one of the following:

(a) investment costs in tangible and intangible assets;

(b) the estimated wage costs of employment created as a result of an initial investment, calculated over two years;

(c) a combination of part of the costs referred to in points (a) and (b) but not exceeding the amount of point (a) or (b), whichever is higher.

6. Costs related to the lease of tangible assets shall be eligible costs.

7. Intangible assets shall be eligible for the calculation of investment costs if they meet the following conditions:

(a) only the part of the costs that corresponds to the planned use in the establishment receiving the aid is considered eligible;

(b) the costs are amortisable;

(c) they are purchased under market conditions;

(d) they are included in the assets of the undertaking that receives the aid and remain associated with the project for which the aid is awarded for at least five years or three years for SMEs.

8. Where eligible costs are calculated by reference to the estimated wage costs, the following conditions shall be met:

(a) the investment project leads to a net increase in the number of employees in the establishment concerned compared to the average over the previous 12 months, after deducting from the number of jobs created any job losses that occurred during that period, expressed in annual labour units;

(b) each post is filled within three years of completion of the investment;

(c) each job created through the investment is maintained in the area concerned for a period of at least five years, or three years in the case of SMEs, from the date the post was first filled.

9. In the case of an initial investment as defined in Article 2, point (54)(b) or point (55)(b), the acquisition of assets shall take place under market conditions. If the acquisition of the assets of an establishment is accompanied by an additional investment eligible for regional aid, the eligible costs of that additional investment shall be added to the cost of acquisition of the assets of the establishment. If aid has already been granted for the acquisition of assets before their purchase, the costs of those assets shall be deducted from the eligible costs related to the acquisition of an establishment.

10. Any initial investment related to the same or a similar activity started by the same undertaking within a period of three years from the date of start of works on another aided investment in the same level 3 region of the Nomenclature of Territorial Units for Statistics shall be considered to be part of a single investment project. Where such single investment project is a large investment project, the total aid amount for

the single investment project shall not exceed the adjusted aid amount for large investment projects.

11. The aid beneficiary shall provide a contribution of at least 25 % of the eligible costs through its own resources or by external financing, in a form that is free of any public support. Funding provided by the European Investment Bank and/or the European Investment Fund (at own risk and from own resources) up to 12,5 % of the eligible costs shall be considered to constitute external financing free of any public support. The 25 % own contribution requirement shall be reduced pro rata as it may be necessary in order to fully accommodate the maximum aid intensity.

12. For an initial investment linked to European territorial cooperation projects, the aid intensity of the area in which the initial investment is located shall apply to all beneficiaries participating in the project. If the initial investment is located in two or more assisted areas, the maximum aid intensity shall be the one applicable in the assisted area where the highest amount of eligible costs are incurred.

13. The beneficiary shall confirm that it has not carried out a relocation to the establishment in which the initial investment for which aid is requested is to take place, in the two years preceding the application for aid and shall give a commitment that it will not do so within a period of two years after the initial investment for which aid is requested is completed.

Article 16

Regional operating aid

1. This Article shall apply to regional operating aid schemes in sparsely populated areas and outermost regions.

2. In sparsely populated areas, regional operating aid schemes shall compensate for additional transport costs under the conditions set out in the second subparagraph or prevent or reduce depopulation under the conditions set out in the third subparagraph.

The regional operating aid schemes shall compensate up to 100 % of the additional transport costs of goods which have been produced in sparsely populated areas, as well as additional transport costs of goods that are further processed in those areas, under the following conditions:

(a) the aid is objectively quantifiable in advance on the basis of a fixed sum or per tonne/kilometre ratio or any other relevant unit;

(b) the additional transport costs are calculated on the basis of the journey of the goods inside the national border of the Member State concerned using the means of transport which results in the lowest costs for the beneficiary. The Member State may impose environmental standards to be met by the mode of transport chosen, and if such standards are imposed on the beneficiary it may base the calculation of the additional transport costs on the lowest cost for meeting those environmental standards.

The regional operating aid schemes shall prevent or reduce depopulation under the following conditions:

(a) the beneficiaries have their economic activity in the area concerned;

(b) the annual aid amount per beneficiary under all operating aid schemes does not exceed 20 % of the annual labour costs incurred by the beneficiary in the area concerned.

3. In outermost regions, regional operating aid schemes shall compensate for the additional operating costs incurred in those regions as a direct result of one or several of the permanent handicaps referred to in Article 349 of the Treaty, where the beneficiaries have their economic activity in an outermost region if the annual aid amount per beneficiary under all operating aid schemes implemented under this Regulation does not exceed one of the following percentages:

(a) 35 % of the gross value added annually created by the beneficiary in the outermost region concerned;

(b) 40 % of the annual labour costs incurred by the beneficiary in the outermost region concerned;

(c) 30 % of the annual turnover of the beneficiary realised in the outermost region concerned.

Article 17

Regional urban development aid

1. This Article shall apply to regional urban development projects which meet the following criteria:

(a) they are implemented in assisted areas;

(b) they are co-financed by Union funds implemented under shared management.

2. The total investment in an urban development project under any urban development aid measure shall not exceed EUR 28 million, or, as from 1 January 2031, EUR 30 million. Where an urban development fund provides loans or guarantees to urban development projects, the nominal amount of the loan or, respectively in the context of guarantees, of the underlying loan shall be taken into account in calculating the maximum investment amount

3. The eligible costs shall be the overall costs of the urban development project to the extent that they comply with Articles 67 and 68 of Regulation (EU) 2021/1060.

4. Aid may take the form of equity or quasi-equity investments, loans, guarantees, or a mix thereof. Investment in an urban development project may be combined with aid in the form of a grant or repayable advances, in which case the grant or repayable advances may not exceed 50 % of the total investment and may not exceed a nominal amount of EUR 1.26 million or, as from 1 January 2031, EUR 1.37 million.

5. The urban development aid shall leverage additional investment from independent private investors at the level of the urban development funds or the urban development projects, so as to achieve an aggregate amount reaching a minimum of 20 % of the total financing provided to an urban development project. Funding provided by the European Investment Bank and/or the European Investment at own risk and from own resources up to 10 % of the total financing of an urban development project shall be considered to constitute additional investment for the purpose of this provision.

6. Private and public investors may provide cash or an in-kind contribution or a combination of the two for the implementation of an urban development project. An in-kind contribution shall be taken into account at its market value.

7. The urban development measures shall meet the following conditions:

(a) urban development fund managers are selected through an open, transparent and non-discriminatory call in accordance with the applicable Union and national laws;

(b) the independent private investors are selected through an open, transparent and non-discriminatory call in accordance with applicable Union and national laws aimed at establishing the appropriate risk-reward sharing arrangements whereby, for investments other than guarantees, asymmetric profit-sharing is given preference over downside protection. If the private investors are not selected by such a call, the fair rate of return to the private investors is established by an independent expert selected via an open, transparent and non-discriminatory call;

(c) in the case of asymmetric loss-sharing between public and private investors, the first loss assumed by the public investor is capped at 25 % of the total investment;

(d) in the case of guarantees to private investors in urban development projects, the guarantee rate is limited to 80 % and total losses assumed by a Member State are capped at 25 % of the underlying guaranteed portfolio;

(e) the investors are allowed to be represented in the governance bodies of the urban development fund, such as the supervisory board or the advisory committee;

(f) the Member State provides for a due diligence process in order to ensure a commercially sound investment strategy for implementing the urban development aid measure.

8. Urban development funds shall be managed on a commercial basis and shall ensure profit-driven financing decisions. This shall be considered to be the case when the managers of the urban development fund fulfil the following conditions:

(a) the managers of urban development funds are obliged by law or contract to act with the diligence of a professional manager in good faith and avoiding conflicts of interest; best practices and regulatory supervision shall apply;

(b) the remuneration of the managers of urban development funds conforms to market practices. This requirement is considered to be met where a manager is selected through an open, transparent and non-discriminatory call, based on objective criteria linked to experience, expertise and operational and financial capacity;

(c) the managers of urban development funds receive a remuneration linked to performance, or share part of the investment risks by co-investing own resources;

(d) the managers of urban development funds set out an investment strategy, criteria and the proposed timing of investments in urban development projects, establishing the *ex ante* financial viability and their expected impact on urban development;

(e) a clear and realistic exit scenario exists for each equity and quasi-equity investment.

9. The Member State may assign the implementation of the urban development aid measure to an entrusted entity.

Article 18

Aid to undertakings participating in European territorial cooperation projects

1. This Article shall apply to aid to undertakings participating in a European territorial cooperation project covered by Regulation (EU) 2021/1059. Such undertakings may receive up to the maximum amount of EUR 28 000 per project, or, as from 1 January 2031, up to EUR 30 000 per project.

2. When determined on the basis of eligible costs, the aid shall not exceed 100 % of the costs and EUR 2.8 million per undertaking, per project, or as from 1 January 2031, EUR 3 million per undertaking, per project. Eligible costs shall be the undertaking's costs linked to the cooperation project.

Article 19

Aid to SMEs and local public authorities participating in community-led local development projects

1. This Article shall apply to aid to SMEs and local public authorities participating in CLLD projects covered by Regulation (EU) 2021/1060.

2. To be eligible, local public authorities shall be located in assisted areas under Article 107(3), points (a) or (c), of the Treaty.

3. Each CLLD project may be supported with aid up to EUR 250 000 as an overall amount per project, or, as from 1 January 2031, up to EUR 275 000.

4. When determined on the basis of eligible costs, the aid shall not exceed 100 % of the eligible costs and EUR 2.5 million, or, as from 1 January 2031, EUR 2.75 million per undertaking, per project. Eligible costs shall be the costs linked to the CLLD strategy, and to the preparation and implementation of approved operations.

SECTION 2

AID TO SMES

Article 20

Investment aid to SMEs

1. This Article shall apply to investment aid to SMEs.

2. This Article shall not apply to aid that exceeds EUR 10.4 million, or, as from 1 January 2031, EUR 11.3 million per undertaking per investment project.

3. For the purpose of this Article, employment directly created by an investment project' means employment concerning the activity to which the investment relates, including employment created following an increase in the utilisation rate of the capacity created by the investment.

4. The eligible costs shall be one or several of the following:

(a) the costs of investment in tangible and intangible assets;

(b) the estimated wage costs of employment directly created by the investment project, calculated over two years;

(c) a combination of part of the costs referred to in points (a) and (b) but not exceeding the amount of point (a) or (b), whichever is higher.

5. To be considered an eligible cost for the purposes of this Article, an investment shall consist of one of the following:

(a) an investment in tangible and intangible assets related to the setting-up of a new establishment; the extension of an existing establishment (including scaling up); the diversification of the output of an establishment into products or services not previously produced in or provided from the establishment (including scaling up); or a fundamental change in the overall production process of the product(s) or overall provision of the service(s) concerned by the investment in the establishment;

(b) an acquisition of assets belonging to an establishment that has closed or would have closed had it not been acquired. Sole acquisition of the shares of an undertaking does not qualify as investment The transaction shall take place under market conditions.

Costs related to the lease of tangible assets may be eligible costs.

6. Intangible assets shall meet all of the following conditions:

(a) only the part of the costs that corresponds to the planned use in the establishment receiving the aid is considered eligible;

(b) the costs are amortisable;

(c) they are acquired under market conditions;

(d) they are included in the assets of the undertaking that receives the aid for at least three years.

7. Where eligible costs are calculated by reference to the estimated wage costs, the following conditions shall be met:

(a) each post is filled within three years of completion of the investment;

(b) the investment leads to a net increase in the number of employees in the establishment concerned, compared to the average over the previous 12 months, after deducting from the number of jobs created any job losses that occurred during that period, expressed in annual labour units;

(c) each post created through the investment is maintained during a minimum period of three years from the date the post was first filled.

8. The aid intensity shall not exceed:

(a) 20 % of the eligible costs in the case of small enterprises;

(b) 10 % of the eligible costs in the case of medium-sized enterprises;

(c) 100 % of the eligible costs where the total amount of aid under this Article does not exceed EUR 300 000 per undertaking, per investment project, and where the investment is not related to an activity in the sectors of primary agricultural production and primary production of fishery and aquaculture products.

Article 20a

Aid schemes to support the production and dissemination of press publications by SMEs

1. This Article shall apply to aid schemes for SMEs, which pursue at least one of the following objectives:

(a) preserving media pluralism and diversity of opinions, including by protecting local journalism and developing independent editorial content;

(b) guaranteeing access to quality information, including at regional and local level;

(c) supporting the production, digital transformation and resilience of press publications as defined in Article 2, point (4), of Directive (EU) 2019/790 of the European Parliament and of the Council [65];

(d) supporting the dissemination of printed press publications;

(e) supporting linguistic diversity.

2. The eligible beneficiaries shall be publishers of press publications, which comply with the legal requirements relating to publishing activities, including registration with the relevant registry.

3. The eligible costs shall be:

(a) investment costs relating to the acquisition or modernisation of printing equipment and production facilities;

(b) costs related to digitalisation, including software, digital subscription infrastructure, creation and development of digital content, cybersecurity, and online distribution systems;

(c) costs necessary to ensure the continuity and development of press activities;

(d) costs incurred in the dissemination of printed press publications.

4. Aid shall not be granted for promotional or advertising activities.

5. The aid intensity shall not exceed 30 % of eligible costs.

6. The total amount of aid granted to an undertaking under this Article shall not exceed EUR 2.2 million or, as from 1 January 2031, EUR 2.4 million per year.

7. The aid shall be assigned through a competitive bidding process where a weighting of at least 20 % of the total selection criteria used for ranking bids and allocating aid is given to criteria safeguarding editorial independence and quality journalism.

Article 21

Aid for consultancy in favour of SMEs

1. This Article shall apply to aid for consultancy for SMEs.

2. This Article shall not apply to aid that exceeds EUR 2.8 million per undertaking, per consultancy project, or, as from 1 January 2031, EUR 3 million.

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65 Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC (OJ L 130, 17.5.2019, pp. 92–125, ELI: http://data.europa.eu/eli/dir/2019/790/oj).

3. The eligible costs shall be the costs of consultancy services provided by external consultants.

4. The aid intensity shall not exceed 50 % of the eligible costs.

5. The services concerned shall not be a continuous or periodic activity nor relate to the undertaking's usual operating costs, such as routine tax consultancy services, regular legal services or advertising.

Article 22

Aid to SMEs for participation in fairs

1. This Article shall apply to aid to SMEs for participation in fairs.

2. This Article shall not apply to aid that exceeds EUR 2.8 million, or, as from 1 January 2031, EUR 3 million, per undertaking, per year.

3. The eligible costs shall be the costs incurred for renting, setting up and running the stand for the participation of an undertaking in any particular fair or exhibition.

4. The aid intensity shall not exceed 50 % of the eligible costs.

Article 23

Aid to microenterprises in the form of public interventions concerning the supply of electricity, gas or heat

1. This Article shall apply to aid to microenterprises in the form of public interventions concerning the supply of electricity, gas or heat.

2. This Article shall not apply to aid which exceeds EUR 250 000 per beneficiary per calendar year. This threshold shall be EUR 31 000 per beneficiary per calendar year for microenterprises active in the primary production of agricultural products, and EUR 38 000 per beneficiary per calendar year for microenterprises active in the fishery and aquaculture sectors. As from 1 January 2031, this Article shall not apply to aid which exceeds EUR 275 000 per beneficiary per calendar year. This threshold shall be EUR 34 000 per beneficiary per calendar year for microenterprises active in the primary production of agricultural products, and EUR 41 000 per beneficiary per calendar year for microenterprises active in the fishery and aquaculture sectors.

3. This Article shall apply to:

(a) public interventions in price setting reducing the prices applied by suppliers to microenterprises per unit of electricity, gas or heat;

(b) payments made to microenterprises, directly or via suppliers, per unit of electricity, gas or heat consumption compensating for part of the costs of that consumption.

4. The aid measures shall:

(a) neither discriminate between suppliers or between microenterprises;

(b) provide that all suppliers are eligible to provide offers for the supply of electricity, gas or heat to microenterprises on the same basis;

(c) provide for a mechanism that, if granted via a supplier, ensures that the aid is passed on, to the largest extent possible, to the final beneficiary;

(d) result in a price that is above cost, at a level where effective price competition can occur.

5. The aid amount shall be equal to the payment granted or, in the case of public interventions in price setting, shall not exceed the difference between the market price that would have had to be paid for the total electricity, gas and/or heat consumed by a beneficiary, and the price to be paid for this consumption following the public intervention.

SECTION 3

AID FOR ACCESS TO FINANCE FOR SMEs

Article 25

Risk finance aid in favour of SMEs provided via financial intermediaries

1. This Article shall apply to risk finance aid in favour of eligible SMEs.

2. Member States, either directly or through an entrusted entity, shall implement the risk finance measure via one or more financial intermediaries. Member States or entrusted entities shall provide a public contribution to financial intermediaries in accordance with paragraphs 9 to 15.

Financial intermediaries, in accordance with paragraphs 16 to 18, shall make risk finance investments as referred to in paragraphs 4 to 8, into eligible undertakings that comply with paragraph 3.

Neither Member States nor entrusted entities shall invest directly into the eligible undertakings without the involvement of a financial intermediary.

3. Eligible undertakings shall be unlisted SMEs and they shall meet, at the time of the initial risk finance investment, at least one of the following conditions:

(a) they have not been operating in any market;

(b) they have been operating in any market for any of the following periods:

(i) less than ten years following their registration;

(ii) less than seven years following their first commercial sale;

(c) they require an initial investment which, based on a business plan prepared in view of a new economic activity (including scaling up), is higher than 30 % of their average annual turnover in the preceding five years. However, that threshold shall be limited to 15 % for the following investments:

(i) investments significantly improving the environmental performance of the activity in accordance with Article 51(2);

(ii) other environmentally sustainable investments as defined in Article 2, point (1), of Regulation (EU) 2020/852;

(iii) investments aiming at increasing capacity for the extraction, separation, refining, processing or recycling of a critical raw material listed in Annex II, section 1, of Regulation (EU) 2024/1252 of the European Parliament and of the Council[66];

(iv) investments in an eligible undertaking that is a social enterprise;

(v) investments aiming at increasing production capacity of defence products as defined in Article f1, point (11) of Regulation 2025/2643 of the European Parliament and of the Council[67].

Where either the period of operating for less than 10 years following their registration or less than seven years after their first commercial sale has been applied to a given undertaking, only that period can be applied also to any subsequent aid under this Article to the same undertaking.

For undertakings that have acquired another undertaking or were formed through a merger, the eligibility period applied shall also encompass the operations of the acquired undertaking or the merged undertakings, respectively, except for such acquired or merged undertakings whose turnover accounts for less than 10 % of the turnover of the acquiring undertaking in the financial year preceding the acquisition or, in case of undertakings formed through a merger, less than 10 % of the combined turnover that the merging undertakings had in the financial year preceding the merger.

[66] Regulation (EU) 2024/1252 of the European Parliament and of the Council of 11 April 2024 establishing a framework for ensuring a secure and sustainable supply of critical raw materials and amending Regulations (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1724 and (EU) 2019/1020 (OJ L, 2024/1252, 3.5.2024).

[67] Regulation (EU) 2025/2643 of the European Parliament and of the Council of 16 December 2025 establishing the European Defence Industry Programme and a framework of measures to ensure the timely availability and supply of defence products (OJ L, 2025/2643, 29.12.2025)

Concerning the registration-related eligibility period, if used, for eligible undertakings that are not subject to registration, the ten-year eligibility period is considered to start from the earlier of either the moment when the undertaking starts its economic activity or the moment when it becomes liable to tax with regard to its economic activity.

4. The risk finance investment may also cover follow-on investments made in eligible undertakings, including after the eligibility period referred to in paragraph 3, point (b), if the following conditions are met:

(a) the total amount of risk finance referred to in paragraph 8 is not exceeded;

(b) the undertaking receiving the follow-on investment is an unlisted SME at the moment of the follow-on investment;

(c) the undertaking receiving the follow-on investments has not become a 'linked enterprise', within the meaning of Article 3(3) of Annex I, with an undertaking that is not the financial intermediary or the independent private investor providing risk finance under the measure and that is not an SME.

5. Risk finance investments into eligible undertakings may take the form of equity, quasi-equity investments, loans, guarantees, or a mix thereof. Risk finance investments may be combined with aid in the form of a grant or repayable advances, in which case the nominal amount of the grant or repayable advances may not exceed the lower of: (a) 50 % of the total risk finance investment and (b) EUR 2.5 million or, as from 1 January 2031, EUR 2.75 million.

6. When guarantees are provided, the guarantee coverage rate shall not exceed 80 % of the underlying loan's principal to the eligible undertaking; the guaranteed amount shall decrease proportionally in such a way that the guarantee never covers more than 80 % of the underlying loan's outstanding principal; and losses after recovery shall be sustained proportionally and under the same conditions by the lender(s) and the guarantor.

7. Risk finance investments in the form of equity and quasi-equity investments in eligible undertakings may cover replacement capital only if they also cover new capital representing at least 30 % of each investment round into the eligible undertakings.

8. The total outstanding amount of risk finance investment referred to in paragraph 5 shall not exceed EUR 20.8 million per eligible undertaking or, as from 1 January 2031, EUR 22.6 million. To calculate that maximum risk finance investment amount, the following shall be taken into account:

(a) in the case of loans and quasi-equity investments structured as debt, the nominal outstanding amount of the instrument;

(b) in the case of guarantees, the nominal outstanding amount of the underlying loan;

(c) in the case of an equity investment, the amount paid for the equity;

(d) in the case of a grant, the cash amount of the grant;

(e) in the case of a repayable advance, the nominal amount of the repayable advance.

9. The public contribution provided to financial intermediaries may take one of the following forms:

(a) equity or quasi-equity, or financial endowment to provide risk finance investment directly or indirectly to eligible undertakings;

(b) loans to provide risk finance investment directly or indirectly to eligible undertakings;

(c) guarantees to cover losses from risk finance investment directly or indirectly to eligible undertakings;

(d) a financial contribution to fund grant payments to eligible undertakings.

Where the public contribution provided to the financial intermediary takes the form of equity and quasi-equity, no more than 30 % of the financial intermediary's aggregate capital contributions and uncalled committed capital may be used for liquidity management purposes.

10. Risk-reward sharing arrangements between the Member State (or its entrusted entity) and private investors, financial intermediaries or fund managers, shall be adequate and shall comply with the following conditions:

(a) for risk finance aid in forms other than guarantees, prioritised returns from profits (asymmetric profit sharing or upside incentives) are given preference over protection against potential losses (downside protection);

(b) in the case of asymmetric loss-sharing between public and private investors, the first loss piece borne by the public investor (most junior risk tranche that carries the highest risk of losses) is capped at 25 % of the risk finance investment;

(c) for risk finance aid in the form of guarantees:

(i) the guarantee rate is limited to 80 % and total losses assumed by a Member State are capped at a maximum of 25 % of the underlying guaranteed portfolio.

(ii) only guarantees covering expected losses and not more than 25 % of unexpected losses of the underlying guaranteed portfolio are provided free of charge;

(iii) where a guarantee also comprises coverage of more than 25 % unexpected losses, the financial intermediary is required to pay, for the part of the guarantee covering more than 25 % of unexpected losses, a market-conform guarantee premium;

(d) for risk finance in the form of grant payments to final beneficiaries:

(i) the Member State (or its entrusted entity) ensures that any contribution made to financial intermediaries to fund grant payments is fully passed on to final beneficiaries;

(ii) the Member State (or its entrusted entity) ensures that the grants are directly linked and necessary for the risk finance investment;

(iii) the objectives of the grant used in connection with the risk finance investment is to provide incentives to make innovative investments, to support the financial viability and mitigate the risk profile of the investment project, or to enhance the coherence and efficiency of the risk finance scheme.

11. For risk finance measures aimed at providing risk finance investments in the form of equity, quasi-equity investments or loans to eligible undertakings, the public contribution provided to the financial intermediary shall leverage additional finance from independent private investors at the level of the financial intermediaries or the eligible undertakings, to achieve an aggregate private participation rate reaching the following minimum thresholds:

(a) 10 % of the risk finance investment provided to the eligible undertakings referred to in paragraph 3, point (a);

(b) 40 % of the risk finance investment provided to the eligible undertakings referred to in paragraph 3 point (b);

(c) 60 % of the risk finance investment provided to the eligible undertakings referred to in paragraph 3, point (c), and for follow-on risk finance investment in eligible undertakings after the eligibility period referred to in paragraph 3, point (b).

(d) where the European Investment Bank and/or the European Investment Fund provide funding to a risk-finance measure at own risk and from own resources, the thresholds laid down in points (a) to (c) shall be reduced accordingly, but by no more than half.

12. Finance provided by independent private investors benefitting from risk finance aid in the form of tax incentives in accordance with Article 26 shall not be taken into account for the purposes of reaching the aggregate private participation rates set out paragraph 11of this Article.

13. The private-participation rate thresholds laid down in paragraph 10, points (b) and (c), shall be reduced to 20 % under point (b) and 30 % under point (c) of that paragraph for investments that meet either of the following criteria:

(a) they are made in assisted areas designated in an approved regional aid map in force at the time of provision of the risk finance investment in application of Article 107(3), point (a), of the Treaty;

(b) they are cofinanced on the basis of the Member State's recovery and resilience plan as approved by the Council;

(c) they are cofinanced from the European Defence Fund in accordance with Regulation (EU) 2021/697 or under the Union Space Programme in accordance with Regulation (EU) 2021/696 of the European Parliament and of the Council[68];

(d) they are cofinanced by Union funds implemented under shared management covered by Regulation (EU) 2021/1060 or Regulation (EU) 2021/2115 of the European Parliament and of the Council[69];

(e) they are investments in eligible undertakings that are social enterprises.

14. Where a risk finance measure is targeting eligible undertakings at different development stages as referred to in paragraphs 3 and 4, the financial intermediary shall achieve a private participation rate that represents at least the weighted average based on the volume of the individual investments in the underlying portfolio and resulting from the application of the minimum participation rates to such investments as referred to in paragraphs 11 to 13, unless the required participation from independent private investors is achieved at the level of the eligible undertakings.

15. Financial intermediaries and fund managers shall be selected through an open, transparent and non-discriminatory call in accordance with applicable Union and national laws, ensuring that there is no discrimination on the basis of their place of establishment or incorporation in any Member State. Member States may require that eligible financial intermediaries and fund managers meet predefined criteria that are objectively justified by the nature of the investments.

16. Risk finance measures shall ensure that the financial intermediaries receiving the public contribution take profit-driven decisions when providing eligible undertakings with risk finance investments. This condition is met where the following cumulative conditions are met:

(a) the Member State, or the entity entrusted with the implementation of the measure, conducts a due diligence process in order to ensure a commercially sound investment strategy for the purpose of implementing the risk finance measure, including an appropriate risk diversification policy aimed at achieving economic viability and

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68 Regulation (EU) 2021/696 of the European Parliament and of the Council of 28 April 2021 establishing the Union Space Programme and the European Union Agency for the Space Programme and repealing Regulations (EU) No 912/2010, (EU) No 1285/2013 and (EU) No 377/2014 and Decision No 541/2014/EU (OJ L 170, 12.5.2021, p. 69).

69 Regulation (EU) 2021/2115 of the European Parliament and of the Council of 2 December 2021 establishing rules on support for strategic plans to be drawn up by Member States under the common agricultural policy (CAP Strategic Plans) and financed by the European Agricultural Guarantee Fund (EAGF) and by the European Agricultural Fund for Rural Development (EAFRD) and repealing Regulations (EU) No 1305/2013 and (EU) No 1307/2013 (OJ L 435, 6.12.2021, p. 1).

efficient scale in terms of size and territorial scope of the relevant portfolio of investments;

(b) the risk finance investments provided to the eligible undertakings are based on a viable business plan, containing details of product, sales and profitability development, establishing ex ante financial viability;

(c) the financial intermediary bases each equity and quasi-equity investment on a clear and realistic exit scenario.

17. Financial intermediaries shall be obliged by law or contract to act in accordance with best practices and with the diligence of a professional manager and shall be managed on a commercial basis. This requirement shall be deemed to be met where the intermediary and - depending on the type of risk finance measure - the fund manager, meet the following cumulative conditions:

(a) they share part of the investment risks by either co-investing their own resources or receiving a remuneration linked to performance, so as to ensure that their interests are permanently aligned with the interests of the Member State or its entrusted entity;

(b) they set out an investment strategy, criteria and the proposed timing of investments;

(c) investors are allowed to be represented in the governance bodies of the investment fund, such as the supervisory board or the advisory committee, if any.

18. In a risk finance scheme where risk finance investment is provided to eligible undertakings in the form of guarantees, loans or quasi-equity investments structured as debt, the financial intermediary shall undertake risk finance investments into eligible undertakings that would not have been carried out or would have been carried out in a restricted or different manner without the aid. The financial intermediary shall be able to demonstrate that it operates a mechanism that ensures that all the advantages are passed on to the largest extent to the eligible undertakings in the form of higher volumes of financing, riskier portfolios, lower collateral requirements, lower guarantee premiums or lower interest rates.

Article 26

Risk finance aid to SMEs in the form of tax incentives for private investors who are natural persons

1. This Article shall apply to aid in the form of tax incentives to independent private investors who are natural persons providing risk finance directly or indirectly to eligible undertakings. A ‘natural person’ for the purposes of this Article means a person that is not a legal entity and that is not an undertaking.

2. Eligible undertakings are SMEs which fulfil the criteria set out in Article 25(3). The total risk finance investment provided under Article 25 and under this Article to each eligible undertaking shall not exceed the maximum amount set out in Article 25(8).

3. Where the independent private investor provides risk finance indirectly through a financial intermediary, the eligible investment shall take the form of the acquisition of shares or participations in the financial intermediary, which shall in turn provide risk finance investments to eligible undertakings in accordance with Article 25(5) to (8). No tax incentive may be granted in respect of the services provided by the financial intermediary or its managers.

4. Where the independent private investor provides risk finance directly to the eligible undertaking, only the acquisition of newly issued full-risk ordinary shares or notes without maturity date and without interest coupons that can be converted in full-risk ordinary shares subject to predetermined conditions issued by an eligible undertaking shall constitute an eligible investment. Such shares or notes shall be kept for at least three years. In the event of conversion of the notes into shares within that period, the time during which the investor held the notes prior to conversion shall be taken into account for the calculation of the minimum three-year holding period. Replacement capital shall only be covered under the conditions set out in Article 25(7). Member States may grant tax incentives in any form, provided they are consistent with the objectives of this Article.

5. Where the independent private investor provides risk finance directly to the eligible undertaking, to ensure an adequate participation by that investor, in accordance with Article 25(12), the tax relief, counted as the cumulative maximum tax relief from all tax incentives combined, shall not surpass the following maximum thresholds:

(a) 50 % of the eligible investment carried out by the independent private investor into the eligible undertakings referred to in Article 25(3), point (a);

(b) 35 % of the eligible investment carried out by the independent private investor into the eligible undertakings referred to in Article 25(3), point (b);

(c) 20 % of the eligible investment carried out by the independent private investor into the eligible undertakings referred to in Article 25(3), point (c), or of a follow-on eligible investment into an eligible undertaking after the eligibility period referred to in Article 25(3), point (b);

(d) 75 % of the eligible investment carried out by the independent private investor into the eligible undertakings referred to in Article 25(3), point (a), if the eligible undertakings are social enterprises;

(e) 55 % of the eligible investment carried out by the independent private investor into the eligible undertakings referred to in Article 25(3), point (b) if the eligible undertakings are social enterprises;

(f) 35 % of the eligible investment carried out by the independent private investor into the eligible undertakings referred to in Article 25(3), point (c), if the eligible undertakings are social enterprises.

6. The tax relief thresholds for the direct investments laid down in paragraph 5 may be increased up to 65 % under point (a), up to 50 % under point (b) and up to 35 % under point (c) for investments that meet either of the following criteria:

(i) they are made in assisted areas designated in an approved regional aid map in force at the time of provision of the risk finance investment in application of Article 107(3), point (a), of the Treaty;

(ii) they receive support on the basis of the Member State's recovery and resilience plan as approved by the Council;

(iii) they receive support from the European Defence Fund in accordance with Regulation (EU) 2021/697 or under the Union Space Programme in accordance with Regulation (EU) 2021/696;

(iv) they receive support from Union funds implemented under shared management covered by Regulation (EU) 1303/2013, Regulation (EU) 2021/1060 or Regulation (EU) 2021/2115.

7. Where the independent private investor provides risk finance indirectly through a financial intermediary, and in accordance with Article 25(12), the tax relief, counted as the cumulative maximum tax relief from all tax incentives combined, shall not surpass 30 % of the eligible investment carried out by the independent private investor into an eligible undertaking referred to in Article 25(3). This tax relief threshold may be increased up to 50 % for investments referred to in paragraph 6, points (i) to (iv) of this Article and for investments into an eligible undertaking that is a social enterprise.

Article 27

Risk finance aid in favour of SMEs provided by entrusted entities

1. This Article shall apply to risk finance aid schemes provided by entrusted entities in favour of SMEs

2. Member States shall implement the risk finance measure through an entrusted entity who provides the aid to final beneficiaries.

3. Eligible undertakings are those that meet the criteria set out in Article 25(3).

4. Risk finance investments into eligible undertakings may take the form of equity, or quasi-equity investments, loans, guarantees, or a mix of these. Risk finance investments may be combined with aid in the form of a grant or repayable advances, in which case the nominal amount of the grant or repayable advances shall not exceed the lower of 50 % of the total risk finance investment and EUR 1.26 million or, as from 1 January 2031, EUR 1.37 million.

5. The total outstanding amount of risk finance investment referred to in paragraph 4 of this Article shall not exceed EUR 3.8 million per eligible undertaking, or, as from 1 January 2031, EUR 4.1 million, calculated in line with Article 25(8).

6. For risk finance measures in the form of equity, quasi-equity investments or loans, the public contribution shall leverage additional finance from independent private investors at the level of the entrusted entity or the eligible undertakings. The aggregate private participation rate shall reach the following minimum thresholds:

(a) 10 % of the risk finance investment provided to the eligible undertakings referred to in Article 25(3), point (a);

(b) 40 % of the risk finance investment provided to the eligible undertakings referred to in Article 25(3) point (b);

(c) 60 % of the risk finance investment provided to the eligible undertakings referred to in Article 25(3), point (c), and for follow-on risk finance investment in eligible undertakings after the eligibility period referred to in Article 25 paragraph 3, point (b).

Where the European Investment Bank and/or the European Investment Fund provide funding to a risk-finance measure at own risk and from own resources, the thresholds set out in points (a) to (c) shall be reduced accordingly, but by no more than half.

7. For private investment at the level of the entrusted entity, the entrusted entity shall achieve a private participation rate that represents at least the weighted average based on the volume of the individual investments in eligible undertakings and eligible undertakings that are social enterprises.

8. The private participation rate thresholds mentioned in paragraph 6, points (b) and (c) of this Article, shall be reduced to 20 % under point (b) and 30 % under point (c) of that paragraph for investments that meet either of the following criteria:

(a) they are made in assisted areas designated in an approved regional aid map in force at the time of provision of the risk finance investment in application of Article 107(3), point (a), of the Treaty;

(b) they are cofinanced on the basis of the Member State’s recovery and resilience plan as approved by the Council;

(c) they are cofinanced from the European Defence Fund in accordance with Regulation (EU) 2021/697 or under the Union Space Programme in accordance with Regulation (EU) 2021/696 of the European Parliament and of the Council;

(d) they are cofinanced by Union funds implemented under shared management covered by Regulation (EU) 2021/1060 or Regulation (EU) 2021/2115;

(e) they are investments in eligible undertakings that are social enterprises.

9. Risk-reward sharing arrangements between the entrusted entity and private investors, shall be adequate and shall comply with the following conditions:

(a) for risk finance aid in form other than guarantees, prioritised returns from profits (asymmetric profit sharing or upside incentives) shall be given preference over protection against potential losses (downside protection);

(b) in the case of asymmetric loss-sharing between public and private investors, the first loss borne by the public investor (most junior risk tranche that carries the highest risk of losses) shall be capped at 25 % of the risk finance investment;

(c) for risk finance aid in the form of guarantees, the guarantee coverage rate shall not exceed 80 % of the underlying loan's principal provided by independent private investors to the eligible undertaking or 90 % of the underlying loan's principal where the eligible undertaking is a social enterprise; the guaranteed amount shall decrease proportionally in such a way that the guarantee never covers more than 80 % of the underlying loan's outstanding principal; and losses after recovery shall be sustained proportionally and under the same conditions by the lender(s) and the guarantor.

Article 28

Aid in the form of guarantees on loans provided by financial intermediaries under aid schemes

1. This Article shall apply to aid in the form of guarantees on loans in favour of SMEs meeting the conditions of Article 25(3).

2. The nominal amount of the guaranteed part of the loan provided to a final beneficiary shall not exceed EUR 3.8 million or, as from 1 January 2031, EUR 4.1 million, and have a maturity of less than 10 years.

3. Loan financing to the final beneficiaries shall be provided by financial intermediaries whose remuneration shall conform to market practices.

4. Participation in the measure shall be open to all interested financial intermediaries.

5. The financial intermediaries shall be able to demonstrate that they operate a mechanism that ensures that all the advantages are passed on to the largest extent possible to the eligible undertakings in the form of *ex ante* identifiable interest-rate reductions, higher volumes of financing, or lower collateral requirements.

6. The public guarantee shall not exceed 80 % of the underlying loan's principal to the eligible undertaking; the guaranteed amount shall decrease proportionally in such a way that the guarantee never covers more than 80 % of the underlying loan's outstanding principal; and losses after recovery shall be sustained proportionally and under the same conditions by the lender(s) and the guarantor.

7. The guaranteed loan shall fulfil the following conditions:

(a) it is not used to repay or replace existing loans;

(b) it can cover the costs of investment in tangible and intangible assets or be used to provide working capital.

Article 29

Aid for young enterprises and innovative start-ups

1. This Article shall apply to aid schemes for young enterprises and innovative start-ups.

2. For the purposes of this Article, young enterprises are defined as any unlisted small enterprise up to five years following its registration, that meets the following cumulative conditions:

(a) it has not taken over the activity of another undertaking, unless the turnover of the overtaken activity accounts for less than 10 % of the turnover of the eligible undertaking in the financial year preceding the take-over;

(b) it has not yet distributed profits, with the exception of profit distributions that do not exceed 10 % of the cumulated profits earned since the undertaking's registration.

For undertakings that are not subject to registration, the five-year eligibility period shall start from either the moment when the undertaking starts its economic activity or the moment it becomes liable to tax with regard to its economic activity, whichever is earlier.

For undertakings that have acquired another undertaking or were formed through a merger, the five-year eligibility period applied shall also encompass the operations of the acquired undertaking or the merged undertakings, respectively, except for such acquired or merged undertakings whose turnover accounts for less than 10 % of the turnover of the acquiring undertaking in the financial year preceding the acquisition or, in case of undertakings formed through a merger, less than 10 % of the combined turnover that the merging undertakings had in the financial year preceding the merger.

Undertakings formed through a merger between undertakings eligible for aid under this Article, or resulting from the acquisition of one undertaking eligible for aid under this Article by another undertaking eligible for aid under this Article, shall also be considered eligible undertakings up to five years from the date of registration of the oldest of the merging undertakings or up to five years from the date of the registration of the oldest of the undertakings involved in the acquisition.

3. Aid granted under this article to young enterprises shall take the following forms and comply with the following conditions:

(a) loans, with a maximum duration of 10 years and a maximum nominal amount of EUR 1.4 million, or EUR 2.08 million for undertakings established in assisted areas under Article 107(3), point (c), of the Treaty, or EUR 2.8 million for undertakings established in assisted areas under Article 107(3), point (a), of the Treaty. As from 1 January 2031, a maximum nominal amount of EUR 1.5 million, or EUR 2.26 million for undertakings established in assisted areas under Article 107(3), point (c), of the Treaty, or EUR 3 million for undertakings established in assisted areas under Article 107(3), point (a), of the Treaty. For loans with a duration between five years and 10 years, the maximum amounts may be adjusted by multiplying the amounts above by the ratio between 10 years and the actual duration of the loan. For loans with a duration of less than five years, the maximum amount shall be the same as for loans with a duration of five years;

(b) guarantees, with a maximum duration of 10 years and a maximum guaranteed amount of EUR 2.08 million, or EUR 3.12 million for undertakings established in assisted areas under Article 107(3), point (c), of the Treaty, or EUR 4.16 million for undertakings established in assisted areas under Article 107(3), point (a), of the Treaty. As from 1 January 2031, a maximum guaranteed amount of EUR 2.26 million, or EUR 3.4 million for undertakings established in assisted areas under Article 107(3), point (c), of the Treaty, or EUR 4.52 million for undertakings established in assisted areas under Article 107(3), point (a), of the Treaty. For guarantees with a duration between five years and 10 years the maximum amount guaranteed may be adjusted by multiplying the amounts above by the ratio between 10 years and the actual duration of the guarantee. For guarantees with a duration of less than five years, the maximum amount guaranteed shall be the same as for guarantees with a duration of five years. The guarantee coverage rate shall not exceed 80 % of the underlying loan's principal to the eligible undertaking; the guaranteed amount shall decrease proportionally in such a way that the guarantee never covers more than 80 % of the underlying loan's outstanding principal; and losses after recovery shall be sustained proportionally and under the same conditions by the lender(s) and the guarantor;

(c) grants, equity investments or quasi equity investment or reductions of interests rates or guarantee premiums with a maximum gross grant equivalent of EUR 0.63 million or EUR 0.95 million for undertakings established in assisted areas under Article 107(3), point (c), of the Treaty, or EUR 1.26 million for undertakings established in assisted areas under Article 107(3), point (a), of the Treaty. As from 1 January 2031, a maximum gross grant equivalent of EUR 0.68 million or EUR 1.03 million for undertakings established in assisted areas under Article 107(3), point (c), of the Treaty, or EUR 1.37 million for undertakings established in assisted areas under Article 107(3), point (a), of the Treaty;

(d) tax incentives to eligible undertakings with a maximum gross grant equivalent of EUR 0.63 million or EUR 0.95 million for undertakings established in assisted areas under Article 107(3), point (c), of the Treaty, or EUR 1.26 million for undertakings established in assisted areas under Article 107(3), point (a), of the Treaty. As from 1 January 2031, a maximum gross grant equivalent of EUR 0.68 million or EUR 1.03 million for undertakings established in assisted areas under Article 107(3), point (c), of the Treaty, or EUR 1.37 million for undertakings established in assisted areas under Article 107(3), point (a), of the Treaty.

4. An eligible undertaking can receive support through a mix of the aid instruments referred to in paragraph 3, if the proportion of the amount granted through one aid instrument, calculated on the basis of the maximum aid amount allowed for that instrument, is taken into account in order to determine the residual proportion of the maximum aid amount allowed for the other instruments forming part of such a mixed instrument.

5. For innovative start-ups and for young enterprises that are social enterprises, the maximum amounts set out in paragraph 3 shall be doubled.

6. Aid shall not be granted under this Article to undertakings active in the sector of primary agricultural production, unless it concerns aid for the setting up of young farmers, within the meaning of Article 4(6) of Regulation (EU) 2021/2115, aid for the setting-up of new farmers, within the meaning of Article 4(7) of Regulation (EU) 2021/2115, or aid for the business development of small farms within the meaning of Article 75(2)(d) of Regulation (EU) 2021/2115. Such aid shall be limited to EUR 300 000 per undertaking.

7. Where an aid scheme under this article is implemented through one or more financial intermediaries, the conditions applying to financial intermediaries set out in Article 25(10), (15), (16) (17) and (18) shall apply.

8. In addition to the forms and amounts set out in paragraphs 3, 4 and 5, aid granted under this article can take the form of either a transfer of intellectual property (IP) or a grant of the related access rights, either free of charge or below market value. The transfer or the grant shall be from a research and knowledge-dissemination organisation that has developed the underlying IP through its independent own or collaborative research and development activity, to an eligible undertaking referred to in paragraph 2. The transfer or the grant shall meet the following conditions:

(a) the purpose of the transfer of IP or the grant of related access rights is to bring a new product or service to the market;

(b) the value of the IP is set at its market value. The value of any contribution, both financial and non-financial, by the eligible undertaking to the costs of the research and knowledge-dissemination organisation's activities that resulted in the IP concerned may be deducted from the market value of the IP for the purpose of calculating the aid;

(c) The aid amount of the IP transfer or the grant of the related access rights shall not exceed EUR 1.26 million, or, as from 1 January 2031, EUR 1.37 million. The aid amount corresponds to the value of the IP referred to in point (b), less the deduction referred to in the last sentence of point (b) and less any remuneration due from the beneficiary for that IP. Where the value of the IP exceeds EUR 1.26 million, or, as from 1 January 2031, EUR 1.37 million,, the excess may be covered by the eligible undertaking with own funds or other means.

Article 30

Aid to alternative trading platforms specialised in SMEs

1. This Article shall apply to aid to alternative trading platforms specialised in SMEs.

2. The aid measure may take the form of tax incentives to independent private investors that are natural persons in respect of their risk finance investments made through an alternative trading platform into undertakings eligible under the conditions set out in Article 26(2) and (5).

3. A 'natural person' for the purposes of this Article means a person that is not a legal entity and that is not an undertaking for the purposes of Article 107(1) of the Treaty.

4. Where the platform operator is a young enterprises or innovative start-up, the aid measure may take the form of aid for young enterprises and innovative start-ups, in which case the conditions set out in Article 29 shall apply.

Article 31

Aid for scouting costs

1. This Article shall apply to aid for scouting costs.

2. The eligible costs shall be:

(a) the costs for initial screening and formal due diligence undertaken by managers of financial intermediaries or investors to identify eligible undertakings pursuant to Article 25 to Article 29;

(b) the costs for investment research, as defined in Article 36(1) of Commission Delegated Regulation (EU) 2017/565[70], in an individual eligible undertaking pursuant to Article 25 to Article 29, provided this research is publicly disseminated, and, if it has been disseminated to clients of the investment research provider before public dissemination, is disseminated publicly in the same form and no later than three months after the first dissemination to clients.

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[70] Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive (OJ L 87, 31.3.2017, p. 1).

3. Investment research referred to in paragraph 2, point (b), of this Article shall comply with the requirements set out in Articles 36 and 37 of Delegated Regulation (EU) 2017/565.

4. The aid intensity shall not exceed 50 % of the eligible costs.

SECTION 4

AID FOR RESEARCH AND DEVELOPMENT AND INNOVATION

Article 32

Aid for research and development projects

1. This Article shall apply to aid for research and development projects.

2. This Article shall not apply to aid which exceeds the following thresholds:

(a) if the project is predominantly fundamental research: EUR 70 million, or, as from 1 January 2031, EUR 75 million, per undertaking, per project; that is the case where more than half of the eligible costs of the project are incurred through activities which fall within the category of fundamental research;

(b) if the project is predominantly industrial research: EUR 44 million, or, as from 1 January 2031, EUR 48 million, per undertaking, per project,; that is the case where more than half of the eligible costs of the project are incurred through activities which fall within the category of industrial research or within the categories of industrial research and fundamental research taken together;

(c) if the project is predominantly experimental development: EUR 31.5 million, or, as from 1 January 2031, EUR 34 million, per undertaking, per project; that is the case where more than half of the eligible costs of the project are incurred through activities which fall within the category of experimental development;

(d) alternatively to points (b) and (c), if the project is any combination of industrial research and experimental development activities (referred to as 'applied research'): EUR 31.5 million, or, as from 1 January 2031, EUR 34 million, per undertaking, per project; that is the case where more than half of the eligible costs of the project are incurred through applied research activities;

(e) if the project is a Eureka project, is implemented by a Joint Undertaking established on the basis of Article 185 or Article 187 of the Treaty, or complies with the conditions set out in (7), point (d), the amounts referred to in points (a) to (d) are doubled;

(f) if the aid for research and development projects is granted in the form of repayable advances which, in the absence of an accepted methodology to calculate their gross grant equivalent, are expressed as a percentage of the eligible costs and the measure provides that in case of a successful outcome of the project, as defined on the basis of a reasonable and prudent hypothesis, the advances will be repaid with an interest rate at least equal to the discount rate applicable at the time of grant, the amounts referred to in points (a) to (e) are increased by 50 %;

(g) aid for feasibility studies in preparation for research activities: EUR 10.4 million, or, as from 1 January 2031, EUR 11.3 million, per study.

3. The aided part of the research and development project shall completely fall within one or more of the following categories:

(a) fundamental research;

(b) industrial research;

(c) experimental development;

(d) feasibility studies.

4. The eligible costs of research and development projects shall be allocated to a specific category or categories of research and development (paragraph 3) and shall be the following:

(a) personnel costs: researchers, technicians and other supporting staff to the extent employed on the project;

(b) costs of instruments and equipment to the extent and for the period used for the project. Where such instruments and equipment are not used for their full life for the project, only the depreciation costs corresponding to the life of the project, as calculated on the basis of generally accepted accounting principles are considered as eligible.

(c) costs of buildings and land, to the extent and for the duration period used for the project. With regard to buildings, only the depreciation costs corresponding to the life of the project, as calculated on the basis of generally accepted accounting principles are considered as eligible. For land, costs of commercial transfer or actually incurred capital costs are eligible;

(d) costs of contractual research, knowledge and patents bought or licensed from outside sources at arm's length conditions, as well as costs of consultancy and equivalent services used exclusively for the project;

(e) additional overheads and other operating expenses, including costs of materials, supplies and similar products, incurred directly as a result of the project. In this case, the research and development project costs used for to calculate of the indirect costs shall be established on the basis of normal accounting practices and comprise only eligible research and development project costs referred to in points (a) to (d).

5. The eligible costs for feasibility studies shall be the costs of the study.

6. The aid intensity for each beneficiary shall not exceed:

(a) 100 % of the eligible costs for fundamental research;

(b) 50 % of the eligible costs for industrial research;

(c) 25 % of the eligible costs for experimental development;

(d) alternatively to points (b) and (c), 35 % of the eligible costs for a project that involves any combination of industrial research and experimental development activities (referred to as ‘applied research’);

(e) 50 % of the eligible costs for feasibility studies.

7. The aid intensities for industrial research, experimental development and applied research may be increased up to a maximum aid intensity of 80 % of the eligible costs in accordance with points (a) to (d), where points (b), (c) and (d) shall not be combined with each other:

(a) by 10 percentage points for medium-sized enterprises and by 20 percentage point for small enterprises or, alternatively, where the total aid amount does not exceed EUR 1.58 million, or, as from 1 January 2031, EUR 1.7 million, per undertaking, per project, by 20 percentage points for aid to any undertaking, regardless of its size;

(b) by 15 percentage points if one of the following conditions is met:

(i) the project involves effective collaboration:

– between undertakings among which at least one is an SME, or is carried out in at least two Member States, or in a Member State and a contracting party to the EEA Agreement, or

– between an undertaking and one or more research and knowledge-dissemination organisations, where the latter have the right to publish their own research results.

(ii) the results of the project are widely disseminated through conferences, publication, open access repositories, or free/open source software;

(iii) the beneficiary commits to, without undue delay, make available licences for research results of aided research and development projects, which are protected by intellectual property rights, at a market price and on non-exclusive and non-discriminatory basis for use by interested parties in the EEA, and to widely publish the fact that the project results are available for licencing to interested parties under the specified conditions;

(iv) the research and development project is carried out in an assisted area under Article 107(3), point (a), of the Treaty;

(c) by 5 percentage points if the research and development project is carried out in an assisted area under Article 107(3), point (c), of the Treaty;

(d) by 25 percentage points if the research and development project:

(i) has been selected by a Member State following an open call to form part of a project jointly designed by at least three Member States or contracting parties to the EEA Agreement; and

(ii) involves effective collaboration between undertakings in at least two Member States or contracting parties to the EEA Agreement when the beneficiary is a SME, or in at least three Member States or contracting parties to the EEA Agreement when the beneficiary is a large enterprise; and

(iii) if at least one the two following conditions is met:

– the results of the research and development project are widely disseminated in at least three Member States or contracting parties to the EEA Agreement through conferences, publication, open access repositories, or free or open source software;

– the beneficiary commits to, without undue delay, make available licences for research results from subsidised research and development projects that are protected by intellectual property rights, at a market price and on non-exclusive and non-discriminatory basis for use by interested parties in the EEA, and to widely publish the fact that the project results are available for licencing to the interested parties under the specified conditions.

8. The aid intensities for feasibility studies may be increased by 10 percentage points for medium-sized enterprises and by 20 percentage points for small enterprises or, alternatively, where the total aid amount does not exceed EUR 520 000, or, as from 1 January 2031, EUR 565 000, per study, by 20 percentage points for aid to any undertaking, regardless of its size.

Article 33

Aid for projects awarded a Seal of Excellence quality label

1. This Article shall apply to aid for SMEs for research and development projects as well as feasibility studies awarded a Seal of Excellence quality label under the Horizon Europe programme.

2. This Article shall not apply to aid which exceeds EUR 3.15 million, or, as from 1 January 2031, EUR 3.43 million, per SME per research and development project or feasibility study.

3. The eligible activities of the aided research and development project or feasibility study shall be those defined as eligible under the Horizon Europe programme rules, excluding activities going beyond experimental development activities.

4. The categories, maximum amounts and methods of calculation of eligible costs of the aided research and development project or feasibility study shall be those defined as eligible under the Horizon Europe programme rules.

5. The total public funding provided for each research and development project or feasibility study shall not exceed the funding rate set out for that project or feasibility study under the Horizon Europe programme rules.

Article 34

Aid for Marie Skłodowska-Curie actions and ERC Proof of Concept actions

1. This Article shall apply to aid for Marie Skłodowska-Curie actions and ERC Proof of Concept actions awarded a Seal of Excellence quality label under the Horizon Europe programme.

2. The eligible activities of the aided action shall be those defined as eligible under the Horizon Europe programme rules.

3. The categories, maximum amounts and methods of calculation of eligible costs of the aided action shall be those defined as eligible under the Horizon Europe programme rules.

4. The total public funding provided for each aided action shall not exceed the maximum level of support provided for in the Horizon Europe programme.

Article 35

Aid for co-funded research and development projects, feasibility studies or research infrastructure or testing and experimentation infrastructure

1. This Article shall apply to aid provided to a co-funded research and development project (including research and development projects implemented under a European institutionalised Partnership based on Article 185 or Article 187 of the Treaty or a programme co-fund action, as defined in the Horizon Europe programme rules), a feasibility study or a research infrastructure or a testing and experimentation infrastructure which is implemented by at least three Member States, or alternatively two Member States and at least one associated country, and selected on the basis of the evaluation and ranking made by independent experts following trans-national calls in line with Horizon Europe Programme rules.

2. This Article shall not apply to aid which exceeds the maximum amounts defined as eligible under the Horizon Europe programme rules.

3. The eligible activities of the aided research and development project, feasibility study or a research infrastructure or a testing and experimentation infrastructure shall be those defined as eligible under Horizon Europe Programme rules), excluding activities going beyond experimental development activities.

4. The categories, methods of calculation of eligible costs shall be those defined as eligible under the Horizon Europe programme rules.

5. The total public funding provided shall not exceed the funding rate established for the research and development project, a feasibility study or a research infrastructure or a testing and experimentation infrastructure following the selection, ranking and evaluation under Horizon Europe Programme rules.

6. The funding provided by Horizon Europe Programme shall cover part of the co-funded research and development project or a feasibility study and/or a research infrastructure or a testing and experimentation infrastructure.

Article 36

Aid for Teaming actions

1. This Article shall apply to aid provided to co-funded Teaming actions, involving at least two Member States and selected on the basis of the evaluation and ranking made by independent experts following transnational calls under the Horizon Europe programme rules.

2. This Article shall not apply to aid which exceeds the funding rate established for the Teaming action following the selection, ranking and evaluation under Horizon Europe programme rules. In addition, for investments in project related tangible and intangible assets the aid shall not exceed 70 % of the investment costs.

3. The eligible activities of the co-funded Teaming action shall be those defined as eligible under Horizon Europe programme rules. Activities going beyond experimental development activities are excluded.

4. The categories, maximum amounts and methods of calculation of eligible costs shall be those defined as eligible under Horizon Europe programme rules. In addition, investment costs in project-related tangible and intangible assets shall be eligible.

5. For investment aid for infrastructure under a Teaming action the following additional conditions shall apply:

(a) where the infrastructure pursues both economic and non-economic activities, the financing, costs and revenues of each type of activity shall be accounted for separately on the basis of consistently applied and objectively justifiable cost accounting principles;

(b) the price charged for the operation or use of the infrastructure shall correspond to a market price;

(c) access to the infrastructure shall be open to several users and be granted on a transparent and non-discriminatory basis. Undertakings which have financed at least 10 % of the investment costs of the infrastructure may be granted preferential access under more favourable conditions. To avoid overcompensation, such access shall be proportional to the undertaking's contribution to the investment costs and these conditions shall be made publicly available;

(d) where the infrastructure receives public funding for both economic and non-economic activities, Member States shall put in place a monitoring and claw-back mechanism to ensure that the applicable aid intensity is not exceeded as a result of an increase in the share of economic activities compared to the situation envisaged at the time of awarding the aid.

Article 37

Aid involved in the co-funding of projects supported by the European Defence Fund or the European Defence Industrial Development Programme

1. This Article shall apply to aid provided to co-fund a research and development project funded by the European Defence Fund or the European Defence Industrial Development Programme and which is evaluated, ranked and selected in accordance with the European Defence Fund or the European Defence Industrial Development Programme rules.

2. This Article shall not apply to aid which exceeds EUR 100 million, or, as from 1 January 2031, EUR 110 million, per undertaking, per project.

3. The eligible costs of the aided project shall be those defined as eligible under the European Defence Fund or the European Defence Industrial Development Programme rules.

4. The total public funding provided can reach up to 100 % of the eligible costs of the project, meaning that the costs of the project not covered by Union funding can be covered by State aid.

5. In case the aid intensity received by the beneficiary exceeds the maximum aid intensity the beneficiary could have received under Article 32(5), (6) and (7), the beneficiary must pay a market price to the granting authority to use for non-defence applications, the intellectual property rights or prototypes resulting from the project. Non-defence applications are applications in products other than defence-related products listed in the Annex to Directive 2009/43/EC of the European Parliament

and of the Council[71]. In any event, the maximum amount to be paid to the granting authority for this use shall not exceed the difference between the aid received by the beneficiary and the maximum amount of aid the beneficiary could have received applying the maximum aid intensity allowed for that beneficiary under Article 32 (6),(7) and (8).

Article 37a

Aid provided under instruments involving financial support to third parties from a centrally managed Union programme

1. This Article shall apply to aid provided under instruments involving financial support to third parties funded by a Union Programme that is centrally managed by the institutions, agencies, joint undertakings or other bodies of the Union ('centrally managed Union programme').
2. This Article shall not apply to aid which exceeds EUR 660 000 or, as from 1 January 2031, EUR 710 000 per project per undertaking.
3. The eligible activities are limited to research and development activities as defined under the centrally managed Union Programme rules. The maximum funding rates and where applicable, categories and methods of calculation of eligible costs shall be those defined as eligible under the centrally managed Union Programme rules.
4. The selection of the final financial support to third parties aid beneficiaries is carried out through an open, non-discriminatory and transparent procedure on the basis of an evaluation and ranking made by independent experts in line with the centrally managed Union Programme rules.
5. The financial support to third parties supports projects implemented by at least three Member States (or alternatively two Member States and at least one country associated to the Union programme).
6. The total public funding provided shall not exceed the funding rate established for the project under the centrally managed Union Programme rules and is limited to up to 80 % of the eligible costs.

Article 38

Investment aid for research infrastructure and testing and experimentation infrastructure

1. This Article shall apply to aid for the construction or upgrade of research infrastructure which performs economic activities and for testing and experimentation infrastructure.

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[71] Directive 2009/43/EC of the European Parliament and of the Council of 6 May 2009 simplifying terms and conditions of transfers of defence-related products within the Community (OJ L 146, 10.6.2009, p. 1).

2. This Article shall not apply to aid which exceeds EUR 44 million or, as from 1 January 2031, EUR 48 million, per research infrastructure or per testing and experimentation infrastructure.

3. Where a research infrastructure or a testing and experimentation infrastructure pursues both economic and non-economic activities, the financing, costs and revenues of each type of activity shall be accounted for separately on the basis of consistently applied and objectively justifiable cost accounting principles.

4. The price charged for the operation or use of the research infrastructure, or the testing and experimentation infrastructure shall correspond to the market price or reflect their costs including a reasonable margin. SMEs and small mid-caps may be charged prices below market price in compliance with conditions in Article 40.

5. Access to the research infrastructure and testing and experimentation infrastructure shall be accessible on open, transparent and non-discriminatory terms to users. Undertakings which have financed at least 10 % of the investment costs of the infrastructure may be granted preferential access under more favourable conditions. To avoid overcompensation, such access shall be proportional to the undertaking's contribution to the investment costs and those conditions shall be made publicly available.

6. The eligible costs shall be the investment costs in intangible and tangible assets.

7. The aid intensity shall not exceed 50 % of the eligible costs. The aid intensity may be increased up to 60 % subject to at least two Member States providing the public funding, or for a research infrastructure or testing and experimentation infrastructure that is evaluated and selected at Union level.

8. Where a research infrastructure or a testing and experimentation infrastructure receives public funding for both economic and non-economic activities, Member States shall put in place a monitoring and claw-back mechanism to ensure that the applicable aid intensity is not exceeded as a result of an increase in the share of economic activities compared to the situation envisaged at the time of awarding the aid.

Article 39

Aid for innovation clusters

1. This Article shall apply to aid for innovation clusters.

2. This Article shall not apply to aid which exceeds EUR 22 million, or, as from 1 January 2031, EUR 24 million per cluster.

3. Investment aid can be granted to the owner of the innovation cluster. Operating aid can be granted to the operator of the cluster, which may or may not be a different entity to the owner. The owner and the operator, if different from the owner, can

either have a legal personality or be a consortium of undertakings without a separate legal personality. In all instances separate accounting for the costs and revenues of each activity (ownership, operation and use of the cluster) has to be kept according to the applicable accounting standards by each undertaking.

4. Access to the cluster's premises, facilities and activities shall be accessible on open, transparent and non-discriminatory terms to users. Undertakings which have financed at least 10 % of the investment costs of the innovation cluster may be granted preferential access under more favourable conditions. To avoid overcompensation, such access shall be proportional to the undertaking's contribution to the investment costs and those conditions shall be made publicly available.

5. The fees charged for using the cluster’s facilities and for participating in the cluster’s activities shall correspond to the market price or reflect the costs of those facilities and activities including a reasonable margin. SMEs and mid-caps may be charged prices below market price in compliance with conditions set out in Article 40.

6. Investment aid may be granted for the construction or upgrade of innovation clusters. The eligible costs shall be the investment costs in intangible and tangible assets.

7. The aid intensity of investment aid for innovation clusters shall not exceed 50 % of the eligible costs. The aid intensity may be increased by 15 percentage points for innovation clusters located in assisted areas meeting the conditions in Article 107(3)(a) of the Treaty and by 5 percentage points for innovation clusters located in assisted areas meeting the conditions in Article 107(3)(c) of the Treaty

8. Operating aid may be granted for the operation of innovation clusters for a period of up to twenty years.

9. The eligible costs of operating aid for innovation clusters shall be the personnel and administrative costs (including overhead costs) relating to any of the following categories:

(a) animation of the cluster to facilitate collaboration, information sharing and the provision or channelling of specialised and customised business support services;

(b) marketing of the cluster to increase participation of new undertakings or organisations and to increase visibility;

(c) management of the cluster's facilities; organisation of training programmes, workshops and conferences to support knowledge sharing and networking and transnational cooperation.

10. The aid intensity of operating aid shall not exceed 50 % of the eligible costs. The aid intensity may be increased by 15 percentage points for innovation clusters located in assisted areas meeting the conditions in Article 107(3)(a) of the Treaty and by 5 percentage points for innovation clusters located in assisted areas meeting the conditions in Article 107(3)(c) of the Treaty.

Article 40

Mechanism for discretionary passing on to SMEs and small mid-caps transparent aid in the form of prices below the market price by research and knowledge dissemination organisations, research infrastructure, testing and experimentation infrastructure or innovation clusters

Research and knowledge dissemination organisations, research infrastructure, testing and experimentation infrastructure or innovation clusters may act as intermediaries to pass on aid to SMEs and small mid-caps by charging prices below the market price or below the costs including a reasonable margin (i.e. through full or partial market price discounts), if the following cumulative conditions are met:

(a) the advantage consisting in obtaining full or partial market price discounts by SMEs and small mid-caps is quantifiable and demonstrable;

(b) the full or partial market price discounts and the rules in accordance with which SMEs and small mid-caps may apply for and be selected and granted discounts are made publicly available (through web sites and other suitable means) before they are offered;

(c) the research and knowledge dissemination organisation, research infrastructure, testing and experimentation infrastructure or innovation cluster shall keep records of the amounts of aid granted to each SME and small mid-caps in the form of full of partial market price discounts for 10 years from the date on which it granted the last aid to the SME and small mid-caps; and

(d) any aid passed on to SMEs and small mid-caps shall be granted under a scheme and comply with relevant provisions under Article 41 and does not qualify as aid to the intermediary under Article 38 and Article 39 of this Regulation.

Article 41

Innovation aid for SMEs and small mid-caps

1. This Article shall apply to innovation aid for SMEs and small mid-caps.

2. This Article shall not apply to aid which exceeds EUR 12.6 million, or, as from 1 January 2031, EUR 13.7 million, per undertaking, per project.

3. The eligible costs shall be the following:

(a) costs for obtaining, validating and defending patents and other intangible assets;

(b) costs for secondment – meaning temporary employment of staff by a beneficiary with the right for the staff to return to the previous employer – of highly qualified personnel, working on research, development and innovation activities in a newly created function in the beneficiary organisation and not replacing other staff;

(c) costs for innovation advisory and support services, including those services provided by research and knowledge dissemination organisations, research infrastructure, testing and experimentation infrastructure or innovation clusters;

(d) costs for digitalisation.

4. The aid intensity shall not exceed 75 % of the eligible costs for SMEs and 50 % of the eligible costs for small mid-caps.

5. The aid intensity can be increased up to 100 % of the eligible costs if the total amount of aid does not exceed EUR 800 000, or, as from 1 January 2031, EUR 952 000, per undertaking per project.

Article 42

Aid for process and organisational innovation

1. This Article shall apply to aid for process and organisational innovation.

2. This Article shall not apply to aid which exceeds EUR 15.8 million, or, as from 1 January 2031, EUR 17.1 million, per undertaking, per project.

3. Aid to large enterprises shall only be compatible if they effectively collaborate with SMEs in the aided activity.

4. The eligible costs shall be the following:

(a) personnel costs of researchers, technicians and other supporting staff to the extent employed on the project;

(b) costs of instruments, equipment, buildings and land to the extent and for the period used for the project. With regard to buildings, only the depreciation costs corresponding to the life of the project, as calculated on the basis of generally accepted accounting principles are considered as eligible. For land, costs of commercial transfer or actually incurred capital costs are eligible;

(c) costs of contractual research, knowledge and patents bought or licensed from outside sources at arm's length conditions;

(d) additional overheads and other operating expenses, including costs of materials, supplies and similar products, incurred directly as a result of the project. In this case, the project costs used to calculate the indirect costs shall be established on the basis of normal accounting practices and comprise only eligible process or organisational innovation project costs referred to in points (a) to (c).

5. The aid intensity shall not exceed 15 % of the eligible costs for large enterprises effectively collaborating with SMEs in the aided activity, and 50 % of the eligible costs for SMEs.

SECTION 5

AID FOR TRAINING, EMPLOYMENT AND RECRUITMENT; AID WITH A SOCIAL OBJECTIVE

Article 42a

Aid for the recruitment and employment of key workers in SMEs

1. This Article shall apply to aid schemes covering remuneration in shares, share options or share warrants.

2. The value of the share-based remuneration agreements shall not exceed EUR 11 million per year per SME, or, as from 1 January 2031, EUR 12 million. That value shall be determined on the date when the respective share-based remuneration agreement is concluded.

3. Benefits under those schemes shall be granted without prejudice to the workers' rights, including the rights to applicable minimum wages and collectively bargained wages, the rights of disadvantaged workers and workers with disabilities, or the rights under the applicable national social security system.

4. Eligible for aid are undertakings that qualify as SME when the share-based remuneration agreement is concluded.

Article 44

Training aid

1. This Article shall apply to training aid.

2. This Article shall not apply to aid which exceeds EUR 3.8 million per training project or, as from 1 January 2031, EUR 4.1 million.

3. Aid shall not be granted for training which undertakings carry out to comply with national mandatory standards on training. Where national mandatory standards prescribe a minimum content or duration of training activities, aid may only be granted for costs exceeding the minimum standards in force.

4. The eligible costs shall be the following:

(a) trainers' personnel costs, for the hours during which the trainers participate in the training;

(b) trainers' and trainees' operating costs directly relating to the training project such as travel expenses, accommodation costs, materials and supplies directly related to the project, depreciation of tools and equipment, to the extent that they are used exclusively for the training project;

(c) costs of advisory services linked to the training project;

(d) trainees' personnel costs and general indirect costs (administrative costs, rent, overheads) for the hours during which the trainees participate in the training.

5. The aid intensity shall not exceed 50 % of the eligible costs.

(a) The aid may be increased, up to a maximum aid intensity of 100 % of the eligible costs, as follows:

 (i) by 10 percentage points if the training is given to workers with disabilities or disadvantaged workers;

 (ii) by 10 percentage points if the aid is granted to medium-sized enterprises and by 20 percentage points if the aid is granted to small enterprises;

 (iii) by 10 percentage points if the training is given in a remote region or in an assisted area under Article 107(3), point (a), of the Treaty and by 5 percentage points in an assisted area under Article 107(3), point (c), of the Treaty;

 (iv) by 10 percentage points if the training aims at enhancing skills is in the fields of digitalisation, science, technology, engineering and mathematics, including vocational-level training;

 (v) by 10 percentage points if the training aims at upskilling or reskilling workers in regions covered by a territorial just transition plans in accordance with Regulation (EU) 2021/1056 of the European Parliament and of the Council[72];

 (vi) by 10 percentage points if the training is provided by a social enterprise to its own workers.

(b) Where the aid is granted in the maritime transport sector, the aid intensity may be increased to 100 % of the eligible costs provided that the trainees are not active members of the crew but are supernumerary on board and the training is carried out on board of ships entered in Union registers.

(c) Where the total amount of aid under this Article does not exceed EUR 300 000 per training project over any period of one year, the aid intensity may be increased to 100 % of the eligible costs.

[72] Regulation (EU) 2021/1056 of the European Parliament and of the Council of 24 June 2021 establishing the Just Transition Fund (OJ L 231, 30.6.2021, p. 1, ELI: http://data.europa.eu/eli/reg/2021/1056/oj).

Article 45

Aid for the recruitment of disadvantaged workers in the form of wage subsidies

1. This Article shall apply to aid for the recruitment of disadvantaged workers in the form of wage subsidies.

2. This Article shall not apply to aid which exceeds aid EUR 7 million, or, as from 1 January 2031, EUR 7.5 million per undertaking, per year.

3. Eligible costs shall be the wage costs over a maximum period of 24 months following recruitment of a disadvantaged worker. Where the worker concerned is a severely disadvantaged worker, eligible costs shall be the wage costs over a maximum period of 36 months following recruitment.

4. The recruitment shall result in a net increase in the number of employees in the undertaking concerned, compared with the average over the previous 12 months, unless the post or posts have fallen vacant following voluntary departure, disability, retirement on grounds of age, voluntary reduction of working time or lawful dismissal for misconduct and not as a result of redundancy.

5. The disadvantaged workers shall be entitled to continuous employment for a minimum period consistent with the national legislation concerned or any collective agreements governing employment contracts, except in the case of lawful dismissal for misconduct.

6. If the period of employment is shorter than 24 months, or 36 months in the case of severely disadvantaged workers, the aid shall be reduced pro rata accordingly.

7. The aid intensity shall not exceed 65 % of the eligible costs.

Article 46

Aid for compensating the costs of assistance provided to disadvantaged workers

1. This Article shall apply to aid compensating the costs of assistance provided to disadvantaged workers.

2. This Article shall not apply to aid which exceeds EUR 7 million, or, as from 1 January 2031, EUR 7.5 million per undertaking, per year.

3. The eligible costs shall be the costs of:

(a) employing staff solely for time spent on the assistance of the disadvantaged workers over a maximum period of 24 months following recruitment of a disadvantaged worker or over a maximum period of 36 months following recruitment of a severely disadvantaged worker;

(b) training such staff to assist disadvantaged workers.

4. Aid shall not be granted for costs that are covered by the social security system of the Member State.

5. The assistance provided shall consist of measures to support: the disadvantaged worker's autonomy and adaptation to the work environment; in accompanying the worker in social and administrative procedures; and, facilitation of communication with the entrepreneur and managing conflicts.

6. The aid intensity shall not exceed 65 % of the eligible costs.

Article 47

Aid for the employment of workers with disabilities in the form of wage subsidies

1. This Article shall apply to aid for the employment of workers with disabilities in the form of wage subsidies.

2. This Article shall not apply to aid which exceeds EUR 14 million or, as from 1 January 2031, EUR 15 million per undertaking, per year.

3. Eligible costs shall be the wage costs during which the worker with disabilities is employed. If the worker qualifies as a worker with disabilities after their employment, support can be granted starting as of that point in time. Aid shall not be granted for costs that are covered by the social security system of the Member State.

4. The recruitment shall result in a net increase in the number of employees in the undertaking concerned, compared with the average over the previous 12 months, unless the post or posts have fallen vacant following voluntary departure, disability, retirement on grounds of age, voluntary reduction of working time or lawful dismissal for misconduct and not as a result of redundancy.

5. Workers with disabilities shall be entitled to continuous employment for a minimum period consistent with the national legislation concerned or any collective agreements governing employment contracts, except in the case of lawful dismissal for misconduct.

6. The aid intensity shall not exceed 85 % of the eligible costs.

Article 48

Aid for compensating the additional costs of employing workers with disabilities

1. This Article shall apply to aid compensating the additional costs of employing workers with disabilities.

2. This Article shall not apply to aid which exceeds EUR 14 million or, as from 1 January 2031, EUR 15 million per undertaking, per year.

3. The eligible costs shall be limited to the costs arising in relation to the worker with disabilities and shall be the following:

(a) costs of adapting the premises provided that they comply with reasonable accommodation obligations as laid down by Article 5 of Council Directive 2000/78/EC[73];

(b) costs of employing staff solely for time spent on the assistance of the workers with disabilities, including during hiring, and of training such staff to assist workers with disabilities;

(c) costs of adapting or acquiring equipment, or acquiring and validating software for use by workers with disabilities, provided that they comply with reasonable accommodation obligations as laid down by Article 5 of Directive 2000/78/EC; including adapted or assistive technology facilities, which are additional to those which the beneficiary would have incurred had it employed workers who are not workers with disabilities;

(d) costs directly linked to transport of workers with disabilities to the working place and for work related activities;

(e) wage costs for the hours spent by a worker with disabilities on rehabilitation;

(f) where the beneficiary provides sheltered employment, the costs of constructing, installing or modernising the production units of the undertaking concerned, and any costs of administration and transport, provided that such costs result directly from the employment of workers with disabilities.

4. Aid shall not be granted for costs that are covered by the social security system of the Member State.

5. The aid intensity shall not exceed 100 % of the eligible costs.

Article 49

Social aid for transport for residents of remote regions

1. This Article shall apply to aid for the transport of final consumers who have their normal residence in remote regions. For the purpose of this Article, 'normal residence' means the place where a natural person lives for at least 185 days, in each calendar year, because of personal and occupational ties; in the case of a person whose occupational ties are in a different place from his/her personal ties and who lives in two or more Member States, the place of normal residence is regarded as the

[73] Council Directive 2000/78/EC of 27 November 2000, establishing a general framework for equal treatment in employment and occupation (OJ L 303, 2.12.2000, p. 16, ELI: http://data.europa.eu/eli/dir/2000/78/oj).

place of his/her personal ties provided that he/she returns there regularly; where a person is living in a Member State in order to carry out a task of a set duration, the place of residence is still regarded as being the place of his/her personal ties, irrespective of whether he/she returns there during the course of this activity; attendance at a university or school in another Member State does not constitute a transfer of normal residence; alternatively, 'normal residence' shall have the meaning attributed to it in Member States' national law.

2. The aid shall be granted for air and maritime passenger transport on a route linking an airport or port in a remote region with another airport or port within the European Economic Area.

3. The aid shall be granted without discrimination as to the identity of the carrier or type of service and without limitation as to the precise route to or from the remote region in question.

4. The eligible costs shall be the price of a return ticket from or to the remote region in question, including all taxes and charges invoiced by the carrier to the consumer.

5. The aid intensity shall not exceed 100 % of the eligible costs.

SECTION 6

AID FOR ENVIRONMENTAL PROTECTION

Article 50

Scope of aid for environmental protection

This Section shall not apply to aid measures for production of nuclear energy.

Article 51

Investment aid for climate protection

1. This Article shall apply to investment aid for the reduction, and removal of greenhouse gas emissions.

2. This Article shall not apply to aid which exceeds EUR 38 million, or, as from 1 January 2031, EUR 41 million per undertaking per project.

3. This Article shall not apply to:

(a) measures for which more specific rules are set out in this Section or in Article 80;

(b) aid for investments in assets, using fossil fuels including natural gas, and including assets where fossil fuels are used in combination with other energy sources.

4. An increase in the level of climate protection shall be demonstrated in the form of the reduction or removal of greenhouse gas emissions as set out in the following points:

(a) investments concerning the decarbonisation of an existing installation without increase of the production capacity shall reduce or capture the direct greenhouse gas emissions from that installation, compared to the situation prior to the investment;

(b) investments in new installations or investments increasing production capacity of an existing installation shall reduce or capture the direct greenhouse gas emissions from those installations, compared to the counterfactual investment that can be expected to have occurred in the absence of the aid;

(c) by exception to points (a) and (b), the following investments are assumed to deliver a reduction or removal of greenhouse gases emissions:

  (i) investments in dedicated infrastructure for the transport, distribution or storage of low-carbon fuels;

  (ii) investments in dedicated infrastructure for transport and storage of waste heat;

  (iii) investments in dedicated infrastructure for transport of CO2;

  (iv) investments in a connection to an energy infrastructure for hydrogen, waste heat or CO2; and

  (v) investments enabling the recovery and use of third-party waste heat.

5. Where the aid is granted for investments involving the production, use, transport, distribution or storage of hydrogen and hydrogen-derived fuels, the aided fuels shall be either RFNBOs or low-carbon fuels.

6. Investments in the capture and transport of CO2 shall meet the following cumulative conditions:

(a) the captured CO2 will be either transported to a storage site for injection and permanent storage in an underground geological formation (“CCS”), or transported to a CO2-consumption or utilisation site for usage of that CO2 (“CCU”);

(b) taking into account the avoided costs of CO2 emissions as a revenue, the NPV of the investment project over its lifetime shall be negative.

7. Aid shall not be granted where investments are undertaken to comply with the Union standards in force.

8. The eligible costs are:

(a) for investments referred to in paragraph 4, points (a) and (c), the total investment costs except investment costs related to permanent storage costs for CCS and investment costs related to use of CO2 for CCU;

(b) for investments referred to in paragraph 4, point (b), the difference between the investment costs of the project and those of a counterfactual investment that can be expected to have occurred in the absence of the aid;

9. The aid intensity shall not exceed:

(a) 10 % of the total investment costs for investments referred to in paragraph 4, points (a) and (c), or the following higher aid intensities for investments referred to in paragraph 4, points (a) and (c), that:

  (i) reduce the existing sub-installation's greenhouse gas emissions by at least 40 %, or

  (ii) reduce greenhouse gas emissions of an equipment within the existing installation by at least 90 %:

  – 60 % of the total investment costs for investments enabling the use of hydrogen or hydrogen-derived fuels, where the share of RFNBOs referred to in paragraph 5 is at least 40 %;

  – 45 % of the total investment costs for investments in electrification combined with energy storage or with investment in demand response, as defined in Article 2, point (20), of Directive (EU) 2019/944;

  – 45 % of the total investment costs for investments in carbon capture equipment where the captured CO2 upon entry into operation is (i) utilised in such a way that it has become permanently chemically bound in a product so that it does not enter the atmosphere under normal use, including any normal activity taking place after the end of the life of the product, or (ii) used for the production of synthetic fuels or (iii) permanently stored in sites permitted in accordance with Directive 2009/31/EC;

  – 35 % of the total investment costs for investments enabling the use of low-carbon fuels referred to in paragraph 5;

  – 30 % of the total investment costs for other investments reducing greenhouse gas emissions;

  – 20 % of the total investment costs for investments in the production of low-carbon fuels referred to in paragraph 5;

(b) 40 % of the eligible costs for investments referred to in paragraph 4, point (b).

(c) The aid intensities in point (a) may be increased by:

  (i) 5 percentage points for aid granted to medium-sized undertakings and 10 percentage points for aid granted to small undertakings or, alternatively, where the total aid amount does not exceed EUR 1.89 million or, as from

1 January 2031, EUR 2.06 million per undertaking, per project, 10 percentage points for aid to any undertaking, regardless of its size;

(ii) 7.5 percentage points for investments located in assisted areas under Article 107(3), point (a) of the Treaty and 2.5 percentage points for investments located in assisted areas under Article 107(3), point (c) of the Treaty;

(d) The aid intensity in point (b) may be increased by:

(i) 10 percentage points for aid granted to medium-sized undertakings and 20 percentage points for aid granted to small undertakings or, alternatively, where the total aid amount does not exceed EUR 1.89 million or, as from 1 January 2031, EUR 2.06 million per undertaking, per project, 20 percentage points for aid to any undertaking, regardless of its size;

(ii) 15 percentage points for investments located in assisted areas under Article 107(3), point (a) of the Treaty or and by 5 percentage points for investments located in assisted areas under Article 107(3), point (c) of the Treaty.

10. As an alternative to the method set out in paragraph 9, and provided that the aid intensity does not exceed 100 % of the total investment costs, the maximum aid amount can be determined as follows:

(a) if the discounted revenues exceed the discounted operating costs over the economic lifetime of the investment, the aid may reach up to 100 % of the funding gap;

(b) the aid amount may be determined through a competitive bidding process where at least 70 % of the total selection criteria used for ranking bids and allocating aid are defined in terms of aid in relation to the reduction of CO_2 emissions.

Article 52

Investment aid for the prevention or reduction of pollution and for actions for climate resilience

1. This Article shall apply to investment aid for the prevention or reduction of pollution and for actions for climate resilience.

2. This Article shall not apply to aid which exceeds EUR 38 million or, as from 1 January 2031, EUR 41 million per undertaking per project.

3. This Article shall not apply to:

(a) measures for which more specific rules in this Section or in Article 80 apply.

(b) aid for investments in assets using fossil fuels including natural gas and including assets where fossil fuels are used in combination with other energy sources.

4. The investment shall be able to:

(a) prevent or reduce pollution other than from greenhouse gases as described below:

(i) where Union standards apply, for investments in existing installations without increase of the production capacity, the aid shall enable undertakings to go beyond applicable Union standards or comply with Union standards that have been adopted but are not yet in force, if the investment is implemented and finalised at least 18 months before the date of entry into force of the adopted Union standards;

(ii) in the absence of Union standards, for investments in existing installations without increase of the production capacity, the aid shall enable the undertakings to prevent or reduce pollution other than from greenhouse gases compared to the situation prior to the investment;

(iii) for investments in new installations or investments increasing production capacity, the aid shall enable the undertakings to prevent or reduce pollution other than from greenhouse gases compared to the counterfactual investment that can be expected to have occurred in the absence of aid.

(b) or enable a higher adaptive capacity (i.e. a higher ability to prevent or limit potential damage) or reduce vulnerability (i.e. a propensity or predisposition to be adversely affected) to current and future climate impacts by means of a climate risk assessment compared to the counterfactual investment that can be expected to have occurred in the absence of aid. Investments to increase climate resilience must: (i) not adversely affect the climate resilience efforts or the level of resilience to physical climate risks of other people, of nature, of cultural heritage, of assets and of other economic activities; (ii) prioritise nature-based solutions; and (iii) be consistent with local, sectoral, regional or national adaptation or climate resilience plans and strategies. Investments in desalination plants are eligible provided that: (i) the desalination plants are used to produce water for human consumption as defined in the Drinking Water Directive, (ii) brine discharge follows relevant brine discharge criteria, (iii) the desalination plant is powered by renewable energy or is connected to the electricity grid and (iv) the investment reduces pressures on waterbodies failing good status or at risk of such, according to the River Basin Management Plan under Article 13 of Water Framework Directive.

5. The eligible costs shall be the following:

(a) for investments referred to in paragraph 4, points (a)(i) and (ii), the total investment costs;

(b) for investments referred to in paragraph 4, point (a), (iii) and (b), the difference between the investment costs of the project and those of a counterfactual investment that can be expected to have occurred in the absence of the aid.

6. The aid intensity shall not exceed:

(a) 10 % of the total investment costs for investments referred to in paragraph 4, points (a)(i) and (ii);

(b) 20 % of the total investment costs for investments referred to in paragraph 4, point (a)(i) going beyond 10 % of the applicable Union standard;

(c) 20 % of the total investment costs for investments referred to in paragraph 4, point (a)(ii) reducing by 40 % the pollution other than from greenhouse gases compared to the situation without the aid, in the absence of Union standards;

(d) 40 % of the eligible costs for investments referred to in paragraph 4, points (a)(iii) and (b);

(e) The aid intensities in points (a), (b) and (c) may be increased by:

   (i) 5 percentage points for aid granted to medium-sized undertakings and 10 percentage points for aid granted to small undertakings or, alternatively, where the total aid amount does not exceed EUR 1.89 million or, as from 1 January 2031, EUR 2.06 million per undertaking, per project, 10 percentage points for aid to any undertaking, regardless of its size;

   (ii) 7.5 percentage points for investments located in assisted areas under Article 107(3), point (a) of the Treaty or and by 2.5 percentage points for investments located in assisted areas under Article 107(3), point (c) of the Treaty.

(f) The aid intensity in point (d) may be increased by:

   (i) 10 percentage points for aid granted to medium-sized undertakings and 20 percentage points for aid granted to small undertakings or, alternatively, where the total aid amount does not exceed EUR 1.89 million or, as from 1 January 2031, EUR 2.06 million per undertaking, per project, 20 percentage points for aid to any undertaking, regardless of its size;

   (ii) 15 percentage points for investments located in assisted areas under Article 107(3), point (a) of the Treaty or and by 5 percentage points for investments located in assisted areas under Article 107(3), point (c) of the Treaty.

7. Alternatively to the method set out in paragraph 6, for investments referred to in paragraph 4, point (a), the maximum aid amount can be determined as follows:

(a) if the discounted revenues exceed the discounted operating costs over the economic lifetime of the investment, the aid may reach up to 100 % of the funding gap but may not exceed 100 % of the investment costs;

(b) the aid amount may be determined through a competitive bidding process where at least 70 % of the total selection criteria used for ranking bids and allocating aid are defined in terms of aid, in relation to the project's contribution to the environmental objectives of the measure, for example the aid requested per unit of environmental protection to be delivered. In that case, the aid intensity may not exceed 100 % of the total investment costs.

Article 53

Investment aid for the acquisition of clean vehicles or zero-emission vehicles and for the retrofitting of vehicles

1. This Article shall apply to investment aid for the acquisition and leasing of clean vehicles or zero-emission vehicles for road, rail, air, inland waterway and maritime transport, excluding fishing vessels and vessels that are permanently moored and used exclusively as floating hotels, restaurants, casinos or other hospitality or leisure establishments, and for the retrofitting of vehicles to qualify as clean vehicles or as zero-emission vehicles.

2. This Article shall not apply to aid which exceeds EUR 38 million or, as from 1 January 2031, EUR 41 million per undertaking per investment project.

3. The investment aid shall concern:

(a) the acquisition and leasing of clean vehicles for rail, inland waterway and maritime transport. 'Clean vehicle' means:

(i) an inland waterway vessel which is specifically enabled to achieve a yearly average well-to-wake GHG intensity of the energy which does not exceed 15.3 g CO2e/MJ;

(ii) a maritime vessel,:

a) which is specifically enabled to achieve a yearly average well-to-wake GHG intensity of the energy which does not exceed 15.3 g CO2e/MJ; or

b) for passenger and/or freight transport that has an attained Energy Efficiency Design Index (EEDI) value equivalent to reducing the EEDI reference line by the values presented in the table below and where:

- for a passenger or container ship it is able to plug-in at berth;

- for a gas-fuelled vessel it demonstrates the use of measures and technologies to mitigate methane and /or nitrous oxides emissions below 9.12 gCO2e/MJ;

- for a dual-fuel methanol vessel, the values presented in the table below should be multiplied by 0.85;

Reduction targets for EEDI/EEXI	
Ship Type	Reduction factor from EEDI reference line (%)
Bulk Carriers	34
Gas Carriers	38
Tankers	35
Containerships	60
General Cargo	60
Refrigerated Cargo Carriers	46
Combination Carriers	30
LNG Carriers	61
Ro-Ro Cargo (Vehicle Carriers)	44
Ro-Ro Cargo	53
Ro-Pax	45
Cruise Liners	52

or

c) a vessel with at least 15 % of the propulsion energy coming from wind-assisted propulsion systems;

(iii) a rolling stock that has zero direct tailpipe CO2 emissions when operated on a track with necessary infrastructure and that uses a conventional engine where such infrastructure is not available (bimode);

(b) the acquisition and leasing of zero-emission vehicles for road, rail, air, inland waterway and maritime transport. 'Zero-emission vehicle' means:

(i) a two or three-wheel vehicle or quadricycle within the meaning of Regulation (EU) No 168/2013 of the European Parliament and of the Council[74] with zero tailpipe CO2 emissions, calculated in accordance with the requirements in Article 24 and Annex V to that Regulation;

(ii) a light-duty road vehicle, namely: a vehicle of category M1, M2 or N1 with zero tailpipe CO2 emissions, as determined in accordance with the requirements in Commission Regulation (EU) 2017/1151[75];

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74 Regulation (EU) No 168/2013 of the European Parliament and of the Council of 15 January 2013 on the approval and market surveillance of two- or three-wheel vehicles and quadricycles (OJ L 60, 2.3.2013, p. 52, ELI: http://data.europa.eu/eli/reg/2013/168/oj).

75 Commission Regulation (EU) 2017/1151 of 1 June 2017 supplementing Regulation (EC) No 715/2007 of the European Parliament and of the Council on type-approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information (OJ L 175, 7.7.2017, p. 1, ELI: http://data.europa.eu/eli/reg/2017/1151/oj).

(iii) a heavy-duty road vehicle e as defined in Article 3, point (11), of Regulation (EU) 2019/1242 with zero-emissions;

(iv) an inland waterway vessel with zero tank-to-wake GHG emissions;

(v) a maritime vessel:

- that has zero tank-to-wake GHG emissions, or

- that uses sailing propulsion as primary source of energy, that is, if it can achieve a relation of Pwind/Pprop above 0.8;

(vi) a non-road mobile machinery that is self-propelled with a propulsion system, that is designed and constructed for the purpose of performing work, with zero tailpipe CO2 emissions;

(vii) a rail rolling stock that has zero direct tailpipe CO2 emissions;

(viii) concerning aircraft: an aircraft that has zero direct tailpipe CO2 emissions;

(c) the acquisition and leasing of zero-emission mobile service equipment;

(d) the retrofitting of vehicles allowing them to qualify as clean vehicles or zero-emission vehicles as referred to in paragraph 3;

(e) the retrofitting of inland waterway or maritime vessels that achieves a reduction of energy consumption of the vessel by at least 15 % expressed in grams of fuel, as demonstrated by computational fluid dynamics (CFD), tank tests or similar engineering calculations:

(i) for maritime vessels, per deadweight tons per nautical mile for freight vessels, or per gross tonnage per nautical mile for passenger vessel;

(ii) for inland waterway vessels, per deadweight tons per km for freight vessels, or per person per km for passenger vessels, or;

(iii) for maritime and inland waterway vessels other than for the transport of passengers or freight, per work unit;

(f) the retrofitting of maritime vessels to install wind-assisted propulsion systems that can increase the share of the vessel's propulsion energy provided by wind by at least 10 %;

(g) the retrofitting of maritime vessels that results in an improvement of the vessel’s attained Energy Efficiency Existing Ship Index (EEXI) value by at least 10 percentage points, and where:

(i) for container and passenger vessels, they are able to plug-in at berth;

(ii) for gas-fuelled vessels, they demonstrate the use of measures and technologies to mitigate methane and /or nitrous oxides emissions below 9.12 gCO_2e/MJ.

4. Aid shall be granted for the acquisition or the leasing for a duration of at least 12 months of clean vehicles powered at least partially by electricity, or by hydrogen and of vessels powered also by ammonia or methanol, or of zero-emission vehicles and for the retrofitting of vehicles allowing them to qualify as clean vehicles or zero-emission vehicles as referred to in paragraph 3.

5. Aid for the acquisition and leasing of vehicles and for the retrofitting of vehicles shall not fall within the scope of Article 49, Article 50 and Article 55.

6. The eligible costs shall be the following:

(a) for investments consisting in the purchase of clean vehicles or zero-emission vehicles, the extra costs of purchasing the clean vehicle or the zero-emission vehicle compared to a conventional vehicle of the same category that could be expected to be acquired without the aid;

(b) for investments consisting in the leasing of clean vehicles or zero-emission vehicles, the extra costs of leasing the clean vehicle or the zero-emission vehicle compared to a conventional vehicle of the same category that could have been expected to be leased without the aid;

(c) for investments consisting in the retrofitting of vehicles allowing them to qualify as clean vehicles or zero-emission vehicles, the part of the costs of the investment in the retrofitting enabling them to qualify as clean vehicles or zero-emission vehicles;

(d) for investments consisting in the retrofitting of inland waterway or maritime vessels, referred to in paragraph 3, points (e), (f) and (g), the costs of the investment in the retrofitting that are necessary to achieve the environmental performance requirements laid down in those points.

7. The maximum aid amount shall be determined according to one of the two following options:

(a) The aid intensity shall not exceed:

(i) When the aid is granted based on an aid scheme, 20 % of the eligible cost. The aid intensity may be increased by 10 percentage points for zero-emission vehicles. In addition, it may be increased by 20 percentage points for medium-sized enterprises or by 30 percentage points for small enterprises or, alternatively, where the total aid amount does not exceed EUR 1.89 million or, as from 1 January 2031, EUR 2.06 million per project, per undertaking, by 30 percentage points for aid to any undertaking, regardless of its size;

(ii) 20 % of the eligible cost when the aid is granted for undertakings that have been awarded a public service contract to provide public passenger transport services by land, rail or water in accordance with Regulation (EC) No 1370/2007 of the European Parliament and of the Council[76] or of rail freight transport in accordance with the Guidelines on State aid for land and multimodal transport[77], the aid shall be granted only in relation to the acquisition of clean vehicles or zero-emission vehicles that are used for the sole provision of those services, under the contract. The aid intensity may be increased by 10 percentage points for zero-emission vehicles.

(b) The aid amount may be determined through a competitive bidding process where at least 70 % of the total selection criteria used for ranking bids and allocating aid are defined in terms of aid, in relation to the project's contribution to the environmental objectives of the measure, for example aid requested per clean or zero-emission vehicle. In that case, the aid intensity may not exceed 100 % of the eligible costs of the clean and zero-emission vehicles.

Article 54

Investment aid for recharging or refuelling infrastructure

1. This Article shall apply to investment aid for recharging or refuelling infrastructure.

2. This Article shall not apply to aid which exceeds EUR 38 million or, as from 1 January 2031, EUR 41 million per undertaking per project.

3. For the purpose of this Article 'infrastructure that is not accessible to the public' means infrastructure which is intended for use by the aid beneficiary and may be open on an ancillary basis for use by employees, external contractors or suppliers of the aid beneficiary.

4. This Article shall only cover aid granted for fixed or mobile recharging or refuelling infrastructure that supplies vehicles, and zero-emission mobile service equipment with electricity or, hydrogen, or concerning the refuelling of inland waterway or maritime vessels with ammonia or methanol.

5. The aid granted to one undertaking shall not exceed 40 % of the total budget of the scheme concerned.

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76 Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) No 1191/69 and (EEC) No 1107/70 (OJ L 315, 3.12.2007, p. 1, ELI: http://data.europa.eu/eli/reg/2007/1370/oj).

77 Communication from the Commission - Guidelines on State aid for land and multimodal transport (OJ C, C/2026/1656, 30.3.2026, ELI: http://data.europa.eu/eli/C/2026/1656/oj).

6. The necessity of aid to invest in recharging or refuelling infrastructure of the same category as the infrastructure that would be deployed with aid (for example, for recharging infrastructure: normal or high power) shall be established through an ex ante open public consultation or an independent market study, which are no older than two years before the aid measure enters into force. In particular, it shall be established that no such investment is likely to take place on commercial terms within three years from the entry into force of the aid measure. The obligation to conduct an ex ante open public consultation or independent market study in this paragraph shall not apply to:

(a) aid for the construction, installation, upgrade or extension of recharging or refuelling infrastructure that is not accessible to the public;

(b) aid for the construction, installation, upgrade or extension of recharging or refuelling infrastructure for road vehicles where vehicles powered exclusively by electricity (for recharging infrastructure) or vehicles powered at least partially by hydrogen (for refuelling infrastructure) represent respectively less than 5 % of the total number of vehicles of the same category registered in the Member State concerned. Passenger cars and light-duty commercial vehicles shall be considered to be part of the same category of vehicles.

7. For refuelling infrastructure supplying hydrogen, ammonia or methanol, the Member State shall obtain from the beneficiary a commitment that by 31 December 2035 at the latest, the refuelling infrastructure will supply renewable or low-carbon hydrogen and by 31 December 2030 at the latest, the refuelling infrastructure will supply low-carbon or RFNBO compliant ammonia or methanol.

8. For recharging or refuelling infrastructure other than not accessible to the public, aid shall only be granted for the construction, installation, upgrade or extension of recharging or refuelling infrastructure that provides non-discriminatory access to users, including in relation to fees, authentication and payment methods and other terms and conditions of use. The fees charged to users other than the aid beneficiary or beneficiaries for using the recharging or refuelling infrastructure shall correspond to market prices.

9. Operators of recharging or refuelling infrastructure that offer or allow contract-based payments on their infrastructure shall not discriminate between mobility service providers, for example by applying preferential access conditions, or through price differentiation without an objective justification.

10. The eligible costs shall be:

(a) the costs of the construction, installation, upgrade or extension of recharging or refuelling infrastructure;

(b) the investment costs of on-site production of renewable electricity or renewable hydrogen, and the investment costs of storage units for storing hydrogen or renewable electricity. The nominal production capacity of the on-site renewable electricity or renewable hydrogen production installation shall not exceed the maximum rated output or refuelling capacity of the recharging or refuelling infrastructure to which it is connected.

11. The aid intensity shall not exceed:

(a) 20 % of the eligible costs when the aid is based on an aid scheme;

(b) 20 % of the eligible costs when the aid is granted for undertakings that have been awarded a public service contract to provide public passenger transport services by land, rail or water in accordance with Regulation (EC) No 1370/2007 or rail freight transport in accordance with the Guidelines on State aid for land and multimodal transport. In this case, the aid shall be granted only in relation to the recharging or refuelling infrastructure that will be used solely for vehicles covered by the public service contract.

(c) The aid intensity in point (a) may be increased by:

(i) 20 percentage points for medium-sized enterprises and 30 percentage points for small enterprises, or, alternatively, where the total aid amount does not exceed EUR 1.89 million or, as from 1 January 2031, EUR 2.06 million per undertaking, per project, 30 percentage points for aid to any undertaking, regardless of its size;

(ii) 15 percentage points for investments located in assisted areas under Article 107(3), point (a), of the Treaty or by 5 percentage points for investments located in assisted areas under Article 107(3), point (c) of the Treaty.

12. Alternatively to the method set out in paragraph 10, the aid amount may be determined through a competitive bidding process where at least 70 % of the total selection criteria used for ranking bids and allocating aid are defined in terms of aid, in relation to the project's contribution to the environmental objectives of the measure, for example aid requested per recharging or refuelling point.

Article 55

Investment aid for energy efficiency measures other than in buildings

1. This Article shall apply to investment aid enabling undertakings to improve energy efficiency other than in buildings.

2. This Article shall not apply to aid which exceeds EUR 38 million or, as from 1 January 2031, EUR 41 million per undertaking per project.

3. For the purpose of this Article "payback period" means the amount of time needed to recover the costs of the investment without aid, through energy savings.

4. This Article shall not apply to:

(a) aid for energy efficiency measures in buildings;

(b) aid for cogeneration and aid for district heating or cooling;

(c) aid for reducing the environmental footprint of vehicles;

(d) aid for the reduction, and removal of greenhouse gas emissions;

(e) aid for investments in assets using fossil fuels including natural gas and including assets where fossil fuels are used in combination with other energy sources.

5. The investment shall increase the level of energy efficiency of the beneficiary´s activities. The level of energy savings shall be calculated on the basis of the final energy consumption of the equipment, compared to the situation without the aid.

6. Aid under this Article may only be granted for investments with a payback period of at least four years.

7. Aid shall not be granted for investments undertaken to comply with Union standards that have been adopted and are in force. Aid may be granted for investments undertaken to comply with Union standards that have been adopted but are not yet in force, provided that the investment is implemented and finalised at least 18 months before the standard enters into force.

8. The eligible costs shall be the total investment costs of the energy efficiency improvement.

9. The aid intensity shall not exceed:

(a) 10 % of the eligible costs;

(b) 30 % of the eligible costs for investments in installations where at least 90 % of total energy inputs do not produce direct greenhouse gas emissions or are zero-rated within the meaning of Article 3, point (23c), of Commission Implementing Regulation (EU) 2018/2066[78], provided that the investment reduces the nominal energy demand of the equipment at least 10 % compared to the situation prior to the investments.

(c) The aid intensities under points (a) and (b) may be increased by:

(i) 5 percentage points for aid granted to medium-sized undertakings and 10 percentage points for aid granted to small undertakings or, alternatively,

[78] Commission Implementing Regulation (EU) 2018/2066 of 19 December 2018 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council and amending Commission Regulation (EU) No 601/2012 (OJ L 334, 31.12.2018, p. 1, ELI: http://data.europa.eu/eli/reg_impl/2018/2066/oj).

10 percentage points where the total aid amount does not exceed EUR 1.89 million or, as from 1 January 2031, EUR 2.06 million per undertaking, per project, for aid to any undertaking, regardless of its size;

(ii) 7.5 percentage points for investments located in assisted areas under Article 107(3), point (a), of the Treaty and by 2.5 percentage points for investments located in assisted areas under Article 107(3), point (c), of the Treaty.

10. Alternatively to the method set out in paragraph 8, the aid amount may be determined through a competitive bidding process where at least 70 % of the total selection criteria used for ranking bids and allocating aid are defined in terms of aid, in relation to the project's contribution to the environmental objectives of the measure, for example aid requested per expected units of energy saved or of energy efficiency gained. In that case, the aid intensity may not exceed 100 % of the total investment costs.

Article 56

Investment aid for energy performance measures in buildings

1. This Article shall apply to investment aid enabling undertakings to achieve higher energy performance of buildings.

2. For the purpose of this Article:

(a) 'social housing' means housing made available, pursuant to measures set up at local, regional or national level, to disadvantaged households or socially less advantaged groups, including people experiencing homelessness, who due to solvency constraints are unable to obtain housing at market conditions;

(b) 'affordable housing' means housing made available, pursuant to measures set up at local, regional or national level, to households that are not able, due to market outcomes and notably market failures, to access housing at affordable conditions..

3. This Article shall not apply to aid which exceeds EUR 38 million or, as from 1 January 2031, EUR 41 million per undertaking per investment project.

4. This Article shall not apply to:

(a) aid for cogeneration and aid for district heating or cooling;

(b) aid for investments in assets using fossil fuels including natural gas and including assets where fossil fuels are used in combination with other energy sources.

5. The investment shall increase the level of energy performance of the building within the meaning of Article 2, point (8), of Directive 2024/1275/EU of the European Parliament and of the Council[79].

6. In case of renovation of existing buildings, the aid shall induce an improvement in the energy performance of the building measured in primary energy of at least 20 % compared to the situation before the investment.

7. In case of construction of new buildings, the aid shall induce an improvement in the energy performance of the building, measured in primary energy, of at least 10 % compared to the threshold set for the nearly zero-energy building requirements in national measures transposing Directive 2010/31/EU of the European Parliament and of the Council[80] until 31 December 2027 and of at least 10 % compared to the threshold set for the zero-emission building requirements in national measures transposing Directive 2024/1275/EU from 1 January 2028.

8. The aid may be granted either to the building owner(s) or the tenant(s), depending on who is commissioning the energy performance measure.

9. For social housing and affordable housing measures, the Member State shall ensure that the energy performance investment does not involve any additional financial burden for the tenant taking into account rent and energy charges.

10. The eligible costs shall be the total investment costs directly related to the achievement of a higher level of the energy performance of the buildings.

11. The aid intensities shall not exceed:

(a) 30 % of the eligible costs for the renovation of existing buildings and

(b) 15 % of the eligible costs for the construction of new buildings.

(c) The aid intensities in points (a) and (b) may be increased by the following percentage points up to a maximum of 90 % of the eligible costs:

   (i) 10 percentage points for aid granted to medium-sized undertakings and

   (ii) 20 percentage points for aid granted to small undertakings or, alternatively, where the total aid amount does not exceed EUR 1.89million or, as from 1 January 2031, EUR 2.06 million per undertaking, per project, 20 percentage points for aid to any undertaking, regardless of its size;

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79 Directive (EU) 2024/1275 of the European Parliament and of the Council of 24 April 2024 on the energy performance of buildings (recast) (OJ L, 2024/1275, 8.5.2024, ELI: http://data.europa.eu/eli/dir/2024/1275/oj).

80 Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings (OJ L 153, 18.6.2010, p. 13, ELI: http://data.europa.eu/eli/dir/2010/31/oj).

(iii) 15 percentage points for investments located in assisted areas under Article 107(3), point (a), of the Treaty and by 5 percentage points for investments located in assisted areas under Article 107(3), point (c), of the Treaty;

(iv) 15 percentage points for aid granted to improve the energy performance of existing buildings, where the aid induces an improvement in the energy performance of the building measured in primary energy of at least 40 % compared to the situation before the investment;

(v) 20 percentage points for aid granted either for social and affordable housing projects or to social enterprises.

12. If the aid is provided in the form of a financial instrument via one or more intermediaries, the following conditions shall apply:

(a) The intermediaries shall be either an energy efficiency fund or a financial intermediary. An ‘energy efficiency fund’ or ‘EEF’ means a special investment vehicle set up for the purpose of investing in projects to improve the energy performance of buildings. EEFs shall be managed by a professional management company with legal personality, which selects and invests in such projects.

(b) The intermediaries shall pass on the aid to the final beneficiaries in the form of loans, guarantees or grant components or a combination thereof.

(c) Paragraphs 6 and 7 shall not apply when the financial instrument does not contain a grant component.

Article 57

Aid to facilitate energy performance contracting

1. This Article shall apply to aid to providers of energy efficiency improvement measures to facilitate energy performance contracting.

2. This Article shall not apply to aid which exceeds EUR 38 million or, as from 1 January 2031, EUR 41 million of total nominal outstanding financing per beneficiary.

3. Aid under this Article may only be granted to undertakings that qualify as SME or small mid-caps and provide energy efficiency improvement measures pursuant to an energy performance contract as defined in Article 2, point (33), of Directive (EU) 2023/1791.

4. The aid shall take the form of a senior loan or guarantee to the provider of the energy efficiency improvement measures under an energy performance contract, or shall consist of a financial product aimed at financing the provider (for example, factoring or forfaiting).

5. The duration of the loan or guarantee to the provider of energy efficiency improvement measures shall not exceed twenty years.

6. Where the aid takes the form of a senior loan, the co-investment by commercial providers of debt funding shall not be lower than 30 % of the value of the underlying portfolio of energy performance contracts, and the repayment by the provider of energy efficiency improvement measures shall at least be equal to the nominal amount of the loan.

7. Where the aid takes the form of a guarantee, the guarantee's coverage rate shall not exceed 80 % of the underlying loan's principal to the eligible undertaking; the guaranteed amount shall decrease proportionally, in such a way that the guarantee never covers more than 80 % of the underlying loan's outstanding principal; and losses after recovery shall be sustained proportionally and under the same conditions by the lender(s) and the guarantor.

Article 58

Investment aid for the promotion of energy from renewable sources and high-efficiency cogeneration

1. This Article shall apply to investment aid for one or more of the following:

(a) the production of renewable energy (including renewable fuels);

(b) electricity or thermal storage;

(c) investment in demand response;

(d) the storage of renewable fuels from directly connected production installations referred to in point (a) above;

(e) high-efficiency cogeneration; or

(f) dedicated infrastructure linked to projects in points (a) to (e) above.

2. This Article shall not apply to aid which exceeds EUR 38 million or, as from 1 January 2031, EUR 41 million per undertaking per investment project. For assessing whether this threshold is met, all investment components (including production, dedicated infrastructure and storage) shall be considered to be a single integrated project.

3. This Article shall not apply to the production of electricity from renewable fuels of non-biological origin.

4. Where aid is granted for the production of renewable fuels of non-biological origin, the simultaneous production of low-carbon fuels falls within the scope of this Article if the share of low-carbon fuels produced does not exceed 20 % of the total output.

5. Where aid is granted to heat pumps, such heat pumps shall comply with Annex VII to Directive (EU) 2018/2001.

6. Where aid is granted for the production or storage of renewable energy from biomass or from products produced from biomass, such biomass shall comply with the sustainability and greenhouse gases emissions-saving criteria in Directive (EU) 2018/2001 and its implementing or delegated acts.

7. Investment aid for high-efficiency cogeneration shall not be granted to fossil fuel-based cogeneration installations.

8. The investment aid shall be granted in respect of newly installed or repowered capacities.

9. The eligible costs shall be the total investment cost. The maximum aid amount shall be determined according to one of the following options:

(a) The aid intensity shall not exceed 45 % of the eligible costs.

The aid intensity may be increased by 10 percentage points for aid granted to medium-sized undertakings and by 20 percentage points for aid granted to small undertakings or, alternatively, where the total aid amount does not exceed EUR 1.89 million or, as from 1 January 2031, EUR 2.06 million per undertaking per project, by 20 percentage points for aid to any undertaking, regardless of its size.

(b) The aid intensity may reach 100 % of the eligible costs where aid is granted in a competitive bidding process, where at least 70 % of the total selection criteria used for ranking bids and allocating aid are defined in terms of aid per unit of output or capacity.

Article 59

Direct price support for the production of electricity from renewable sources

1. This Article shall apply to direct price support for the production of electricity from renewable energy sources, excluding the production of electricity from renewable fuels of non-biological origin.

2. This Article shall not apply to aid for electricity generation projects:

(a) from solar energy sources with an installed capacity above 80 MW;

(b) from onshore wind energy sources with an installed capacity above 40 MW;

(c) from other renewable energy sources with an installed capacity above 40 MW.

3. Where aid is granted for the production of renewable electricity from biomass or from products produced from biomass, such biomass shall comply with the

sustainability and greenhouse gases emissions-saving criteria in Directive (EU) 2018/2001 and its implementing or delegated acts.

4. The aid amount shall be determined according to a competitive bidding process, where at least 70 % of the total selection criteria used for ranking bids and allocating aid are defined in terms of aid per unit of output or capacity.

5. The competitive bidding process can be limited to specific technologies where:

(a) the measure aims specifically to support demonstration projects, as defined in Article 2, point (24), of Regulation (EU) 2019/943 of the European Parliament and of the Council[81];

(b) a Member State identifies reasons to expect that eligible sectors or innovative technologies have the potential to make an important and cost-effective contribution to environmental protection and deep decarbonisation in the longer term;

(c) the measure is required to achieve the diversification necessary to limit grid integration costs, to avoid exacerbating network constraints and to ensure grid stability; a more selective approach can be expected to lead to lower costs to achieve the same level of environmental protection (for example through reduced system integration costs as a result of diversification), or result in less distortion of competition;

(d) in the case of renewable electricity produced from biomass, the Member State identifies a need to avoid distortions on the market for raw materials.

6. Where the bidding process is limited to one or more innovative technologies, the aid shall not be granted for more than 5 % of the planned new electricity capacity from renewable energy sources per year in total.

7. By way of derogation from paragraph 4, a competitive bidding process is not required where aid is granted to:

(a) demonstration projects and where the aid amount does not exceed EUR 38 million or, as from 1 January 2031, EUR 41 million per undertaking per project.

(b) small projects, namely:

   (i) projects with installed capacity equal or below 1 MW; or

   (ii) projects with an installed capacity equal or below 6 MW, if they are 100 % owned by SMEs, renewable energy communities as defined in Article 2, point (16), of Directive (EU) 2018/2001, or citizen energy communities as defined in Article 2, point (11), of Directive (EU) 2019/944; or

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81 Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (OJ L 158, 14.6.2019, p. 54).

(iii) for wind generation only, projects with an installed capacity equal or below 18 MW, if they are 100 % owned by small and microenterprises, renewable energy communities or citizen energy communities.

The aid amount for such projects shall not exceed the simplified funding gap.

8. Aid shall be granted in the form of a two-way contract for difference, designed in line with Article 19d(2) of Regulation (EU) 2019/943, entered into between a power-generating facility operator and a counterpart, usually a public entity, providing both minimum remuneration protection and a limit to excess remuneration, and of a duration of less than 25 years after the aided installation starts operations. Beneficiaries shall sell their electricity in the wholesale market and be subject to balance responsibilities as set out in Article 5 of Regulation (EU) 2019/943. Furthermore, aid shall not be paid for any periods where wholesale market prices are negative.

9. Small-scale renewable electricity installations, as well as demonstration projects for which the aid amount does not exceed EUR 38 million or, as from 1 January 2031, EUR 41 per undertaking per project, may benefit from aid covering the full costs of operation and from an exemption from the requirement to sell the electricity on the market, in accordance with Article 4(3) of Directive (EU) 2018/2001. Installations will be considered to be 'small-scale' for the purposes of this paragraph if their capacity is below the applicable threshold under Article 5(4) of Regulation (EU) 2019/943.

Article 60

Direct price support for the production of renewable energy other than electricity

1. This Article shall apply to direct price support for one or more of the following:

(a) the production of heat from renewable sources;

(b) the production of renewable fuels.

2. This Article shall not apply to aid which exceeds EUR 38 million or, as from 1 January 2031, EUR 41 million per undertaking per project.

3. Where aid is granted to heat pumps, such heat pumps shall comply with Annex VII to Directive (EU) 2018/2001.

4. Where aid is granted for the production of energy from biomass or from products produced from biomass, such biomass shall comply with the sustainability and greenhouse gases emissions saving criteria of Directive (EU) 2018/2001 and its implementing or delegated acts.

5. Aid shall only be granted over the estimated lifetime of the project. The maximum aid amount shall be determined according to one of the following options:

(a) It shall not exceed the simplified funding gap; or

(b) It shall be determined through a competitive bidding process.

Article 61

Aid in the form of reductions in taxes under Directive 2003/96/EC

1. This Article shall apply to aid schemes in the form of reductions in taxes meeting the conditions of Directive 2003/96/EC, if the beneficiaries of the tax reduction are selected on the basis of transparent and objective criteria.

2. Aid schemes in the form of tax reductions may be based on a reduction of the applicable tax rate or on the payment of a fixed compensation amount, or on a combination of these mechanisms.

3. This Article shall apply to tax reductions granted on the basis of Article 16(1) of Directive 2003/96/EC only to the extent that the aided fuels are compliant with the sustainability and greenhouse gases emissions-saving criteria in Directive (EU) 2018/2001 and its implementing or delegated acts.

Article 62

Aid in the form of reductions in environmental taxes or parafiscal levies

1. This Article shall apply to aid schemes in the form of reductions in environmental taxes or parafiscal levies.

2. This Article shall not apply to aid which exceeds EUR 63 million or, as from 1 January 2031, EUR 68.5 million per scheme per year.

3. For the purpose of this Article, environmental tax or parafiscal levy means a tax or a levy applied on products or services that have a clear negative effect on the environment or which seeks to charge certain activities, goods or services so that the environmental costs may be included in their price or so that producers and consumers are oriented towards activities which better protect the environment.

4. This Article shall not apply to reductions in taxes or levies on energy products and electricity, defined in Article 2 of Directive 2003/96/EC.

5. Aid in the form of reductions in environmental taxes or parafiscal levies shall be compatible only where the reduction allows to achieve a higher general level of contribution to the environmental taxes or parafiscal levies and, thereby, a higher level of environmental protection by including in the taxable base undertakings that would not be able to pursue their economic activities without the reduction.

6. Only those undertakings that would not be able to pursue their economic activities without the reduction are eligible for aid. For the purposes of this Article, this is considered the case for undertakings whose production costs would substantially

increase due to the environmental tax or parafiscal levy without the reduction and which are not able to pass that increase on to customers. The increase in the production costs shall be calculated as a proportion of the gross value added for each sector or category of beneficiaries.

7. The aid shall be granted in the same way to all eligible undertakings operating in the same sector of economic activity that are in the same or similar factual situation in respect of the objectives of the aid measure.

8. The reduction in the environmental tax or parafiscal levy shall not exceed 80 % of the nominal rate of the tax or levy.

Article 62a

Aid in the context of the Emissions Trading System for buildings, road transport and additional sectors

1. This Article shall apply to aid schemes in the context of the Emissions Trading System for buildings, road transport and additional sectors, with respect to the activities referred to in Annex III to Directive 2003/87/EC.

2. Member States shall ensure that the choice of beneficiaries is made on the basis of objective and transparent criteria and that the aid is granted in the same way for all competitors in the same sector if they are in a similar factual situation, to the extent that the beneficiaries' activities:

(a) are referred to in Annex III to Directive 2003/87/EC, namely Manufacturing Industries and Construction and fall within the sectors listed in the Annex to Delegated Decision (EU) 2019/708; or

(b) are not referred to in Annex III to Directive 2003/87/EC and the activity has come into the scope of Chapter IVa of Directive 2003/87/EC in a Member State by the opt-in process pursuant to Article 30j of Directive 2003/87/EC.

3. Aid schemes shall be based on the payment of a fixed compensation amount.

4. The maximum aid amount for beneficiaries referred to in paragraph 2(a) shall be calculated, per beneficiary, by multiplying the CO2 price by the eligible emissions in tCO2:

(a) The CO2 price shall be calculated as the average in the relevant period of the price of auctions carried out in accordance with Article 10(4) of Directive 2003/87/EC for allowances issued under Chapter IVa.

(b) The eligible emissions shall be calculated by multiplying:

   (i) the tonnes of eligible fuel purchased in the eligible period. Where other units than tonnes are used, the consistency of the eligible emission formula shall be ensured, leading to a value expressed in tCO2;

(ii) the fuel benchmark (in tCO_2/TJ);[82]

(iii) the net calorific value of fuel (in TJ/tonne of fuel), which shall be the default value used for reporting and monitoring purposes pursuant to Article 30f of Directive 2003/87/EC, as set out in Annex VI of Implementing Regulation (EU) 2018/2066; and

(iv) a Carbon Border Adjustment Mechanism factor. Such factor shall be 100 % for goods which are not listed in Annex I to Regulation 2023/956.[83] Such factor shall be set by reference to Article 10a(1a) of Directive 2003/87/EC for goods which are not listed in Annex I to Regulation 2023/956.

5. The aid amount for beneficiaries referred to in paragraph 2(b) shall not exceed the costs incurred by the beneficiaries resulting from the national opt-in pursuant to Article 30j of Directive 2003/87/EC. For this purpose, the calculation methodology of the maximum aid amount in paragraph 4 applies, except that the fuel benchmark shall be replaced with the relevant emission factors used for reporting and monitoring purposes pursuant to Article 30f of Directive 2003/87/EC, as set in Annex VI of Implementing Regulation (EU) 2018/2066.

6. Member States shall set up a mechanism to monitor that beneficiaries obliged to conduct an energy audit under Article 11 of Directive (EU) 2023/1791 implement recommendations of the energy audit report, unless one of the following conditions is met:

(a) the pay-back time for the relevant investments of a recommendation exceeds three years;

(b) the investment costs for the implementation of a recommendation exceed 5 % of the beneficiary's annual turnover or 25 % of the beneficiary's profit, calculated on the basis of the corresponding annual averages over the three calendar years prior to the date of the application for aid under this article;

(c) other measures have been implemented during or after the relevant period which lead to greenhouse gas emission reductions within the beneficiary's operations equivalent to those recommended by the energy audit report.

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[82] Annex to the Commission Implementing Regulation adopted pursuant to Article 10a of Directive 2003/87/EC, in particular Commission Implementing Regulation (EU) 2026/1412 of 26 June 2026 determining revised benchmark values for free allocation of emission allowances for the period from 2026 to 2030 pursuant to Article 10a(2) of Directive 2003/87/EC of the European Parliament and of the Council (OJ L, 2026/1412, 29.6.2026).

[83] Regulation (EU) 2023/956 of the European Parliament and of the Council of 10 May 2023 establishing a carbon border adjustment mechanism (OJ L 130, 16.5.2023, p. 52).

Article 63

Investment aid for the remediation of environmental damage, the conservation or restoration of nature and the implementation of nature-based solutions for climate resilience and climate change mitigation

1. This Article shall apply to investment aid for one or more of the following activities:

(a) remediation of environmental damage, including damage to the quality of the soil, surface water, groundwater or the marine environment;

(b) nature-based solutions for climate resilience and climate change mitigation: actions to protect, conserve, restore, sustainably use nature that simultaneously provide environmental, social and economic benefits and help build resilience;

(c) conservation or restoration of nature, as respectively defined in Article 1, letter a), of Council Directive 92/43/EEC[84] and in Article 3, point (3), of Regulation (EU) 2024/1991.

2. This Article shall not apply to aid which exceeds EUR 38 million, or, as from 1 January 2031, EUR 41 million, per undertaking per investment project.

3. This Article shall not apply to:

(a) aid to make good the damage caused by certain natural disasters within the meaning of Article 68;

(b) aid for remediation of environmental damage or restoration of nature following the closure of power plants and mining or extraction operations to the extent that the aid in question is for the closure of power plants using coal, peat or oil shale and of mining operations relating to coal, peat or oil shale extraction.

4. Without prejudice to Directive 2004/35/EC of the European Parliament and of the Council[85] or other relevant Union rules on liability for environmental damage, where the entity or undertaking liable for the environmental damage under the law applicable in each Member State is identified, that entity or undertaking shall finance the works necessary to prevent and correct environmental degradation and contamination in accordance with the 'polluter pays' principle, and no aid shall be granted for the works that the entity or undertaking would be legally required to conduct. The Member State shall take all necessary measures, including legal action, to identify the liable entity or undertaking at the origin of the environmental damage and make it bear the relevant costs. Where the entity or undertaking liable under the

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84 Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7, ELI: http://data.europa.eu/eli/dir/1992/43/oj).

85 Directive 2004/35/CE of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage (OJ L 143, 30.4.2004, p. 56, ELI: http://data.europa.eu/eli/dir/2004/35/oj).

applicable law cannot be identified or made to bear the costs of remediating the environmental damage it has caused, in particular because the liable undertaking has ceased to legally exist and no other undertaking can be regarded as its legal or economic successor, or where the liable undertaking lacks sufficient financial security to meet the costs of remediation, aid may be granted to support the remediation works. Aid shall not be granted for the implementation of compensatory measures referred to in Article 6(4) of Directive 92/43/EEC. Aid may be granted under this Article to cover the extra costs necessary to increase the scope or ambition of those measures, beyond the legal obligations under Article 6(4) of Directive 92/43/EEC.

5. For investments in the remediation of environmental damage, the eligible costs shall be the costs incurred for the remediation works minus the increase in the value of the land or property. The evaluations of the increase in the value of the land or property resulting from remediation shall be carried out by an independent qualified expert.

6. For investments in the conservation or restoration of nature and in the implementation of nature-based solutions for climate resilience and climate change mitigation, the eligible costs shall be the total costs of the works resulting in the contribution to protecting or restoring nature or in the implementation of nature-based solutions for climate resilience and climate change mitigation.

7. The aid intensity shall not exceed:

(a) 100 % of the eligible costs for investments in the remediation of environmental damage;

(b) 70 % of the eligible costs for investments in the conservation or restoration of nature and in nature-based solutions for climate resilience and climate change mitigation. The aid intensity may be increased by 10 percentage points for aid granted to medium-sized undertakings and by 20 percentage points for aid granted to small undertakings or, alternatively, where the total aid amount does not exceed EUR 1.89 million, or, as from 1 January 2031, EUR 2.06 million per undertaking, per project, by 20 percentage points for aid to any undertaking, regardless of its size.

Article 64

Investment aid for district heating and/or cooling

1. This Article shall apply to investment aid for the construction, extension, or upgrade of the following parts of a district heating system, within the meaning of Article 2, point (50) of Directive 2024/1275/EU:

(a) district heating and/or cooling generation installations;

(b) thermal storage; or

(c) the distribution network, comprising both the primary – transmission – and secondary network of pipelines to supply heating or cooling to consumers, as well as smart measuring devices directly enabling the interactive and intelligent management of heating or cooling production, distribution and consumption.

2. This Article shall not apply to aid which exceeds EUR 165 million, or, as from 1 January 2031, EUR 178 million per undertaking per project.

3. Aid shall only be granted for district heating and/or cooling systems which are, or will as a result of the aid become, energy efficient within the meaning of Article 2, point (46), of Directive (EU) 2023/1791 or for investments which are part of a plan to improve the efficiency of the district heating and/or cooling system within the meaning of Article 26, point (5) of Directive (EU) 2023/1791. The relevant point in time for assessing whether the energy efficiency criteria are met is the date of the aid application.

4. By way of derogation from paragraph 3, aid may be granted for upgrades of existing thermal storage solutions or distribution networks in district heating and/or cooling systems which are not already energy efficient, or which are not part of a plan to improve the efficiency of the district heating and/or cooling system within the meaning of Article 26, point (5) of Directive (EU) 2023/1791, if the following conditions are met:

(a) the distribution network becomes suitable for the transmission of heating or cooling generated from renewable energy sources and/or waste heat;

(b) the upgrade does not result in an increased generation of energy from fossil fuels in existing generation facilities compared to the average annual production over the last three calendar years of full operation.

5. Aid may be granted for energy generation based on renewable sources, including heat pumps compliant with Annex VII to Directive (EU) 2018/2001, waste heat or high-efficiency cogeneration. Aid for energy generation based on waste may be based either on waste which meets the definition of renewable energy sources or waste used to fuel installations which meet the definition of high-efficiency cogeneration. Waste used as input fuel shall not circumvent the waste hierarchy principle, as defined in Article 4(1), of Directive 2008/98/EC of the European Parliament and of the Council[86].

6. Aid shall not be granted for the construction, extension or upgrade of fossil fuel-based generation facilities, unless all the following conditions are met:

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86 Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).

(a) The facilities are high-efficiency cogeneration facilities based on natural gas which replace existing coal or lignite facilities;

(b) The start of works takes place by 2030;

(c) The plan to improve the efficiency of the district heating system, within the meaning of Article 26, point (5) of Directive (EU) 2023/1791, aims to reach a share of at least 50 % of energy from renewable energy sources or from waste heat by 2040.

7. The eligible costs shall be the investment costs related to the construction, extension or upgrade of the district heating and/or cooling system. The maximum aid amount shall be determined according to one of the following options:

(a) The aid intensity shall not exceed 30 % of the eligible costs.

(i) The aid intensity may be increased by 10 percentage points for aid granted to medium-sized undertakings and by 20 percentage points for aid granted to small undertakings or, alternatively, where the total aid amount does not exceed EUR 8.25 million or, as from 1 January 2031, EUR 8.9 million per undertaking per project, by 20 percentage points for aid to any undertaking, regardless of its size.

(ii) The aid intensity may be increased by 15 percentage points for investments using only renewable energy sources, waste heat, or a combination of the two, including high-efficiency cogeneration based on renewable energy sources.

(d) The aid may reach up to 100 % of the funding gap for aid under paragraph 2, point (a) and of the simplified funding gap for aid under paragraph 2, points (b) and (c).

(e) The aid amount may be determined through a competitive bidding process. In that case, the aid intensity may not exceed 100 % of the total investment costs.

Article 65

Investment aid for resource efficiency and for supporting the transition towards a circular economy

1. This Article shall apply to investment aid for one or more of the following investments:

(a) investments improving resource efficiency by reducing the quantity of inputs needed to produce a unit of output through:

(i) a net reduction in the material resources consumed, with the exception of energy, in the production of a given quantity of output compared to a pre-existing production process used by the beneficiary. The reduction shall be determined by measuring or estimating consumption before and after the implementation of the aid measure, taking into account any adjustment for external conditions that may affect resource consumption;

(ii) investments enabling the replacement of primary raw materials or feedstock, including bio-based, with secondary (re-used or recovered, including recycled) raw materials or feedstock;

(iii) investments enabling the replacement of fossil-based raw materials or feedstock with secondary bio-based raw materials or feedstock.

(b) investments for the prevention and reduction of waste generation by the beneficiary, the preparing for re-use, and recycling of waste generated by the beneficiary, or the preparing for re-use, and recycling of waste generated by third parties. In all these cases, the waste:

(i) would otherwise be unused, disposed of, or be treated based on a treatment operation that is situated lower in the priority order of the waste hierarchy;

(ii) would be treated in a less resource-efficient manner; or

(iii) would lead to a lower quality of recycling output.

(c) investments for the separate collection of waste, the transport of separately collected waste, and the sorting of the separately collected waste with a view to its preparing for re-use or recycling;

(d) investments for the separate collection, sorting, transport of separately collected, pre-treatment and treatment of other products, materials or substances generated by the beneficiary or by third parties and which would otherwise be unused or used in a less resource-efficient manner. Other products, materials or substances refers to materials, products and substances other than waste, including by-products referred to in Article 5 of Directive 2008/98/EC, agricultural and forestry residues, waste water, rain water and runoff water, minerals, nutrients, residual gases from production processes, and products, parts or materials that are no longer needed by or useful for its holder but are suitable for re-use.

2. This Article shall not apply to aid which exceeds EUR 38 million, or, as from 1 January 2031, EUR 41 million per undertaking per project.

3. For the purpose of this Article, the terms ‘collection’, ‘separate collection’, ‘re-use’, ‘preparing for re-use’, ‘recycling’, ‘waste’, ‘waste hierarchy’, ‘treatment’, ‘recovery’ and ‘disposal’ have the meaning as defined in Articles 3 and 4 of Directive 2008/98/EC.

4. This Article shall not apply to aid for waste disposal and to aid for waste recovery operations to generate energy.

5. The aid shall not relieve undertakings that generate waste from any costs or obligations relating to the treatment of waste for which they are liable under Union or national law, including under extended producer responsibility schemes, or from costs that are normal costs for an undertaking.

6. The aid shall not incentivise the generation of waste or the net increased use of resources.

7. Investments related to technologies constituting an already profitable established commercial practice throughout the Union without the aid shall not be exempted under this Article from the notification requirement in Article 108(3) of the Treaty.

8. Where Union standards apply, aid under this Article may only be granted:

(a) if the aid enables undertakings to go beyond applicable Union standards or

(b) if the aid enables undertakings to comply with Union standards that have been adopted but are not yet in force, if the investment is implemented and finalised at least 18 months before the date of entry into force of the adopted Union standards.

9. The eligible costs shall be:

(a) for investments referred to in paragraph 1, point (a), the difference between the investment costs of the project and those of a counterfactual investment that can be expected to have occurred in the absence of the aid;

(b) for investments referred to in paragraph 1, points (b), (c) and (d), the total investment costs.

10. The aid intensity shall not exceed:

(a) 20 % of the total investment costs for investments referred to in paragraph 1, points (b), (c) and (d). The aid intensity may be increased by:

 (i) 5 percentage points for aid granted to medium-sized undertakings and by 10 percentage points for aid granted to small undertakings or, alternatively, where the total aid amount does not exceed EUR 1.89 million, or, as from 1 January 2031, EUR 2.06 million, per undertaking, per project, 10 percentage points for aid to any undertaking, regardless of its size;

 (ii) 7.5 percentage points for investments located in assisted areas under Article 107(3), point (a) of the Treaty and by 2.5 percentage points for investments located in assisted areas under Article 107(3), point (c) of the Treaty.

(b) 40 % of the eligible costs for investments referred to in paragraph 1, point (a). The aid intensity may be increased by:

(i) 10 percentage points for aid granted to medium-sized undertakings and by 20 percentage points for aid granted to small undertakings or, alternatively, where the total aid amount does not exceed EUR 1.89 million, or, as from 1 January 2031, EUR 2.06 million per undertaking, per project, 20 percentage points for aid to any undertaking, regardless of its size;

(ii) 15 percentage points for investments located in assisted areas under Article 107(3), point (a) of the Treaty and by 5 percentage points for investments located in assisted areas under Article 107(3), point (c) of the Treaty.

Article 66

Aid for energy infrastructure

1. This Article shall apply to aid for the construction or upgrade of energy infrastructure.

2. This Article shall not apply to aid which exceeds EUR 88 million, or, as from 1 January 2031, EUR 96 million per undertaking per project.

3. This Article shall not apply to:

(a) energy infrastructure partly or fully exempted from third party access or tariff regulation in accordance with Regulation (EC) No 715/2009 of the European Parliament and of the Council[87], Regulation (EU) 2019/943, Directive (EU) 2019/944 or Directive (EU) 2024/1788;

(b) electricity and natural gas storage;

(c) natural gas infrastructure, unless the infrastructure in question is dedicated to the use for hydrogen and/or for renewable gases, or for the transport of more than 50 % hydrogen and/or renewable gases as defined in Article 2, point (2) of Directive (EU) 2024/1788.

4. The eligible costs shall be the total investment costs. The maximum aid amount shall be determined according to one of the following options:

(a) An aid intensity of 40 % of eligible costs;

(b) The aid may reach up to 100 % of the simplified funding gap;

(c) The aid amount may be determined through a competitive bidding process. In that case, the aid intensity may not exceed 100 % of the total investment costs.

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87 Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005 (OJ L 211, 14.8.2009, p. 36).

Article 67

Aid for studies and consultancy services on environmental protection and energy matters

1. This Article shall apply to aid for studies or consultancy services, including energy audits, directly linked to investments eligible for aid under this Section and aid for studies or consultancy services directly linked to investments in new geological CO2 storage sites.

2. This Article shall not apply to aid which exceeds EUR 38 million, or, as from 1 January 2031, EUR 41 million per undertaking per project.

3. Aid shall not be granted for energy audits carried out to comply with Directive (EU) 2023/1791, unless the energy audit is carried out in addition to the mandatory energy audits under that Directive.

4. The eligible costs shall be the costs of studies or consultancy services provided by external consultants.

5. Where the entire study or consultancy service concerns investments eligible for aid under this Section and where the study or consultancy service concerns investments in new geological CO2 storage sites, the eligible costs shall be the costs of the study or consultancy service. Where only part of the study or consultancy service concerns investments eligible for aid under this Section, the eligible costs shall be the costs of the part of the study or consultancy service relating to those investments.

6. The aid intensity shall not exceed 60 % of the eligible costs. The aid intensity may be increased by 20 percentage points for studies or consultancy services in favour of small undertakings and by 10 percentage points for studies or consultancy services in favour of medium-sized undertakings or, alternatively, where the total aid amount does not exceed EUR 1.89 million, or, as from 1 January 2031, EUR 2.06 million per undertaking, per project, by 20 percentage points for aid to any undertaking, regardless of its size.

SECTION 7

AID TO MAKE GOOD THE DAMAGE CAUSED BY CERTAIN NATURAL DISASTERS

Article 68

Aid schemes to make good the damage caused by certain natural disasters

1. This Article shall apply to aid schemes to make good the damage caused by earthquakes, avalanches, landslides, floods, tornadoes, hurricanes, volcanic eruptions and wild fires of natural origin.

2. Aid shall be granted subject to the following conditions:

(a) the competent public authorities of a Member State have formally recognised the character of the event as a natural disaster; and

(b) there is a direct causal link between the natural disaster and the damages suffered by the affected undertaking.

3. Aid schemes related to a specific natural disaster shall be introduced within three years of the occurrence of the disaster. Aid on the basis of such schemes shall be granted within four years of the occurrence of the disaster.

4. The costs arising from the damage incurred as a direct consequence of the natural disaster, as assessed by an independent expert recognised by the competent national authority or by an insurance undertaking, shall be eligible costs. Such damage may include loss of income due to the full or partial suspension of activity for a period not exceeding six months from the occurrence of the disaster. The calculation of the material damage shall be based on the cost of repairing or the fair market value of the affected asset before the disaster. It shall not exceed the cost of repairing the affected asset or the decrease in its fair market value caused by the disaster, that is to say the difference between the affected assets fair market value immediately before and immediately after the disaster. Loss of income shall be calculated on the basis of the financial data of the affected undertaking and by reference to a comparable past period.

5. The aid and any other payments received to compensate for the damage, including payments under insurance policies, shall not exceed 100 % of the eligible costs.

SECTION 8

AID FOR CULTURE AND HERITAGE CONSERVATION

Article 69

Aid for culture and heritage conservation

1. This Article shall apply to aid for cultural purposes and activities, including heritage conservation and natural heritage conservation.

2. This Article shall not apply to investment aid which exceeds EUR 208 million per project and operating aid which exceeds EUR 104 million per undertaking per year. As from 1 January 2031, this Article shall not apply to investment aid which exceeds EUR 226 million per project and operating aid which exceeds EUR 113 million per undertaking per year.

3. This Article shall not apply to:

(a) aid for press and magazines, whether published in print or electronically, except for press publications in national minority languages, if linked to the culture of a given linguistic minority, and for magazines that are exclusively cultural;

(b) aid for infrastructure, if less than 80 % of either the time or the surface area per year is used for cultural purposes; That threshold shall be assessed on average during the period referred to in Article 3(2), point (a).

4. For investment aid, the eligible costs shall be the investment costs in tangible and intangible assets.

5. For operating aid, the eligible costs shall be the operating costs directly relating to the cultural project or activity.

6. The maximum aid amount shall be determined according to one of the following options:

(a) For investment aid, the aid amount shall not exceed one of the following:

(i) the simplified funding gap, up to 100 % of the investment costs;

(ii) the estimated investment costs minus the actual operating cash flows, provided the latter are overall positive.

(b) for operating aid, the aid amount shall not exceed what is necessary to cover the operating losses and a reasonable profit over the period for which the aid is granted. This shall be ensured ex ante, on the basis of reasonable projections, or through a claw-back mechanism.

(c) for aid below EUR 2.8 million, or, as from 1 January 2031, EUR 3 million, the maximum amount of aid may be set at up to 80 % of the eligible costs.

(d) for writing, translating, editing, production, distribution, digitisation and publishing in the field of culture, the maximum aid amount shall not exceed either the difference between the eligible (operating and investment) costs and the project's discounted revenues or up to 70 % of the eligible (operating and investment) costs.

Article 70

Aid schemes for audiovisual works

1. This Article shall apply to aid schemes for the production, pre-production and distribution of audiovisual works, including videogames.

2. This Article shall not apply to aid schemes exceeding EUR 82.5 million, or, as from 1 January 2031, EUR 90 million per scheme per year. As regards videogames, this Article shall not apply to aid schemes exceeding EUR 22 million, or, as from 1 January 2031, EUR 24 million per scheme per year.

3. Aid shall support a cultural product following a transparent selection process based on a predetermined list of cultural criteria. This Article shall not apply to aid for film studio infrastructure.

4. Member States may make the aid schemes for the production of audiovisual works subject to obligations for the beneficiary to spend a minimum amount or carry out a minimum level of production activity in a particular territory ('territorial spending obligations'), except for videogames. Territorial spending obligations may either:

(a) require that up to 160 % of the aid granted for producing a given audiovisual work is spent in the territory of the Member State granting the aid; or

(b) calculate the aid granted for producing a given audiovisual work as a percentage of the expenditure on production activities in the granting Member State, typically in case of aid schemes in the form of tax incentives.

For points (a) and (b) of the first subparagraph, the maximum expenditure subject to territorial spending obligations shall in no case exceed 80 % of the overall production budget. If a Member State requires a minimum level of production activity in the territory concerned, that level shall not exceed 50 % of the overall production budget.

5. The eligible costs shall be the following:

(a) for production aid: the overall costs of producing audiovisual works including costs to improve accessibility for people with disabilities;

(b) for pre-production aid: the costs of writing, design, prototyping and development of videogames, the costs of script-writing and the development of other audiovisual works;

(c) for distribution aid: the costs of distributing and promoting audiovisual works.

6. The maximum aid intensity shall be as follows:

(a) for the production and distribution of audiovisual works, the aid intensity shall not exceed 50 % of the eligible costs; the aid intensity may be increased to 60 % of the eligible costs for cross-border productions funded by more than one Member State and involving producers from more than one Member State; the aid intensity may be increased to 100 % of the eligible costs for difficult audiovisual works and co-productions involving countries and territories eligible to receive official development assistance and included in the Development Assistance Committee list compiled by the Organisation for Economic Cooperation and Development; difficult audiovisual works shall be identified by Member States based on pre-defined criteria when setting up schemes or granting the aid and may include films whose sole original version is in a language of a Member State with a limited territory, population or language area, short films, films by first-time and second-time directors, documentaries, or low budget or otherwise commercially difficult works;

(b) for the pre-production of audiovisual works, the aid intensity shall not exceed 100 % of the eligible costs. If the resulting script or project is made into an audiovisual work such as a film, the pre-production costs shall be incorporated in the overall budget and taken into account when calculating the aid intensity.

7. Aid shall not be reserved for specific production activities or individual parts of the production value chain.

SECTION 9

INFRASTRUCTURE

Article 71

Aid for fixed broadband networks

1. This Article shall apply to aid for fixed broadband network deployment, including construction, management and operation.

2. This Article shall not apply to aid in the form of a financial instrument for which the nominal amount of total financing provided to any final beneficiary per project exceeds EUR 189 million and to other forms of aid where the total costs per project exceed EUR 126 million. As from 1 January 2031, this Article shall not apply to aid in the form of a financial instrument for which the nominal amount of total financing provided to any final beneficiary per project exceeds EUR 206 million and to other forms of aid where the total costs per project exceed EUR 137 million.

3. The investment shall be located in areas where there is no or at most one fixed broadband network, existing or credibly planned to be deployed within the relevant time horizon, providing download speeds of at least 100 Mbps under peak-time conditions but below 300 Mbps under peak-time conditions.

Areas with at least one fixed network that can be upgraded to provide a speed of at least 1 Gbps download under peak-time conditions are not eligible. A network is considered to be upgradable to provide a speed of at least 1 Gbps download under peak-time conditions if it can provide this speed with a marginal investment, such as an upgrade of active equipment, without significant investment in broadband infrastructure.

The conditions set out in the first and second subparagraphs shall be verified by mapping and public consultation.

4. The intervention shall include more than 70 % investment in broadband infrastructure and shall at least triple the download speed compared to the existing fixed networks.

5. The aid amount shall be determined on the basis of a competitive bidding process or, when the aid is granted to a public authority, directly or through an in-house entity, the aid amount shall not exceed the funding gap.

6. The subsidised network shall offer wholesale access under fair and non-discriminatory conditions, including the following access products:

(a) for FTTx networks: access to the broadband infrastructure, unbundling or, if approved in advance by the competent authority, virtual unbundling, as well as bitstream access;

(b) for cable networks: access to the broadband infrastructure and access to active services;

(c) for fixed wireless networks: access to the broadband infrastructure and access to active services;

(d) for satellite platforms: access to active services.

7. Wholesale access to active services shall be offered for at least 10 years from the start of the operation of the network and the wholesale access to the broadband infrastructure shall be granted for the lifetime of the elements concerned. Access based on virtual unbundling shall be offered for a period of time equal to the lifetime of the infrastructure for which virtual unbundling is a substitute. The same access conditions shall apply to the entire network, irrespective of any change in ownership, management or operation of the network.

Article 72

Aid for mobile networks

1. This Article shall apply to aid for mobile network deployment, including construction, management and operation.

2. This Article shall not apply to aid in the form of a financial instrument for which the nominal amount of total financing provided to any final beneficiary per project exceeds EUR 189 million and to other forms of aid where the total costs per project exceed EUR 126 million. As from 1 January 2031, this Article shall not apply to aid in the form of a financial instrument for which the nominal amount of total financing provided to any final beneficiary per project exceeds EUR 206 million and to other forms of aid where the total costs per project exceed EUR 137 million.

3. The investment shall be located in areas where there is no mobile network existing or credibly planned to be deployed within the relevant time horizon providing download speeds of at least 30 Mbps under peak-time conditions. Those conditions shall be verified by mapping and public consultation.

4. State aid cannot be granted to meet legal obligations linked to the rights of use of spectrum. However, State aid may cover additional costs necessary to provide a quality of service going beyond the requirements resulting from such legal obligations.

5. The intervention shall include more than 50 % investment in broadband infrastructure and shall at least triple the download speed compared to the existing mobile networks in the intervention areas.

6. The aid amount shall be determined on the basis of a competitive bidding process or, when the aid is granted to a public authority, directly or through an in-house entity, the aid amount shall not exceed the funding gap.

7. The network shall offer wholesale access under fair and non-discriminatory conditions, which shall include access to the broadband infrastructure and access to one active service. Wholesale access to active services shall be offered for at least 10 years from the start of the operation of the network and wholesale access to the broadband infrastructure shall be granted for the lifetime of the elements concerned. The same access conditions shall apply on the entire network, irrespective of any change in the ownership, management or operation of the network. Wholesale access shall be offered regarding parts of the network that have not been State funded or that may not have been deployed by the aid beneficiary, insofar as necessary to render the wholesale access effective.

Article 73

Aid for projects of common interest in the area of trans-European digital connectivity infrastructure

1. This Article shall apply to aid for projects of common interest in the area of trans-European digital connectivity infrastructure financed under Regulation (EU) 2021/1153 or projects awarded a Seal of Excellence quality label under that Regulation.

2. This Article shall not apply to aid in the form of a financial instrument for which the nominal amount of total financing provided to any final beneficiary per project exceeds EUR 189 million and to other forms of aid where the total costs per project exceed EUR 126 million. As from 1 January 2031, this Article shall not apply to aid in the form of a financial instrument for which the nominal amount of total financing provided to any final beneficiary per project exceeds EUR 206 million and to other forms of aid where the total costs per project exceed EUR 137 million.

3. For the purpose of this Article, '5G corridor' means a transport path, road, railway or inland waterway, fully covered with digital connectivity infrastructure, in particular 5G systems, and enabling the uninterrupted provision of synergy digital services as defined in Regulation (EU) 2021/1153, such as connected and automated mobility,

similar smart mobility services for railways or digital connectivity on inland waterways;

4. Projects shall meet the cumulative general compatibility conditions set out in paragraph 5. They shall, in addition, fall under one of the categories of eligible projects set out in paragraph 6 and shall meet all specific compatibility conditions for the relevant category set out in that paragraph. Only projects which refer solely to the elements and entities specified under each relevant category in paragraph 6 shall fall within the scope of the exemption set out in paragraph 1.

5. Projects shall meet the following general cumulative compatibility conditions:

(a) the beneficiary shall provide a financial contribution of at least 25 % of the eligible costs, and at least 10 % for projects under paragraph 6, point (d), located in or connecting outermost regions, through its own resources or through external financing not containing any public financial support. When the 25 % contribution of the beneficiary is provided through external financing via an investment platform combining different sources of financing, the condition that external financing shall not contain any public financial support set out in the previous sentence is replaced by the requirement of a presence in the platform of at least 30 % of private investment;

(b) only costs that are eligible investment costs under Regulation (EU) 2021/1153 for the deployment of the infrastructure shall be eligible for aid;

(c) the project shall be selected in compliance with Regulation (EU) 2021/1153 in one of the following ways:

   (i) by an independent financial intermediary appointed by the Commission on the basis of commonly agreed investment guidelines;

   (ii) by the Commission through a competitive bidding process;

   (iii) by independent experts appointed by the Commission;

(d) the project shall enable connectivity capabilities going beyond the requirements relating to any existing legal obligations, such as those attached to a right to use spectrum;

(e) the project shall ensure third party open wholesale access including unbundling under fair, reasonable and non-discriminatory conditions.

6. The categories of eligible projects and the specific cumulative compatibility conditions applicable to them shall be the following:

(a) investments in the deployment of a cross-border section of a 5G corridor along a transport corridor identified in the trans-European transport network guidelines as set out in Regulation (EU) No 1315/2013[88] (TEN-T corridors) that meet the following specific cumulative conditions:

(i) the project consists of a cross-border section of a 5G corridor which crosses the border between two or more Member States, or crosses the border of at least one Member State and at least one European Economic Area country;

(ii) the total cross-border sections of 5G corridors located in a Member State shall not represent more than 15 % of the total length of the 5G corridors along the trans-European transport core network in that Member State that are not covered by any existing legal obligations, such as those attached to a right to use spectrum. Exceptionally, if a Member State supports the deployment of cross-border 5G corridors along its trans-European transport comprehensive network, the total cross-border sections of 5G corridors located in that Member State shall not represent more than 15 % of the total length of the 5G corridors along the trans-European transport comprehensive network in that Member State that are not covered by any existing legal obligations, such as those attached to a right to use spectrum;

(iii) the project ensures a significant new investment in the 5G mobile network suitable for connected and automated mobility services going beyond marginal investments related merely to the upgrade of the active elements of the network;

(iv) the project supports the deployment of new passive infrastructure only if existing passive infrastructure cannot be reused;

(b) investments in the deployment of a cross-border section of a pan-European terabit backbone network supporting the objectives of the European High-Performance Computing Joint Undertaking by interconnecting certain computing facilities, supercomputing facilities and data infrastructures that meet the following specific cumulative conditions:

(i) the project shall deploy or acquire connectivity assets, including Indefeasible Rights of Use, dark fibre or equipment, for building a cross-border section of a pan-European backbone network that supports the interconnection with unconstrained end to end connectivity of a minimum of 1 Tbps, of at least two computing facilities, supercomputing facilities or pieces of data infrastructure that: (1) are hosting entities of the European High Performance Computing Joint Undertaking established in accordance with Council

[88] Regulation (EU) No 1315/2013 of the European Parliament and of the Council of 11 December 2013 on Union guidelines for the development of the trans-European transport network and repealing Decision No 661/2010/EU (OJ L 348, 20.12.2013, p. 1).

Regulation (EU) 2018/1488[89], or are research infrastructures and other computing and data infrastructures supporting research flagships and missions set out in Regulation (EU) 2021/695 and Regulation (EC) No 723/2009 that contribute to the objectives of the European High-Performance Computing Joint Undertaking; and (2) are located in at least two Member States or at least one Member State and at least one member of the European Research Area;

(ii) the project ensures a significant new investment in the backbone network going beyond marginal investments, such as investments related to mere software upgrades or licensing;

(iii) the acquisition of connectivity assets is carried out through public procurement;

(iv) the project supports the deployment of new passive infrastructure only if existing passive infrastructure cannot be reused;

(c) investments in the deployment of a cross-border section of a backbone network interconnecting the cloud infrastructure of certain socioeconomic drivers that meet the following specific cumulative conditions:

(i) the project interconnects the cloud infrastructure of socioeconomic drivers that are public administrations or public or private entities entrusted with the operation of services of general interest or of services of general economic interest within the meaning of Article 106(2) of the Treaty;

(ii) the project consists of a cross-border section of the deployment of new cross-border backbone networks or a significant upgrade of existing ones that (1) crosses the border between two or more Member States; or (2) crosses the border between at least one Member State and at least one European Economic Area country;

(iii) the project covers at least two eligible socioeconomic drivers under point (i), each operating in a different Member State or in one Member State and one European Economic Area country;

(iv) the project ensures a significant new investment in the backbone network going beyond marginal investments, such as investments related to mere software upgrades or licensing. The project shall be able to reliably provide symmetric download and upload speeds of at least multiples of 10 Gbps;

(v) the project supports the deployment of new passive infrastructure only if existing passive infrastructure cannot be reused;

[89] Council Regulation (EU) 2018/1488 of 28 September 2018 establishing the European High Performance Computing Joint Undertaking (OJ L 252, 8.10.2018, p. 1).

(d) investments in the deployment of a submarine cable network that meet the following specific cumulative conditions:

(i) the project consists of a cross-border section of a submarine cable network which (1) crosses the border between two or more Member States; or (2) crosses the border of at least one Member State and at least one European Economic Area country. Alternatively, the entity receiving aid shall only ensure the provision of wholesale services and the supported infrastructure shall improve the connectivity of European outermost regions, overseas territories, or island regions, even within a single Member State;

(ii) the project shall not concern routes served already by at least two present or credibly planned backbone infrastructure;

(iii) the project ensures a significant new investment in the submarine cable network, by rolling-out a new submarine cable or connection to an existing submarine cable, addressing redundancy issues and going beyond marginal investments.

Article 74

Aid for backhaul networks

1. This Article shall apply to aid for the deployment, including construction, management and operation, of backhaul networks.

2. This Article shall not apply to aid in the form of a financial instrument for which the nominal amount of total financing provided to any final beneficiary per project exceeds EUR 189 million and to other forms of aid where the total costs per project exceed EUR 126 million. As from 1 January 2031, this Article shall not apply to aid in the form of a financial instrument for which the nominal amount of total financing provided to any final beneficiary per project exceeds EUR 206 million and to other forms of aid where the total costs per project exceed EUR 137 million.

3. Backhaul network deployment shall be located in areas where there is no backhaul network based on fibre, or on other technologies able to provide the same level of performance and reliability as fibre, existing or credibly planned to be deployed within the relevant time horizon. This shall be verified by mapping and public consultation.

4. The intervention shall include more than 70 % investment in broadband infrastructure and the State funded network shall be based on fibre or on other technologies able to provide the same level of performance as fibre.

5. The aid amount shall be determined on the basis of a competitive bidding process or, when the aid is granted to a public authority, directly or through an in-house entity, the aid amount shall not exceed the funding gap.

6. The network shall offer wholesale access under fair and non-discriminatory conditions which shall include access to the broadband infrastructure and access to active services. Wholesale access to active services shall be offered for at least 10 years from the start of the operation of the network and wholesale access to the broadband infrastructure shall be granted for the lifetime of the elements concerned. The same access conditions shall apply to the entire network, irrespective of any change in ownership, management or operation of the network.

Article 75

Connectivity vouchers

1. This Article shall apply to connectivity voucher schemes for consumers or SMEs.

2. This Article shall not apply to schemes whose budget exceeds EUR 2.75 million per year per million inhabitants, or, as from 1 January 2031, EUR 3 million per year per million inhabitants. For the purposes of determining compliance with these thresholds, the relevant population figure shall be rounded up to the next highest million inhabitants.

3. The duration of a voucher scheme shall not exceed three years. The validity of the vouchers for end users shall not exceed two years.

4. The following categories of vouchers shall be eligible:

(a) vouchers to subscribe to a new broadband service or upgrading the existing subscription to a service providing speeds of at least 30 Mbps download under peak-time conditions. Vouchers shall not be awarded for switching providers providing the same speeds as the speeds already available under the existing subscription or for upgrades of an existing subscription of at least 30 Mbps download under peak-time conditions;

(b) vouchers available to SMEs for subscribing to a new broadband service or upgrading the existing subscription to a service providing speeds of at least 100 Mbps download under peak-time conditions. Vouchers shall not be awarded for switching providers providing the same speeds as the speeds already available under the existing subscription or for upgrades of an existing subscription of at least 100 Mbps download under peak-time conditions.

5. The vouchers may cover up to 50 % of the eligible costs. Eligible costs shall be the monthly fee, the standard set-up costs and the necessary terminal equipment for the end users. The costs for in-house wiring and limited deployment in the end users' private properties or in the public property in close proximity to the end users' private properties shall also be eligible to the extent they are necessary and ancillary to the provision of the service.

6. Member States shall carry out a public consultation through publication of the main characteristics of the scheme.

7. The scheme shall ensure equal treatment of all possible service providers and shall offer end users the widest possible choice of providers irrespective of the technologies used. The Member State shall set up a publicly accessible registry of all eligible service providers.

8. Aid shall only be granted if the scheme does not unduly benefit a limited number of providers and does not lead to reinforcing the local market power of certain providers.

9. When a provider of broadband services is vertically integrated and has a retail market share above 25 %, it must offer, on the corresponding wholesale access market, wholesale access products on the basis of which any access seeker will be able to provide the eligible services under open, transparent and non-discriminatory conditions.

10. By way of derogation from paragraphs 5, first sentence, and paragraphs 8 and 9, where the total budget of the connectivity voucher scheme does not exceed EUR 1.89 million, or, as from 1 January 2031, EUR 2.05 million, the aid intensity may be increased to 100 % of the eligible costs.

Article 76

Social connectivity vouchers

1. This Article shall apply to social connectivity voucher scheme for consumers with special social needs or in a difficult economic situation.

2. This Article shall not apply to schemes whose budget exceeds EUR 1.65 million, or, as from 1 January 2031, EUR 1.8 million, per year per million inhabitants For the purposes of determining compliance with these thresholds, the relevant population figure shall be rounded up to the next highest million inhabitants.

3. Social vouchers shall be used to subscribe to new internet access and voice communications services or to retain existing subscriptions to those services.

4. The vouchers may cover up to 100 % of the eligible costs. The eligible costs shall be the monthly fee, the standard set-up costs and the necessary terminal equipment for the consumers. The costs for in-house wiring and limited deployment in the consumers' private properties or in the public property in close proximity to the end consumers' private properties shall also be eligible to the extent they are necessary and ancillary to the provision of the service.

5. Member States shall carry out a public consultation through publication of the main characteristics of the scheme.

6. The scheme shall ensure equal treatment of all possible service providers and shall offer consumers the widest possible choice of providers irrespective of the technologies used. The Member State shall set up a publicly accessible registry listing all eligible service providers.

Article 77

Aid for sport and multifunctional recreational infrastructure

1. This Article shall apply to aid for sport and multifunctional recreational infrastructure.

2. This Article shall not apply, as regards investment aid for sport and multifunctional recreational infrastructure, to aid which exceeds EUR 42 million, or, as from 1 January 2031, EUR 45 million per infrastructure. This Article shall not apply, as regards operating aid for sport infrastructure, to aid which exceeds EUR 2.8 million, or, as from 1 January 2031, EUR 3 million per infrastructure per year.

3. For the purpose of this Article, ‘professional sport’ means the practice of sport in the nature of gainful employment or remunerated service, irrespective of whether or not a formal labour contract has been established between the professional sportsperson and the relevant sport organisation, where the compensation exceeds the cost of participation and constitutes a significant part of the income for the sportsperson. Travel and accommodation expenses to participate in the sport event shall not be considered as compensation.

4. Sports infrastructure shall not be used exclusively by a single professional sport user. Use of the sport infrastructure by other professional or non-professional sport users shall account for at least 20 % of time capacity. This threshold shall be assessed on average during the period referred to in Article 3(2), point (a). If the infrastructure is used by several users simultaneously, corresponding fractions of time capacity usage shall be calculated. If the infrastructure is used by professional sport clubs, Member States shall ensure that the pricing conditions for its use are made publicly available.

5. Multifunctional recreational infrastructure shall consist of recreational facilities with a multi-functional character offering, in particular, cultural, sport or any other recreational services with the exception of leisure parks and hotel facilities.

6. Undertakings which have financed at least 30 % of the investment costs of the infrastructure may be granted preferential access under more favourable conditions, provided those conditions are made publicly available.

7. The aid may take the form of:

(a) investment aid, including aid for the construction or upgrade of sport and multifunctional recreational infrastructure;

(b) operating aid for sport infrastructure.

8. The eligible costs shall be:

(a) for investment aid for sport and multifunctional recreational infrastructure, the investment costs in tangible and intangible assets;

(b) for operating aid for sport infrastructure, the operating costs of the provision of services by the infrastructure. Those operating costs exclude depreciation charges and the costs of financing if these have been covered by investment aid.

9. For investment aid for sport and multifunctional recreational infrastructure, the aid amount shall not exceed one of the following:

(a) the simplified funding gap, up to 100 % of the investment costs;

(b) the estimated investment costs minus the actual operating cash flows, provided the latter are overall positive;

(c) for aid not exceeding EUR 2.8 million, or, as from 1 January 2031, EUR 3 million, the maximum amount of aid may be set at 80 % of the eligible costs.

10. For operating aid for sport infrastructure, the aid amount shall not exceed one of the following:

(a) the operating losses and a reasonable profit over the period for which the aid is granted; This shall be ensured ex ante, on the basis of reasonable projections, or through a claw-back mechanism;

(b) 80 % of the eligible costs, provided the aid does not exceed EUR 2.8 million, or, as from 1 January 2031, EUR 3 million.

Article 78

Investment aid for local infrastructure

1. This Article shall apply to aid for the construction or upgrade of infrastructure which, at a local level, contributes to improving the business and consumer environment, as well as to the modernisation and development of the industrial base.

2. This Article shall not apply to aid which exceeds EUR 14 million or to total costs exceeding EUR 28 million, for the same infrastructure. In assisted areas, this Article shall not apply to aid which exceeds EUR 21 million or to total costs exceeding EUR 42 million in assisted areas, for the same infrastructure. As from 1 January 2031, this Article shall not apply to aid which exceeds EUR 15 million or to total costs exceeding EUR 30 million, for the same infrastructure. As from 1 January 2031, in assisted areas, this Article shall not apply to aid which exceeds EUR 22.5 million or to total costs exceeding EUR 45 million, for the same infrastructure.

3. This Article shall not apply to dedicated infrastructure or to aid for broadband, energy, transport, research, recharging and refuelling, port, and airport infrastructure.

4. The price charged for the use or the sale of the infrastructure shall correspond to the market price.

5. The eligible costs shall be the investment costs in tangible and intangible assets.

6. The aid amount shall not exceed one of the following:

(a) the simplified funding gap, up to 100 % of the investment costs;

(b) the estimated investment costs minus the actual operating cash flows, provided the latter are overall positive;

(c) 80 % of the eligible costs, provided the aid does not exceed EUR 2.8 million, or, as from 1 January 2031, EUR 3 million.

Article 79

Aid for airports

1. This Article shall apply to aid for airport operators.

2. For the purpose of this Article, the following definitions shall apply:

(a) ‘airport operator’ means any undertaking which manages and operates an airport and exploits its infrastructure by providing airport services;

(b) ‘air carrier’ means an undertaking with a valid operating licence or equivalent, as defined in Article 2, (10) of Regulation (EC) No 1008/2008 of the European Parliament and of the Council[90];

(c) ‘airport infrastructure’ means infrastructure for the provision of airport services (including runways, terminals, aprons, taxiways), airport cybersecurity infrastructure and airport security infrastructure, centralised groundhandling infrastructure and any other facilities that directly support the airport services, excluding infrastructure and equipment which is primarily necessary for pursuing non-aeronautical activities;

(d) ‘airport cybersecurity infrastructure’ means infrastructure that enhances resilience of airports to cyberattacks;

(e) ‘airport security infrastructure’ means physical security infrastructure in airports;

(f) ‘centralised groundhandling infrastructure’ means infrastructure which is normally managed by the airport operator and put at the disposal of the various providers of groundhandling services active at the airport in exchange for remuneration;

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[90] Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (OJ L 293, 31.10.2008, p. 3).

(g) ‘non-aeronautical activities’ means commercial services other than airport services provided to air carriers or other users of the airport, such as ancillary services to passengers or other service providers, renting out of offices and shops, car parking and hotels;

(h) ‘airport services’ means services provided to ensure the handling of aircraft, from landing to take-off, and of passengers and freight, so as to enable air carriers to provide air transport services excluding ground handling services;

(i) ‘air transport services’ means a flight or a series of flights carrying passengers, cargo and/or mail for remuneration and/or hire;

(j) ‘groundhandling services’ means services provided to air carriers at airports as described in the Annex to Council Directive 96/67/EC[91];

(k) ‘airport operating losses’ means the difference between the airport operating revenue and airport operating costs, where that difference is negative;

(l) ‘airport operating revenues’ means the revenues from airport services and any profits from non-aeronautical activities not including revenue in the form of public compensation for services of general economic interest;

(m) ‘airport operating costs’ means the costs of providing airport services, operating airport security infrastructure and airport cybersecurity infrastructure, not including depreciation, interest expenses, taxes and costs for services of general economic interest, for which the airport operator is compensated by the State.

3. Aid shall not be granted if the airport has an average annual freight traffic of more than 200 000 tonnes during the two financial years preceding the year in which aid is granted. Aid shall not be expected to result in the airport increasing its average annual freight traffic to above 200 000 tonnes within two financial years of the granting of aid.

4. Investment aid shall not be granted for the relocation of existing airports or for the creation of a new airport, including the conversion of an existing airfield into an airport.

5. Investment aid shall not be granted if the airport has an average annual passenger traffic of more than three million passengers during the two financial years preceding the year in which aid is granted. Investment aid shall not be expected to result in the airport´s increasing its average annual traffic to above three million passengers within two financial years of the granting of aid.

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[91] Council Directive 96/67/EC of 15 October 1996 on access to the groundhandling market at Community airports (OJ L 272, 25.10.1996, p. 36).

6. Investment aid shall not be granted if the airport is located within 150 kilometres of an existing airport from which scheduled air services, within the meaning of Article 2, point (16), of Regulation (EC) No 1008/2008, are operated, unless travelling time from that existing airport to the airport receiving the aid, by road, maritime and rail exceeds 90 minutes. In case of maritime transport, the time criterion of 90 minutes refers to the total travelling time between the airports and includes any necessary transit times. If the route between the existing airport and the airport receiving the aid necessarily involves maritime transport with less than daily return frequencies, or air transportation, investment aid may be granted even if the total travelling time between these two airports does not exceed 90 minutes.

7. Investment aid shall not exceed what is necessary to accommodate medium-term expected traffic on the basis of reasonable traffic forecasts.

8. Paragraphs 6 and 7 shall not apply if the airport has an average annual passenger traffic of up to 500 000 passengers during the two financial years preceding the year in which aid is granted if the aid is not expected to result in the airport increasing its average annual passenger traffic to above 500 000 passengers within two financial years of the granting of aid.

9. The costs eligible for investment aid shall be the costs of investing in airport infrastructure, including planning costs.

10. Investment aid shall not exceed the following amounts:

(a) The amount of investment aid for airports with average annual passenger traffic of up to 500 000 passengers during the two financial years preceding the year in which aid is granted shall not exceed 100 % of the eligible costs.

(b) The amount of investment aid for airports with average annual passenger traffic between 500 000 and 3 million passengers during the two financial years preceding the year in which aid is granted shall not exceed the simplified funding gap and in no case shall it exceed:

   (i) 50 % of the eligible costs for airports with average annual passenger traffic of one to three million passengers during the two financial years preceding the year in which aid is granted;

   (ii) 75 % of the eligible costs for airports with average annual passenger traffic between 500 000 and one million passengers during the two financial years preceding the year in which aid is granted.

11. The maximum aid intensities set out in paragraph 10, point (b) may be increased by the following percentage points up to a maximum of 100 % of the eligible costs:

   (i) 20 percentage points for airports in remote regions;

(ii) 20 percentage points when the aid supports the building of airport infrastructure dedicated to the operation of aircraft with zero tailpipe CO2 emissions or to the provision of fixed electrical ground power and pre-conditioned air to stationary aircraft.

12. Operating aid shall not be granted if the airport has an average annual passenger traffic of more than 500 000 passengers during the two financial years preceding the year in which aid is granted.

13. Operating aid shall not be paid out for any calendar year during which the annual passenger traffic of the airport exceeds 500 000 passengers.

14. The granting of operating aid shall not be made conditional on the conclusion of arrangements with specific air carriers for airport charges, marketing payments or other financial aspects of the air carriers' operations at the airport concerned.

15. The amount of operating aid shall not exceed what is necessary to cover the airport's operating losses, and a reasonable profit over the period for which aid is granted.

Article 80

Aid for ports

1. This Article shall apply to aid for maritime and inland ports.

2. For the purpose of this Article, the following definitions shall apply:

(a) 'access infrastructure' means any type of infrastructure necessary to ensure access and entry from land or sea and river by users to a port, or in a port, such as roads, rail tracks, channels, locks, breakwaters and turning basins;

(b) 'dredging' means the removal of sediments from the bottom of the waterway access to a port, or in a port;

(c) 'inland port' means a port other than a maritime port, for the reception of inland waterway vessels;

(d) 'maritime port' means a port for, principally, the reception of sea-going vessels;

(e) 'port infrastructure' means infrastructure and facilities for the provision of transport related port services. For example, berths used for the mooring of ships, quay walls, jetties and floating pontoon ramps in tidal areas, internal basins, backfills and land reclamation, infrastructure for the collection of ship-generated waste and cargo residues, recharging and refuelling infrastructure in ports supplying vehicles, mobile terminal equipment and mobile groundhandling equipment with electricity, hydrogen, ammonia and methanol for transport related activities, on-site production installations of renewable electricity or renewable hydrogen for transport related activities and storage units for storing hydrogen or renewable electricity for transport related activities;

(f) ‘port cybersecurity infrastructure’ means sector-specific cybersecurity infrastructure, that goes beyond generic information and communications technology cybersecurity tools and applications, for the provisions of transport-related services in ports, and made available to all port operators and users in an open, non-discriminatory manner and that is specifically designed to safeguard the operation and continuity of port infrastructure and the services provided by ports by increasing their resilience and enhancing their capability to manage cyber threats;

(g) ‘port security infrastructure’ means sector-specific physical security infrastructure for the provision of transport-related services in ports, made available to all port operators and users in an open and non-discriminatory manner, and specifically designed to safeguard the operation and continuity of port infrastructure and the services provided by ports by increasing their resilience and enhancing their capability to manage security threats;

(h) ‘port superstructure’ means surface arrangements (such as for storage), fixed equipment (such as warehouses and terminal buildings) as well as mobile equipment (such as cranes) located in a port for the provision of transport related port services;

(i) ‘sea-going vessels’ means vessels other than those which navigate solely or mainly in inland waterways or in waters within, or closely adjacent to, sheltered waters.

3. This Article shall not apply to aid which exceeds:

(a) EUR 180 million per project in a maritime port and EUR 55 million per project in an inland port, or, as from 1 January 2031, EUR 196 million per project in a maritime port and EUR 60 million per project in an inland port; or

(b) if the port is included in the work plan of a core network corridor as referred to in Article 47 of Regulation (EU) No 1315/2013, EUR 208 million per project in a maritime port and EUR 70 million per project in an inland port, or, as from 1 January 2031, EUR 226 million per project in a maritime port and EUR 75 million per project in an inland port.

4. The eligible costs shall be the costs, including planning costs, of:

(a) investments in the construction, installation, extension, replacement or upgrade of port infrastructure, access infrastructure, port security infrastructure and port cybersecurity infrastructure;

(b) dredging. A dredging project comprises all dredging carried out between 1 January and 31 December of the same year.

5. This Article shall not apply to:

(a) the construction, installation, or upgrade of refuelling infrastructure supplying vehicles, mobile terminal equipment and mobile groundhandling equipment with fossil-based fuels, such as diesel, natural gas, in gaseous form (compressed natural gas) and liquefied form (liquefied natural gas), and liquefied petroleum gas;

(b) dedicated infrastructure and infrastructure not made available to interested users on market terms;

(c) activities not related to -transport, including industrial production facilities active in a port, offices or shops;

(d) port superstructures;

(e) the construction, installation or upgrade of a refuelling infrastructure supplying hydrogen, unless the beneficiary gives a commitment that by 31 December 2035 at the latest the aided refuelling infrastructure will supply renewable or low-carbon hydrogen;

(f) the construction, installation or upgrade of a refuelling infrastructure supplying ammonia or methanol, unless the beneficiary gives a commitment that by 31 December 2035 at the latest the aided refuelling infrastructure will supply solely ammonia or methanol the energy content of which is derived from renewable sources other than biomass and that have been produced in accordance with the methodologies set out for renewable liquid and gaseous transport fuels of non-biological origin in Directive (EU) 2018/2001 and its implementing or delegated acts;

(g) on-site production of renewable electricity or renewable hydrogen, if the nominal production capacity exceeds the maximum rated output or refuelling capacity of the recharging or refuelling infrastructure to which it is connected.

6. The aid amount shall not exceed the following thresholds:

(a) For investments into the construction, replacement or upgrade of port infrastructure, port security infrastructure and port cybersecurity infrastructure in maritime ports, the aid amount shall not exceed the simplified funding gap and:

(i) 100 % of the eligible costs, where the total eligible costs of the project are up to EUR 28 million, or, as from 1 January 2031, EUR 30 million;

(ii) 80 % of the eligible costs, where the total eligible costs of the project are above EUR 28 million and up to EUR 70 million, or, as from 1 January 2031, above EUR 30 million and up to EUR 75 million;

(iii) 60 % of the eligible costs, where total eligible costs of the project are above EUR 70 million, or, as from 1 January 2031, EUR 75 million.

The aid intensity in points (ii) and (iii) may be increased by 10 percentage points for investments in assisted areas under Article 107(3), point (a), of the Treaty and by 5 percentage points for investments located in assisted areas under Article 107(3), point (c), of the Treaty.

(b) For investments into the construction, replacement or upgrade of port infrastructure port security infrastructure and port cybersecurity infrastructure in inland ports, for investments into the construction, replacement or upgrade of access infrastructure and for dredging, the aid amount shall not exceed the simplified funding gap and 100 % of the eligible costs.

(c) If aid is below EUR 6.9 million per project in a maritime port or EUR 2.8 million per project in an inland port, or, as from 1 January 2031, below EUR 7.5 million per project in a maritime port or EUR 3 million per project in an inland port, the maximum amount of aid may be set at 80 % of eligible costs, by way of derogation from points (a) and (b).

SECTION 10

AID INVOLVED IN FINANCIAL INSTRUMENTS AND BUDGETARY GUARANTEES SUPPORTED BY THE INVESTEU FUND

Article 81

Scope and common conditions

1. This Section shall apply to aid involved in financial products supported by the InvestEU Fund that provide aid to implementing partners, financial intermediaries or final beneficiaries.

2. The aid shall comply with all applicable conditions set out in Regulation (EU) 2021/523 and the InvestEU Investment Guidelines set out in the Annex to Commission Delegated Regulation (EU) 2021/1078[92]).

3. The maximum thresholds set out in Article 82 and Article 83 shall apply to the total outstanding financing, in so far as that financing provided under any financial product supported by the InvestEU Fund contains aid. The maximum thresholds shall apply:

(a) per project in the case of aid with identifiable eligible costs covered by Article 82(2), (3) and (4), Article 82(5), point (a)(i), and Article 82(6), (7), (8) and (9);

(b) per final beneficiary in the case of aid without identifiable eligible costs covered by Article 82(5), points (a)(ii), (iii) and (iv), Article 82(10) and Article 83.

92 Commission Delegated Regulation (EU) 2021/1078 of 14 April 2021 supplementing Regulation (EU) 2021/523 of the European Parliament and of the Council by setting out the investment guidelines for the InvestEU Fund (OJ L 234, 2.7.2021, p. 18).

4. Aid shall not be granted in the form of refinancing of or guarantees on existing portfolios of financial intermediaries.

Article 82

Conditions for aid involved in financial instruments and budgetary guarantees supported by the InvestEU Fund

1. Aid to the final beneficiary under a financial instrument or budgetary guarantee supported by the InvestEU Fund shall:

(a) comply with the conditions set out in one of paragraphs 2 to 10; and

(b) where the financing is provided in the form of loans to the final beneficiary, have an interest rate that corresponds at least to the base rate of the reference rate applicable at the time of the granting of the loan.

2. Aid for projects of common interest in the area of trans-European digital connectivity infrastructure financed under Regulation (EU) 2021/1153 or awarded a Seal of Excellence quality label under that Regulation shall only be granted to projects meeting all general and specific compatibility conditions set out in Article 73. The nominal amount of total financing provided to any final beneficiary per project under the support of the InvestEU Fund shall not exceed EUR 189 million, or, as from 1 January 2031, EUR 206 million.

3. Aid for fixed broadband network deployment and aid for mobile network deployment shall comply with the following conditions:

(a) aid shall only be granted to projects meeting all compatibility conditions set out respectively in Article 71, 73 and 75 unless indicated otherwise in points (c) and (d) of this paragraph;

(b) the nominal amount of total financing provided to any final beneficiary per project under the support of the InvestEU Fund shall not exceed EUR 189 million, or as from 1 January 2031, EUR 206 million;

(c) by way of derogation from Article 71(3), third subparagraph, Article 72(3) and Article 74(3), the identified market failure must be verified either by available mapping not older than 18 months.

4. Aid for energy generation and energy infrastructure shall comply with the following conditions:

(a) Aid shall be granted only for investments in energy infrastructure which are not exempted from third party access, tariff regulation and unbundling, based on Regulation (EC) No 715/2009, Regulation (EU) 2019/943, Directive (EU) 2019/944 or Directive (EU) 2024/1788, for the following categories of projects:

(i) as regards gas infrastructure, projects included in the prevailing Union list of Projects of Common Interest in Annex VII to Regulation (EU) No 347/2013; and

(ii) all projects with regards to electricity infrastructure, hydrogen infrastructure and carbon dioxide infrastructure.

(b) investment aid for the promotion of energy from renewable energy sources shall comply with the following requirements:

(i) aid shall only be granted for new installations selected on a competitive, transparent, objective and non-discriminatory basis in accordance with Article 58(10);

(ii) aid may be granted to electricity or thermal storage projects, if the requirements set out in Article 58(1) are met;

(iii) aid may be granted to investments in demand response;

(iv) aid may be granted to the storage of renewable fuels directly connected to renewable energy production installations, if the requirements set out in Article 58(5) are met;

(v) in case of installations producing renewable fuels of non-biological origin, aid shall only be granted for installation compliant with the requirements set out in Article 58(4);

(vi) in case of installations producing energy from biomass or from products produced from biomass, such biomass shall comply with the sustainability and greenhouse gases emissions saving criteria referred to in Article 29 of Directive (EU) 2018/2001 and its implementing or delegated acts.

(c) The nominal amount of total financing provided to any final beneficiary per project referred to in point (a) under the support of the InvestEU Fund shall not exceed EUR 189 million, or, as from 1 January 2031, EUR 206 million. The nominal amount of total financing provided to any final beneficiary per project referred to in point (b) under the support of the InvestEU Fund shall not exceed EUR 94 million, or, as from 1 January 2031, EUR 103 million.

5. Aid for social, educational, cultural and natural heritage infrastructure and activities shall comply with the following conditions:

(a) the nominal amount of total financing provided to any final beneficiary under the support of the InvestEU Fund shall not exceed:

(i) EUR 140 million per project for investments in infrastructure used for the provision of social services and for education; EUR 208 million per project for cultural and heritage conservation purposes and activities set out in

Article 69, including natural heritage, or, as from 1 January 2031, EUR 150 million per project for investments in infrastructure used for the provision of social services and for education; EUR 226 million per project for cultural and heritage conservation purposes and activities set out in Article 69, including natural heritage;

(ii) EUR 42 million, or, as from 1 January 2031, EUR 45 million for activities related to social services;

(iii) EUR 104million, or, as from 1 January 2031, EUR 113 million for activities related to culture and heritage conservation; and

(iv) EUR 7million, or, as from 1 January 2031, EUR 7.5 million for education and training.

(b) aid shall not be granted for training aimed at complying with mandatory national training requirements.

6. Aid for transport and transport infrastructure shall comply with the following conditions:

(a) aid for infrastructure, except ports, shall be provided only to the following projects:

(i) projects of common interest as defined in Article 3, point (a), of Regulation (EU) No 1315/2013, except for projects concerning port or airport infrastructure;

(ii) connections to Trans-European transport network urban nodes, within the meaning set out in Article 3, point (p), of Regulation (EU) No 1315/2013;

(iii) rolling stock only for the provision of rail transport services not covered by a public service contract within the meaning of Regulation (EC) No 1370/2007, provided the beneficiary is a new entrant. The beneficiary is a new entrant if it is a railway undertaking within the meaning of Article 3(1) of Directive 2012/34/EU of the European Parliament and of the Council[93] and if it received a licence under Article 17(3) of Directive 2012/34/EU for the relevant market segment less than 20 years before the aid is granted and it is not linked within the meaning of Article 3(3) of Annex I to this Regulation to a railway undertaking that received a license within the meaning of Article 3(14) of Directive 2012/34/EU before 1 January 2010;

(iv) urban transport, meaning transport within a city or an agglomeration and its commuting zones;

[93] Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area (OJ L 343, 14.12.2012, p. 32).

(v) recharging or refuelling infrastructure that supplies vehicles with electricity or hydrogen. For aided refuelling infrastructure supplying hydrogen, the beneficiary shall give a commitment that by 31 December 2035 at the latest, the refuelling infrastructure will supply renewable or low-carbon hydrogen. This paragraph does not apply to aid for investments relating to recharging and refuelling infrastructure in ports.

(b) aid for port infrastructure projects shall comply with the following requirements:

(i) aid may only be granted for investments in access infrastructure, port infrastructure, port cybersecurity infrastructure and port security infrastructure which are made available to interested users on an equal and non-discriminatory basis on market terms;

(ii) aid shall not be granted for investments in port superstructures.

(iii) When aid is granted for refuelling infrastructure supplying hydrogen, the beneficiary shall give a commitment that by 31 December 2035 at the latest, the refuelling infrastructure will supply renewable or low-carbon hydrogen. When aid is granted for the construction, installation or upgrade of a refuelling infrastructure supplying ammonia or methanol, the beneficiary shall give a commitment that by 31 December 2035 at the latest the aided refuelling infrastructure will supply solely ammonia or methanol the energy content of which is derived from renewable sources other than biomass and that have been produced in accordance with the methodologies set out for renewable liquid and gaseous transport fuels of non-biological origin in Directive (EU) 2018/2001 and its implementing or delegated acts.

(c) the nominal amount of total financing provided under point (a) or (b) to any final beneficiary per project under the support of the InvestEU Fund shall not exceed EUR 208million, or, as from 1 January 2031, EUR 226 million.

7. Aid for other infrastructure shall comply with the following conditions:

(a) aid shall be provided only to the following projects:

(i) investment in water supply and waste water infrastructure for the general public;

(ii) investment for resource efficiency and circularity in accordance with Article 65(1) to (6) and (10);

(iii) investment in research and testing and experimentation infrastructure;

(iv) investment in the construction or upgrade of innovation cluster facilities;

(b) the nominal amount of total financing provided to any final beneficiary per project under the support of the InvestEU Fund shall not exceed EUR 140 million, or, as from 1 January 2031, EUR 150 million.

8. Aid for environmental protection, including climate protection, shall comply with the following conditions:

(a) aid shall be provided only to the following projects:

(i) investments enabling undertakings to remedy or prevent damage (including damaged caused by climate change) to physical surroundings or natural resources by a beneficiary's own activities or by activities of another entity participating in the same project, if (i) the investments do not concern equipment, machinery or industrial production facilities using fossil fuels, including natural gas, including when fossil fuels are used in combination with other energy sources and (ii) in case of investments in equipment, machinery and industrial production facilities using hydrogen, the beneficiary commits to exclusively use renewable hydrogen throughout the lifetime of the investment. Aid shall not be granted under this point for investments undertaken to comply with Union standards that have been adopted, except if the investment is implemented and finalised at least 18 months before the standard enters into force;

(ii) measures improving the energy performance of a building or an undertaking, if the investments do not concern equipment, machinery or industrial production using fossil fuels, including natural gas, including when fossil fuels are used in combination with other energy sources. Aid shall not be granted under this point for investments undertaken to comply with Union standards that have been adopted, except if the investment is implemented and finalised at least 18 months before the standard enters into force;

(iii) remediation of environmental damage, insofar as no legal or physical person liable for the environmental damage under the applicable law is identified in line with the 'polluter pays' principle as referred to in Article 63(3);

(iv) studies and consultancy services on environmental protection and energy matters;

(v) conservation or restoration of nature;

(vi) investment aid for the acquisition of clean vehicles powered at least partially by electricity or by hydrogen, or zero-emission vehicles for road, railway, air, inland waterway and maritime transport and for the retrofitting of vehicles to qualify as clean vehicles or as zero-emission vehicles;

The aid measure shall not support the installation of energy equipment using fossil fuels, including natural gas, including when fossil fuels are used in combination with other energy sources.

The aid may be granted either to the building owner(s) or tenant(s), depending on who obtains the financing for the project.

(b) the nominal amount of total financing provided to any final beneficiary per project referred to in point (a) under the support of the InvestEU Fund shall not exceed EUR 63 million, or, as from 1 January 2031, EUR 68.5 million;

(c) the nominal amount of total financing provided per project referred to in point (b) under the support of the InvestEU Fund shall not exceed EUR 63 million, or, as from 1 January 2031, EUR 68.5 million per final beneficiary and building;

(d) aid for energy performance improvement measures may also relate to the facilitation of energy performance contracting, subject to the following cumulative conditions:

(i) the support is provided to SMEs or small mid-caps that are providers of energy performance improvement measures, and which are the final beneficiaries of the aid;

(ii) the aid is provided for the facilitation of energy performance contracting within the meaning of Article 2, point (33), of Directive (EU) 2023/1791;

(iii) the aid takes the form of a senior loan or guarantee to the provider of the energy efficiency improvement measures under an energy performance contract, or consists in a financial product aimed at financing the provider (for example, factoring or forfaiting);

(iv) the nominal amount of total outstanding financing provided under this point per beneficiary does not exceed EUR 38 million, or, as from 1 January 2031, EUR 41 million.

9. Aid for research, development, innovation and digitalisation shall comply with the following conditions:

(a) aid may be granted for:

(i) fundamental research;

(ii) industrial research;

(iii) experimental development;

(iv) process innovation or organisational innovation for SMEs;

(v) innovation advisory services and innovation support services for SMEs;

(vi) digitalisation for SMEs;

(b) for projects falling under points (a) (i), (ii) and (iii), the nominal amount of total financing provided to any final beneficiary per project under the support of the InvestEU Fund shall not exceed EUR 94 million, or, as from 1 January 2031, EUR 103 million. For projects falling under point (a) (iv), (v) and (vi), the nominal amount of total financing provided to any final beneficiary per project under the support of the InvestEU Fund shall not exceed EUR 38 million, or, as from 1 January 2031, EUR 41 million.

10. SMEs or, where applicable, small mid-caps may, in addition to the categories of aid provided for in paragraphs 2 to 9, also receive aid in the form of financing supported by the InvestEU Fund if the respective conditions are met:

(a) the nominal amount of total financing provided per final beneficiary under the support of the InvestEU Fund does not exceed EUR 20.8 million, or, as from 1 January 2031, EUR 22.6 million, and is provided to:

(i) unlisted SMEs that have not yet been operating in any market or have been operating for less than 10 years following their registration or less than seven years after their first commercial sale; where either the period of operating for less than 10 years following their registration or less than seven years after their first commercial sale has been applied to a given undertaking, only that period can be applied also to any subsequent aid under this Article to the same undertaking. For undertakings that have acquired another undertaking or were formed through a merger, the eligibility period applied shall also encompass the operations of the acquired undertaking or the merged undertakings, respectively, except for such acquired or merged undertakings whose turnover accounts for less than 10 % of the turnover of the acquiring undertaking in the financial year preceding the acquisition or, in case of undertakings formed through a merger, less than 10 % of the combined turnover that the merging undertakings had in the financial year preceding the merger. Concerning the registration-related eligibility period, if used, for eligible undertakings that are not subject to registration, the ten-year eligibility period is considered to start from the earlier of either the moment when the undertaking starts its economic activity or the moment when it becomes liable to tax with regard to its economic activity. The financing under the support of the InvestEU Fund may also cover follow-on investments in unlisted SMEs after the eligibility period referred to in this point if the following cumulative conditions are met: (1) the nominal amount of total financing referred to in point (a) is not exceeded, (2) the possibility of follow-on investments was provided for in the original business plan and (3) the final beneficiary receiving the follow-on investment has not become a ‘linked enterprise’, within the meaning of Article 3(3) of Annex I, with another undertaking other than the implementing partner, financial intermediary that is not an implementing partner or an independent investor providing financing under the support of the InvestEU Fund, unless the linked enterprises together qualify as an SME;

(ii) unlisted SMEs starting a new economic activity, where the initial investment shall be higher than 50 % of the average annual turnover in the preceding five years. By derogation from the first sentence, the following shall be considered investments for new economic activities, if the related initial investment, based on a business plan, is higher than 30 % of the average annual turnover in the preceding five years: (1) investments significantly improving the environmental performance of the activity beyond mandatory Union standards in accordance with Article 51(2) of this Regulation, (2) other environmentally sustainable investments as defined in Article 2, point (1), of Regulation (EU) 2020/852, and (3) investments aiming at increasing capacity for the extraction, separation, refining, processing or recycling of a critical raw material listed in Annex II, section 1, of Regulation (EU) 2024/1252. The environmentally sustainable character of the investment shall be demonstrated in accordance with Article 3 of Regulation (EU) 2020/852, including the 'do no significant harm' principle, or through other comparable methodologies, including, among others, the sustainability proofing for the InvestEU Fund. For measures which are identical to measures within Recovery and Resilience Plans as approved by the Council, their compliance with the 'do no significant harm' principle is considered met as this has already been verified;

(iii) SMEs and small mid-caps that are innovative enterprises;

(b) the nominal amount of total financing provided per final beneficiary under the support of the InvestEU Fund does not exceed EUR 20.8 million, or, as from 1 January 2031, EUR 22.6 million, and is provided to SMEs or small mid-caps whose principal activities are located in assisted areas if the financing is not used for relocation of activities;

(c) the nominal amount of total financing provided per final beneficiary under the support of the InvestEU Fund does not exceed EUR 2.8 million, or, as from 1 January 2031, EUR 3 million, and is provided to SMEs or small mid-caps.

Article 83

Conditions for aid involved in intermediated commercially-driven financial products supported by the InvestEU Fund

1. Financing to the final beneficiaries shall be provided by commercial financial intermediaries.

2. The commercial financial intermediary that provides financing to the final beneficiary shall retain a minimum risk exposure of 20 % of each financing transaction.

3. The nominal amount of total financing provided by a Member State through an implementing partner to each final beneficiary shall not exceed:

(a) EUR 2.5 million, or, as from 1 January 2031, EUR 2.75 million through any commercial financial intermediary, or

(b) EUR 10.4million, or, as from 1 January 2031, EUR 11.3 million through all commercial financial intermediaries.

CHAPTER IV

TRANSITIONAL AND FINAL PROVISIONS

Article 84

The present Regulation shall replace Regulation (EU) No 651/2014 upon its expiry.

Article 85

Transitional provisions at the beginning of the period of application of this Regulation

1. Any individual aid granted before 1 July 2027 on the basis of an aid scheme exempted by virtue of Regulation (EU) No 651/2014 shall be compatible with the internal market and exempted from the notification requirement of Article 108(3) of the Treaty.

2. Risk finance aid schemes in favour of SMEs set up before 1 January 2027 which are exempted from the notification requirement of Article 108(3) of the Treaty under Regulation (EC) No 800/2008 or Regulation (EU) No 651/2014, shall remain exempted and compatible with the internal market until the termination of the funding agreement, provided the commitment of the public funding into the supported private equity investment fund, on the basis of such agreement, was made before 1 July 2027 and the other conditions for exemption remain met.

3. As regards schemes existing on 31 December 2026 and ad hoc aid for which the aid application was filed at the latest on 31 Decembre 2026, granting authorities may choose to continue applying the rules set out in Regulation (EU) No 651/2014 to aid granted under Union funds implemented under shared management for the remainder of the 2021-2027 programming period until the end of the period for eligibility of expenditure set out in Article 63(2) of Regulation (EU) 2021/1060. In this respect, ‘assisted areas’ means areas designated in a regional aid map that has been approved in application of Article 107(3), points (a) and (c) of the Treaty and in force at the time of the granting of aid or on 31 December 2026. Granting authorities may choose to continue applying the rules set out in Regulation (EU) No 651/2014 also to aid granted under financial products supported by the InvestEU Fund as set out in

Regulation (EU) 2021/523, provided the underlying guarantee agreements are signed until 31 December 2027.

4. As regards tax schemes existing on 31 December 2026, granting authorities may choose to continue applying the rules set out in Regulation (EU) No 651/2014 until 31 December 2027.

Article 86

Retroactive application

This Regulation shall apply to individual aid granted before its entry into force if the aid meets all the conditions set out in this Regulation, with the exception of Article 10.

Article 87

Transitional provisions at the end of the period of application of this Regulation

1. From the date on which this Regulation ceases to apply, aid schemes exempted pursuant to this Regulation shall remain exempted for an adjustment period of six months. By way of derogation:

(a) the exemption of regional aid schemes shall expire on the date of expiry of the approved regional aid maps;

(b) the exemption of risk finance aid pursuant to Article 25(9), point (a), shall expire at the end of the period set out in the funding agreement, provided that the commitment of public funding to the supported private equity investment fund was made on the basis of such an agreement within six months of the end of the period of application of this Regulation and all other conditions for exemption remain met.

2. As regards schemes existing on the date on which this Regulation ceases to apply, granting authorities may choose to continue applying the rules set out in this Regulation to aid granted under Union funds implemented under shared management for the remainder of the 2028-2034 programming period until the end of the period for eligibility of expenditure set out in applicable Union rules. In this respect, ‘assisted areas’ means areas designated in a regional aid map that has been approved in application of Article 107(3), points (a) and (c) of the Treaty and in force at the time of the granting of aid or on 31 December 2034.

Article 88

Amendments to Regulation (EU) 2022/2472

Regulation (EU) 2022/2472 is amended as follows:

1. Article 1 is amended as follows:

(a) paragraph 2 is replaced by the following:

'2. Member States may choose, where applicable, to grant aid in compliance with this Regulation or with Commission Regulation (EU) …/….".

(b) in paragraph 3, points (a) and (b) are deleted;

(c) in paragraph 5, the following points (i) and (j) are added:

'(i) aid to small and medium-sized enterprises ('SMEs') within three years from registration if they qualify as undertakings in difficulty under Article 2, point (32)(a) or (b) of Regulation (EU) …/…;

(j) aid to innovative start-ups within five years from registration, if they qualify as undertakings in difficulty under Article 2, point (32)(a) or (b) of Regulation (EU) …/….'

2. Article 2 is amended as follows:

(a) point (12) is replaced by the following:

'(12) 'aid intensity' means the gross aid amount expressed as a percentage of the eligible costs;';

(b) point (23) is deleted;

(c) point (30) is replaced by the following:

'(30) 'gross grant equivalent' means the discounted amount of the aid if it had been provided in the form of a grant to the beneficiary, before taxes or other charges, as calculated at the date of award of the aid on the basis of the reference rate applicable on that date;';

(d) point (53) is replaced by the following:

'(53) 'start of works' means the earliest of the following events: the start of construction works relating to an investment project, the start of the eligible activity, or the first legally binding commitment relating to the eligible project or activity, other than construction works. A first legally binding commitment relating to an investment project does not constitute the start of works if it amounts to less than 2 % of the total eligible costs of the project. A first legally binding commitment relating to an activity does not constitute the start of works if it amounts to less than 2 % of the total eligible costs of the activity over the period of time to be covered by the aid;';

(e) point (59) is replaced by the following:

'(59) 'undertaking in difficulty' means an undertaking fulfilling the criteria laid down in Article 2, point (32), of Regulation (EU) No …/…';'

(f) the following point (62) is added:

'(62) 'undertaking' means any entity engaged in an economic activity, including a group of several separate legal entities that, because of controlling shares and other functional, economic and organic links, form one economic unit. The mere fact of holding shares, even controlling shareholdings, is insufficient to characterise such a link.';

3. Article 3 is replaced by the following:

'Article 3

Conditions for exemption

1. Aid schemes, individual aid granted under aid schemes and ad hoc aid shall be compatible with the internal market within the meaning of Article 107(2) or (3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty provided that such aid fulfils all the conditions laid down in Chapter I of this Regulation, as well as the specific conditions for the relevant category of aid laid down in Chapter III of this Regulation.

2. Unless otherwise provided for in this Regulation:

(a) the relevant time for assessing whether the block exemption conditions set out in this Regulation are met is the date of granting of the aid;

(b) the granting authority shall assess whether the block exemption conditions set out in this Regulation are met at the level of the undertaking;

(c) whenever this Regulation explicitly refers to investment aid in infrastructure:

(i) any concession or other entrustment to a third party to construct, upgrade, operate or rent aided infrastructure shall not involve an advantage to the third party; this shall be ensured by appropriate means such as assigning the entrustment on a competitive, transparent, non-discriminatory and unconditional basis;

(ii) the operator shall make the infrastructure available to interested users on an open, transparent and non-discriminatory basis.

3. The assessment whether or not the monetary thresholds set out in this Regulation are exceeded shall be based on amounts discounted to their value on the date of aid granting. The interest rate to be used to discount cash flows shall be the discount rate applicable on that same date;

4. Article 5 is replaced by the following:

‘Article 5

Determination of the aid amount

1. Ensuring that the applicable aid thresholds set out in this Regulation are met shall not involve a complex economic assessment.

2. Determining the aid amount shall be regarded as not involving a complex economic assessment in particular when the following alternative forms of aid are used:

(a) grants, including in the form of interest rate subsidies;

(b) subsidised services;

(c) aid comprised in loans, where the gross grant equivalent has been calculated on the basis of the reference rate prevailing at the time of the grant; alternatively, Member States may use the nominal amount of the loan;

(d) aid comprised in guarantees, where the gross grant equivalent has been calculated on the basis of safe-harbour premiums set out in a Commission notice; or where, before the implementation of the measure, the methodology to calculate the gross grant equivalent of the guarantee has been accepted on the basis of the Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees[94], or any successor notice, following notification of that methodology to the Commission under any regulation adopted by the Commission in the State aid area applicable at the time, and the approved methodology explicitly addresses the type of guarantee and the type of underlying transaction at stake in the context of the application of this Regulation; alternatively Member States may use amount of the underlying financial instrument;

(e) aid in the form of repayable advances if, before implementation of the measure, the methodology to calculate the gross grant equivalent of the repayable advance has been accepted following its notification to the Commission; alternatively, Member States may use the nominal amount of the repayable advance;

(f) aid in the form of the sale or the lease of tangible or intangible assets, goods or services below market rates where the value is established either by an independent expert evaluation prior to the transaction or by reference to a publicly available, regularly updated and generally accepted benchmark;

(g) aid in the form of tax advantages, where the measure provides for a cap ensuring that the applicable threshold is not exceeded;

(h) nominal amounts of equity and quasi-equity investments.’

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[94] OJ C 155, 20.6.2008, p. 10.

5. in Article 6, paragraph 2 is replaced by the following:

2. Aid shall be considered to have an incentive effect if the beneficiary has submitted a written application for State aid or EU funding before work on the project or activity starts (‘start of works’). For the purpose of the incentive effect condition, the application for the aid shall contain the following information:

(a) the undertaking's name and, if relevant, its size;

(b) a description of the project or activity, its start and end dates;

(c) the location of the project or activity, if relevant;

(d) the overall costs;

(e) the amount of public funding needed for the project or activity.

6. Article 7 is replaced by the following:

‘Article 7

Aid intensity and eligible costs

1. For the purposes of calculating the aid intensity and the eligible costs, all figures used shall be taken before any deduction of tax or other charge. The eligible costs shall be supported by documentary evidence which shall be clear, specific and contemporary. The amount of eligible costs as defined in the applicable exemption provision may be determined in accordance with a simplified cost option if one of the following conditions is met:

(a) the amounts are determined ex ante in accordance with a fair, equitable and verifiable method based on relevant and reliable data, which may include statistical and historical data, market surveys, expert opinions or draft budgets; this condition shall be considered met if the amounts are determined in accordance with a method, applicable under the rules governing a Union Fund, that is or has been used for a similar operation at least partly financed through a Union fund;

(b) the aided operation is at least partly financed through a Union fund, and the amounts are determined in accordance with a method that is or was applicable under the rules governing the Union fund.

2. Aid amounts for the measures or types of operations referred to in Articles 31, 33, 34, 35, 41, 45 and 46 may be fixed on the basis of standard assumptions of additional costs and income foregone. In such cases, Member States shall ensure that the calculations and the corresponding aid contain only elements that are verifiable, are based on figures established by appropriate expertise, indicate clearly the source of the figures used, are differentiated to take account of regional or local site conditions and actual land use, where applicable and do not contain elements linked to investment costs.

3. Value added tax (VAT) shall not be eligible for aid, except where it is not recoverable under national VAT legislation.

4. Eligible investment costs shall include one-off non-amortizable costs linked directly to the investment and its initial installation such as permitting costs and feasibility studies.

5. Where aid is granted in the form of nominal amounts of repayable advances and the measure provides that in case of a successful outcome of the project, as defined on the basis of a reasonable and prudent hypothesis, the advances will be repaid with an interest rate at least equal to the discount rate applicable at the moment the aid is granted, the maximum aid intensities set out in Chapter III may be increased by 10 percentage points.

7. Article 9 is moved to Chapter II ‘Procedural requirements’, becoming the first Article of this Chapter;

8. Article 12 is deleted.

Article 89

Amendments to Regulation (EU) 2022/2473

Regulation (EU) 2022/2473 is amended as follows:

1. Article 1 is amended as follows:

(a) in paragraph 2, point (d), is replaced by the following:

‘(d) for research, development and innovation in fisheries and aquaculture’;

(b) paragraph 7 is replaced by the following:

‘7. Member States may choose, where applicable, to grant aid in compliance with this Regulation or with Regulation (EU) …/…;

(c) in paragraph 4, the following points (e) and (f) are added:

‘(e) small and medium-sized enterprises (‘SMEs’) within three years from registration if they qualify as undertakings in difficulty under Article 2, point (32)(a) or (b) of Regulation (EU) …/… ”;

(f) aid to innovative start-ups within five years from registration, if they qualify as undertakings in difficulty under Article 2, point (32)(a) or (b) of Regulation (EU) …/…’;

2. Article 2(1) is amended as follows:

(a) point (4) is replaced by the following:

‘(4) ‘aid intensity’ means the gross aid amount expressed as a percentage of the eligible costs’;

(b) point (10) is deleted;

(c) point (17) is replaced by the following:

‘(17) ‘gross grant equivalent’ means the discounted amount of the aid if it had been provided in the form of a grant to the beneficiary, before taxes or other charges, as calculated at the date of award of the aid on the basis of the reference rate applicable on that date;’;

(d) point (27) is replaced by the following:

‘(27) ‘start of works’ means the earliest of the following events: the start of construction works relating to an investment project, the start of the eligible activity, or the first legally binding commitment relating to the eligible project or activity, other than construction works. A first legally binding commitment relating to an investment project does not constitute the start of works if it amounts to less than 2 % of the total eligible costs of the project. A first legally binding commitment relating to an activity does not constitute the start of works if it amounts to less than 2 % of the total eligible costs of the activity over the period of time to be covered by the aid;’;

(e) point (29) is replaced by the following:

‘(29) ‘undertaking in difficulty’ means an undertaking fulfilling the criteria laid down in Article 2, point (32), of Regulation (EU) No …/…;’;

(f) the following point (30) is added:

‘(30) ‘research and knowledge-dissemination organisation’ means an entity (such as universities or research institutes, technology transfer agencies, innovation intermediaries, research-oriented physical or virtual collaborative entities), irrespective of its legal status (organised under public or private law) or way of financing, whose primary goal is to independently conduct fundamental research, industrial research or experimental development and to widely disseminate the results of such activities by way of teaching, publication or knowledge transfer. Where such entity also pursues economic activities the financing, costs and revenues of those economic activities shall be accounted for separately. Undertakings that can exert a decisive influence upon such an entity, in the quality of, for example, shareholders or members, may not enjoy preferential access to the results generated by it’;

(g) the following point (31) is added:

‘(31) ‘undertaking’ means any entity engaged in an economic activity, including a group of several separate legal entities that, because of controlling shares and other functional, economic and organic links, form one economic unit. The mere fact of holding shares, even controlling shareholdings, is insufficient to characterise such a link.';

3. in Article 4, the following paragraphs 3 and 4 are added:

'3. Unless otherwise provided for in this Regulation:

(a) the relevant time for assessing whether the block exemption conditions set out in this Regulation are met is the date of granting of the aid;

(b) the granting authority shall assess whether the block exemption conditions set out in this Regulation are met at the level of the undertaking;

(c) whenever this Regulation explicitly refers to investment aid in infrastructure:

(i) any concession or other entrustment to a third party to construct, upgrade, operate or rent aided infrastructure shall not involve an advantage to the third party; this shall be ensured by appropriate means such as assigning the entrustment on a competitive, transparent, non-discriminatory and unconditional basis;

(ii) the operator shall make the infrastructure available to interested users on an open, transparent and non-discriminatory basis.

4. The assessment whether or not the monetary thresholds set out in this Regulation are exceeded shall be based on amounts discounted to their value on the date of aid granting. The interest rate to be used to discount cash flows shall be the discount rate applicable on that same date.';

4. Article 5 is replaced by the following:

'Article 5

Determination of the aid amount

1. Ensuring that the applicable aid thresholds set out in this Regulation are met shall not involve a complex economic assessment.

2. Determining the aid amount shall be regarded as not involving a complex economic assessment in particular when the following alternative forms of aid are used:

(a) grants, including in the form of interest rate subsidies;

(b) subsidised services;

(c) aid comprised in loans, where the gross grant equivalent has been calculated on the basis of the reference rate prevailing at the time of the grant; alternatively, Member States may use the nominal amount of the loan;

(d) aid comprised in guarantees, where the gross grant equivalent has been calculated on the basis of safe-harbour premiums set out in a Commission notice; or where, before the implementation of the measure, the methodology to calculate the gross grant equivalent of the guarantee has been accepted on the basis of the Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees[95], or any successor notice, following notification of that methodology to the Commission under any regulation adopted by the Commission in the State aid area applicable at the time, and the approved methodology explicitly addresses the type of guarantee and the type of underlying transaction at stake in the context of the application of this Regulation; alternatively Member States may use the amount of the underlying financial instrument;

(e) aid in the form of repayable advances if, before implementation of the measure, the methodology to calculate the gross grant equivalent of the repayable advance has been accepted following its notification to the Commission; alternatively, Member States may use the nominal amount of the repayable advance;

(f) aid in the form of the sale or the lease of tangible or intangible assets, goods or services below market rates where the value is established either by an independent expert evaluation prior to the transaction or by reference to a publicly available, regularly updated and generally accepted benchmark;

(g) aid in the form of tax advantages, where the measure provides for a cap ensuring that the applicable threshold is not exceeded;

(h)nominal amounts of equity and quasi-equity investments.'

5. in Article 6, paragraph 2 is replaced by the following:

'2. Aid shall be considered to have an incentive effect if the beneficiary has submitted a written application for State aid or Union funding before work on the project or activity starts ('start of works'). For the purpose of the incentive effect condition, the application for the aid shall contain the following information:

(a) the undertaking's name and, if relevant, its size;

(b) a description of the project or activity, its start and end dates;

(c) the location of the project or activity, if relevant;

(d) the overall costs;

(e) the amount of public funding needed for the project or activity.

6. Article 7 is replaced by the following:

[95] OJ C 155, 20.6.2008, p. 10.

‘Article 7

Aid intensity and eligible costs

1. For the purposes of calculating the aid intensity and the eligible costs, all figures used shall be taken before any deduction of tax or other charge. The eligible costs shall be supported by documentary evidence which shall be clear, specific and contemporary.

2. The amount of eligible costs as defined in the applicable exemption provision may be determined in accordance with a simplified cost option if one of the following conditions is met:

(a) the amounts are determined ex ante in accordance with a fair, equitable and verifiable method based on relevant and reliable data, which may include statistical and historical data, market surveys, expert opinions or draft budgets; this condition shall be considered met if the amounts are determined in accordance with a method, applicable under the rules governing a Union Fund, that is or has been used for a similar operation at least partly financed through a Union fund;

(b) the aided operation is at least partly financed through a Union fund, and the amounts are determined in accordance with a method that is or was applicable under the rules governing the Union fund.

3. Value added tax (VAT) shall not be eligible for aid, except where it is not recoverable under national VAT legislation.

4. Eligible investment costs shall include one-off non-amortizable costs linked directly to the investment and its initial installation such as permitting costs and feasibility studies.

5. Where aid is granted to make good the damage or income foregone it shall be reduced by any costs not directly incurred due to the event.

6. Where aid is granted in the form of nominal amounts of repayable advances and the measure provides that in case of a successful outcome of the project, as defined on the basis of a reasonable and prudent hypothesis, the advances will be repaid with an interest rate at least equal to the discount rate applicable at the moment the aid is granted, the maximum aid intensities set out in Chapter III may be increased by 10 percentage points.

7. The eligible costs shall comply with the requirements of Articles 53 to 57 of Regulation (EU) 2021/1060 of the European Parliament and of the Council*.

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* Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development

Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy (OJ L 231, 30.6.2021, p. 159).';

7. Article 9 is moved to Chapter II 'Procedural requirements', becoming the first Article of this Chapter;

8. Article 12 is deleted;

9. Article 55a is added:

'Article 55a

Aid for research and development in fisheries and aquaculture

1. Aid for research and development in the fishery and aquaculture sector shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and exempted from the notification requirement of Article 108(3) of the Treaty, if the conditions set out in this Article and Chapter I are met.

2. The beneficiary commits to, without any undue delay, make available licences for research results of aided research and development projects, which are protected by intellectual property rights, at a market price and on non-exclusive and non-discriminatory basis for use by interested parties in the EEA, and to widely publish the fact that the project results are available for licencing to interested parties under the specified conditions.

3. The eligible costs shall be the following:

(a) personnel costs: researchers, technicians and other supporting staff to the extent employed on the project;

(b) costs of instruments and equipment to the extent and for the period used for the project; where such instruments and equipment are not used for their full life for the project, only the depreciation costs corresponding to the life of the project, as calculated on the basis of generally accepted accounting principles are considered as eligible.

(c) costs of buildings and land, to the extent and for the duration period used for the project; with regard to buildings, only the depreciation costs corresponding to the life of the project, as calculated on the basis of generally accepted accounting principles are considered as eligible; for land, costs of commercial transfer or actually incurred capital costs are eligible;

(d) costs of contractual research, knowledge and patents bought or licensed from outside sources at arm's length conditions, as well as costs of consultancy and equivalent services used exclusively for the project;

(e) additional overheads and other operating expenses, including costs of materials, supplies and similar products, incurred directly as a result of the project.

4. The aid intensity shall not exceed 100 % of the eligible costs.'

Article 90

Amendments to Regulation (EU) 2026/562

Regulation (EU) 2026/562 is amended as follows:

1. Article 1 is amended as follows:

(a) in paragraph 2, point (d) is replaced by the following:

'(d) aid to undertakings in difficulty; by way of derogation, this Regulation shall apply to small and medium-sized enterprises ('SMEs') within three years from registration, if they qualify as undertakings in difficulty under Article 2, point (32)(a) or (b) of Regulation (EU) …/…;';

(b) in paragraph 2, point (i) is replaced by the following:

'(i) any alterations of schemes referred to in point (h) other than modifications that do not affect the compatibility of the aid scheme under this Regulation.';

2. Article 2 is amended as follows:

(a) point (w) is replaced by the following:

'(w) 'undertaking in difficulty' means an undertaking fulfilling the criteria laid down in Article 2, point (32), of Regulation (EU) No …/…;';

(b) point (cc) is replaced by the following:

'(cc) 'start of works' means the earliest of the following events: the start of construction works relating to an investment project, the start of the eligible activity, or the first legally binding commitment relating to the eligible project or activity, other than construction works. A first legally binding commitment relating to an investment project does not constitute the start of works if it amounts to less than 2 % of the total eligible costs of the project. A first legally binding commitment relating to an activity does not constitute the start of works if it amounts to less than 2 % of the total eligible costs of the activity over the period of time to be covered by the aid;';

(c) point (ee) is replaced by the following:

‘(ee) ‘aid intensity’ means the gross aid amount expressed as a percentage of the eligible costs;’;

(d) the following point (tt) is added:

‘(tt) ‘undertaking’ means any entity engaged in an economic activity, including a group of several separate legal entities that, because of controlling shares and other functional, economic and organic links, form one economic unit. The mere fact of holding shares, even controlling shareholdings, is insufficient to characterise such a link.’;

3. Article 3 is replaced by the following:

‘Article 3

Conditions for exemption

1. Aid schemes, individual aid granted under aid schemes and ad hoc aid shall be deemed compatible with the internal market within the meaning of Article 93 of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty provided that such aid fulfils all the general conditions laid down in Chapter I and the specific conditions for the relevant category of aid laid down in Chapter II of this Regulation.

2. The relevant time for assessing whether the block exemption conditions set out in this Regulation are met is the date of granting of the aid. As regards aid to infrastructure, the conditions that shall be met after the date of granting, such as conditions related to the use of the infrastructure, shall be met for a time period of 10 years as from the date of the last payment of aid or for the depreciation period of the infrastructure, whichever is shorter.

3. The granting authority shall assess whether the block exemption conditions set out in this Regulation are met at the level of the undertaking as defined in Article 2.

4. The assessment whether or not the monetary thresholds set out in this Regulation are exceeded shall be based on amounts discounted to their value on the date of aid granting. The interest rate to be used to discount cash flows shall be the discount rate applicable on that same date.’

4. in Article 6, paragraph 2 is replaced by the following:

2. Aid shall be considered to have an incentive effect if the beneficiary has submitted a written application for State aid or Union funding before work on the project or activity starts (‘start of works’). For the purpose of the incentive effect condition, the application for the aid shall contain the following information:

(a) the undertaking's name and, if relevant, its size;

(b) a description of the project or activity, its start and end dates;

(c) the location of the project or activity, if relevant;

(d) the overall costs;

(e) the amount of public funding needed for the project or activity.

5. Article 7 is replaced by the following:

'Article 7

Aid intensity and eligible costs

1. For the purposes of calculating the aid intensity and the eligible costs, all figures used shall be taken before any deduction of tax or other charge. The eligible costs shall be supported by documentary evidence which shall be clear, specific and contemporary.

2. The amount of eligible costs as defined in the applicable exemption provision may be determined in accordance with a simplified cost option if one of the following conditions is met:

(a) the amounts are determined ex ante in accordance with a fair, equitable and verifiable method based on relevant and reliable data, which may include statistical and historical data, market surveys, expert opinions or draft budgets; this condition shall be considered met if the amounts are determined in accordance with a method, applicable under the rules governing a Union Fund, that is or has been used for a similar operation at least partly financed through a Union fund;

(b) the aided operation is at least partly financed through a Union fund, and the amounts are determined in accordance with a method that is or was applicable under the rules governing the Union fund.

3. Value added tax (VAT) shall not be eligible for aid, except where it is not recoverable under national VAT legislation.

4. Eligible investment costs shall include one-off non-amortizable costs linked directly to the investment and its initial installation such as permitting costs and feasibility studies.

5. For projects implemented in line with recovery and resilience plans approved by the Council pursuant to Regulation (EU) 2021/241 of the European Parliament and of the Council (*), the amounts of eligible costs may also be calculated in accordance with simplified cost options set out in Regulation (EU) No 1303/2013 of the European Parliament and of the Council (**) or Regulation (EU) 2021/1060 of the European Parliament and of the Council (***).

6. Where aid is granted in a form other than a grant, the aid amount shall be the gross grant equivalent of the aid.

7. Aid payable in the future, including aid payable in several instalments, shall be discounted to its value at the moment it is granted. The eligible costs shall be discounted to their value at the moment the aid is granted. The interest rate to be used for discounting purposes shall be the discount rate applicable at the moment the aid is granted, as laid down in the Commission Communication on the revision of the method for setting the reference and discount rates (****).

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(*) Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility (OJ L 57, 18.2.2021, p. 17, ELI: http://data.europa.eu/eli/reg/2021/241/oj).

(**) Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (OJ L 347, 20.12.2013, p. 320, ELI: http://data.europa.eu/eli/reg/2013/1303/oj).

(***) Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy (OJ L 231, 30.6.2021, p. 159, ELI: http://data.europa.eu/eli/reg/2021/1060/oj).

(****) OJ C 14, 19.1.2008, p. 6.'

6. In Article 9, paragraph 4, the following sentence is added:

'For aid in the form of tax advantages, if there is no formal requirement for an annual declaration, 31 December of the year for which the aid was granted shall be considered as the date of granting for the purposes of this paragraph.'

7. Article 20 is deleted.

Article 91

This Regulation shall enter into force on 1 January 2027.

It shall apply until 31 December 2034.

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

Done at Brussels,

For the Commission
The President
[…]

ANNEX I

SME DEFINITION

Article 1

Enterprise

An enterprise is considered to be any entity engaged in an economic activity, irrespective of its legal form. This includes, in particular, self-employed persons and family businesses engaged in craft or other activities, and partnerships or associations regularly engaged in an economic activity.

This Annex provides an exhaustive list of criteria for determining if an undertaking qualifies as an SME.

Article 2

Staff headcount and financial thresholds determining enterprise categories

1. The category of micro, small and medium-sized enterprises (‘SMEs’) is made up of enterprises which employ fewer than 250 persons and which have an annual turnover not exceeding EUR 50 million, and/or an annual balance sheet total not exceeding EUR 43 million.

2. Within the SME category, a small enterprise is defined as an enterprise which employs fewer than 50 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 10 million.

3. Within the SME category, a micro-enterprise is defined as an enterprise which employs fewer than 10 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 2 million.

Article 3

Types of enterprise taken into consideration in calculating staff numbers and financial amounts

1. An ‘autonomous enterprise’ is any enterprise which is not classified as a partner enterprise within the meaning of paragraph 2 or as a linked enterprise within the meaning of paragraph 3.

2. ‘Partner enterprises’ are all enterprises which are not classified as linked enterprises within the meaning of paragraph 3 and between which there is the following relationship: an enterprise (upstream enterprise) holds, either solely or jointly with one or more linked enterprises within the meaning of paragraph 3, 25 % or more of the capital or voting rights of another enterprise (downstream enterprise).

However, an enterprise may be ranked as autonomous, and therefore as not having any partner enterprises, even if this 25 % threshold is reached or exceeded by the following investors, if those investors are not linked, within the meaning of paragraph 3, either individually or jointly to the enterprise in question:

(a) public investment corporations, venture capital companies, individuals or groups of individuals with a regular venture capital investment activity who invest equity capital in unquoted businesses (business angels), provided the total investment of those business angels in the same enterprise is less than EUR 1 250 000;

(b) universities or non-profit research centres;

(c) institutional investors, including regional development funds;

(d) autonomous local authorities with an annual budget of less than EUR 10 million and less than 5 000 inhabitants.

3. ‘Linked enterprises’ are enterprises which have any of the following relationships with each other:

(a) an enterprise has a majority of the shareholders' or members' voting rights in another enterprise;

(b) an enterprise has the right to appoint or remove a majority of the members of the administrative, management or supervisory body of another enterprise;

(c) an enterprise has the right to exercise a dominant influence over another enterprise pursuant to a contract entered into with that enterprise or to a provision in its memorandum or articles of association;

(d) an enterprise, which is a shareholder in or member of another enterprise, controls alone, pursuant to an agreement with other shareholders in or members of that enterprise, a majority of shareholders' or members' voting rights in that enterprise.

There is a presumption that no dominant influence exists if the investors listed in the second subparagraph of paragraph 2 are not involving themselves directly or indirectly in the management of the enterprise in question, without prejudice to their rights as shareholders.

Enterprises having any of the relationships described in the first subparagraph through one or more other enterprises, or any one of the investors mentioned in paragraph 2, are also considered to be linked.

Enterprises which have one or other of such relationships through a natural person or group of natural persons acting jointly are also considered linked enterprises if they engage in their activity or in part of their activity in the same relevant market or in adjacent markets.

An ‘adjacent market’ is considered to be the market for a product or service situated directly upstream or downstream of the relevant market.

4. Except in the cases set out in paragraph 2, second subparagraph, an enterprise cannot be considered an SME if 25 % or more of the capital or voting rights are directly or indirectly controlled, jointly or individually, by one or more public bodies.

5. Enterprises may make a declaration of status as an autonomous enterprise, partner enterprise or linked enterprise, including the data regarding the thresholds set out in Article 2. The declaration may be made even if the capital is spread in such a way that it is not possible to determine exactly by whom it is held, in which case the enterprise may declare in good faith that it can legitimately presume that it is not owned as to 25 % or more by one enterprise or jointly by enterprises linked to one another. Such declarations are made without prejudice to the checks and investigations provided for by national or Union rules.

Article 4

Data used for the staff headcount and the financial amounts and reference period

1. The data to apply to the headcount of staff and the financial amounts are those relating to the latest approved accounting period and calculated on an annual basis, taking into account the ownership structure and existing links as they are at the time of the granting of aid. They are taken into account from the date of closure of the accounts. The amount selected for the turnover is calculated excluding value added tax and other indirect taxes.

2. In order to prevent that mere temporary fluctuations of headcount and financial indicators lead to a temporary loss or acquisition of the SME status, where, at the date of closure of the accounts, an enterprise finds that, on an annual basis, it has exceeded or fallen below the headcount or financial thresholds stated in Article 2, this will not result in the loss or acquisition of the status of medium-sized, small or micro-enterprise unless those thresholds are exceeded over two consecutive accounting periods. The perimeter of the enterprise must be assessed based on its ownership structure and existing links at the date of granting.

3. In the case of newly-established enterprises whose accounts have not yet been approved, the data to apply is to be derived from a bona fide estimate made in the course of the financial year.

Article 5

Staff headcount

The headcount corresponds to the number of annual work units (AWU), i.e. the number of persons who worked full-time within the enterprise in question or on its behalf during the entire reference year under consideration. The work of persons who have not worked the full year, the work of those who have worked part-time, regardless of duration, and the work of seasonal workers are counted as fractions of AWU. The staff consists of:

(a) employees;

(b) persons working for the enterprise being subordinated to it and deemed to be employees under national law;

(c) owner-managers;

(d) partners engaging in a regular activity in the enterprise and benefiting from financial advantages from the enterprise.

Apprentices or students engaged in vocational training with an apprenticeship or vocational training contract are not included as staff. The duration of maternity or parental leaves is not counted.

Article 6

Establishing the data of an enterprise

1. In the case of an autonomous enterprise, the data, including the number of staff, are determined exclusively on the basis of the accounts of that enterprise.

2. The data, including the headcount, of an enterprise having partner enterprises or linked enterprises are determined on the basis of the accounts and other data of the enterprise or, where they exist, the consolidated accounts of the enterprise, or the consolidated accounts in which the enterprise is included through consolidation.

To the data referred to in the first subparagraph are added the data of any partner enterprise of the enterprise in question situated immediately upstream or downstream from it. Aggregation is proportional to the percentage interest in the capital or voting rights (whichever is greater). In the case of cross-holdings, the greater percentage applies.

To the data referred to in the first and second subparagraph are added 100 % of the data of any enterprise, which is linked directly or indirectly to the enterprise in question, where the data were not already included through consolidation in the accounts.

3. For the application of paragraph 2, the data of the partner enterprises of the enterprise in question are derived from their accounts and their other data, consolidated if they exist. To these are added 100 % of the data of enterprises which are linked to these partner enterprises, unless their accounts data are already included through consolidation.

For the application of the same paragraph 2, the data of the enterprises which are linked to the enterprise in question are to be derived from their accounts and their other data, consolidated if they exist. To these are added, pro rata, the data of any possible partner enterprise of that linked enterprise, situated immediately upstream or downstream from it, unless it has already been included in the consolidated accounts with a percentage at least proportional to the percentage identified under the second subparagraph of paragraph 2.

4. Where in the consolidated accounts no staff data appear for a given enterprise, staff figures are calculated by aggregating proportionally the data from its partner enterprises and by adding the data from the enterprises to which the enterprise in question is linked.

ANNEX II

INFORMATION REGARDING STATE AID EXEMPTED UNDER THE CONDITIONS OF THIS REGULATION

PART I

to be provided through the established Commission IT application as set out in Article 12

Member State

Title of the aid measure

Region(s)

Name of the Region(s) (NUTS)[96]
Select from the list:

Regional aid status[97]

☐ Article 107 (3)(a) TFEU (status A)
☐ Article 107 (3)(c) TFEU (status C)
☐ Unassisted areas (status N)

Granting authority

Please indicate the name and address of the granting authority:

Name , Postal address , Web address

NATIONAL LEGAL BASIS:
Indicate title and reference to the relevant national official publication:

Web link to the full text of the aid measure:

Is this an amendment of an existing aid scheme or ad hoc aid?

☐ No ☐ Yes

If 'yes':

☐ Prolongation *or*

☐ Modification

96 NUTS - Nomenclature of Territorial Units for Statistics. Typically, the region is specified at level 2.
97 Article 107(3)(a) TFEU (status 'A'), Article 107(3)(c) TFEU (status 'C'), unassisted areas i.e. areas not eligible for regional aid (status 'N').

Indicate Commission aid reference ('SA number') of the existing measure:

Type of measure:

☐ Scheme

Duration[98]**:** dd/mm/yyyy to dd/mm/yyyy

Estimated number of beneficiaries:

☐ up to 10

☐ from 11 to 50

☐ from 51 to 100

☐ from 101 to 500

☐ from 501 to 1000

☐ over 1000

or

☐ Ad hoc aid

Name of the beneficiary and the group[99] **it belongs to:**

Date of granting[100]**:** dd/mm/yyyy

Economic sector(s) concerned

☐ Elligible sectors

☐ Limited to certain sectors (Please specify at NACE group level[101])

Type of beneficiary

☐ large enterprises

☐ small mid-caps (SMCs)

☐ small and medium-sized enterprises (SMEs)

☐ medium sized enterprises

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98 Period during which the granting authority can commit itself to grant the aid.

99 Undertaking as defined in Article 2 of this Regulation.

100 Determined in line with Article 2, point 27 of the Regulation.

101 NACE Rev. 2.1 - Statistical classification of economic activities in the European Union. Typically, the sector shall be specified at group level.

☐ small enterprises

☐ micro enterprises

Aid instrument

☐ Grant/Interest rate subsidy

☐ Loan/Repayable advances

☐ Guarantee (if appropriate indicate the reference to the Commission decision: SA……

☐ Tax advantage or tax exemption

☐ Equity or quasi-equity investment

☐ Contracts for difference

☐ Other, please specify and indicate below to which broad category it would fit best in terms of its effect/function:

- ☐ Grant/Interest rate subsidy
- ☐ Loan/Repayable advances
- ☐ Guarantee
- ☐ Tax advantage or tax exemption
- ☐ Equity or quasi-equity investment
- ☐ Contracts for difference

Budget

Indicate overall amount[102] (National currency (full amounts))

For guarantees[103]:

Is co-financed by EU fund(s)?

☐ Yes

Please specify the name of EU fund(s): and amount of funding (as per EU fund) (in national currency (full amounts))

☐ No

PART II

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[102] In case of **an aid scheme**: indicate the overall amount of the budget planned under the scheme or the estimated tax loss for all aid instruments contained in the scheme. In case of an ***ad hoc* aid** award: indicate the overall aid amount/tax loss.

[103] If ‘guarantee’ has been selected under aid instrument, indicate the (maximum) amount of loans guaranteed.

to be provided through the established Commission electronic notification system as set out in Article 12. Please indicate under which provision of the GBER the aid measure is implemented.

Primary Objective - General Objectives (list)	**Maximum aid intensity in %** **or** **Maximum annual aid amount in national currency (in full amounts)**	**SME – bonuses** (if applicable) **in %**	**Other bonuses** (if applicable) **in %**
Regional investment aid (Art.15)			
Regional operating aid (Art.16)			
Regional urban development aid (Art.17)			
Aid to undertakings participating in European territorial cooperation project (Art.18)			
Aid to SMEs and local public authorities participating in community-led local development projects (Art.19)			
Investment aid to SMEs (Art.20)			
Aid schemes to support the production and dissemination of press publications by SMEs (Art.20a)			
Aid for consultancy in favour of SMEs (Art.21)			
Aid to SMEs for participation in fairs (Art.22)			
Aid to microenterprises in the form of public interventions concerning the supply of electricity, gas or heat			

(Art.23)			
Risk finance aid in favour of SMEs provided via financial intermediaries (Art.25)			
Risk finance aid to SMEs in the form of tax incentives for private investors who are natural persons (Art.26)			
Risk finance aid in favour of SMEs provided by entrusted entities (Art.27)			
Aid in the form of guarantees on loans provided by financial intermediaries under aid schemes (Art.28)			
Aid for young enterprises and innovative start-ups (Art.29)			
Aid to alternative trading platforms specialised in SMEs (Art.30)			
Aid for scouting costs (Art.31)			
Aid for research and development projects (Art.32)			
Aid for projects awarded a Seal of Excellence quality label (Art.33)			
Aid for Marie Skłodowska-Curie actions and ERC Proof of Concept actions (Art.34)			
Aid for co-funded research and development projects, feasibility studies or research infrastructure or testing and experimentation infrastructure (Art.35)			
Aid for Teaming actions (Art.36)			

Aid involved in the co-funding of projects supported by the European Defence Fund or the European Defence Industrial Development Programme (Art.37)			
Aid provided under instruments involving financial support to third parties from centrally managed Union programmes (Art.37a)			
Investment aid for research infrastructure and testing and experimentation infrastructure (Art.38)			
Aid for innovation clusters (Art.39)			
Innovation aid for SMEs and small mid-caps (Art.41)			
Aid for process and organisational innovation (Art.42)			
Aid for the recruitment and employment of key workers in SMEs (Art.42a)			
Training aid (Art.44)			
Aid for the recruitment of disadvantaged workers in the form of wage subsidies (Art.45)			
Aid for compensating the costs of assistance provided to disadvantaged workers (Art.46)			
Aid for the employment of workers with disabilities in the form of wage subsidies (Art.47)			
Aid for compensating the additional costs of employing workers with			

disabilities (Art.48)			
Social aid for transport for residents of remote regions (Art.49)			
Investment aid for climate protection (Art.51)			
Investment aid for the prevention or reduction of pollution and for actions for climate resilience (Art.52)			
Investment aid for the acquisition of clean vehicles or zero-emission vehicles and for the retrofitting of vehicles (Art.53)			
Investment aid for recharging or refuelling infrastructure (Art.54)			
Investment aid for energy efficiency measures other than in buildings (Art.55)			
Investment aid for energy performance measures in buildings (Art.56)			
Aid to facilitate energy performance contracting (Art.57)			
Investment aid for the promotion of energy from renewable sources and high-efficiency cogeneration (Art.58)			
Direct price support for the production of electricity from renewable sources (Art.59)			
Direct price support for the production of renewable energy other than electricity (Art.60)			
Aid in the form of reductions in taxes			

under Directive 2003/96/EC (Art.61)			
Aid in the form of reductions in environmental taxes or parafiscal levies (Art.62)			
Aid in the context of the Emissions Trading System for buildings, road transport and additional sectors (Art.62a)			
Investment aid for the remediation of environmental damage, the protection or restoration of nature and the implementation of nature-based solutions for climate change adaptation and mitigation (Art.63)			
Investment aid for district heating and/or cooling (Art.64)			
Investment aid for resource efficiency and for supporting the transition towards a circular economy (Art.65)			
Aid for energy infrastructure (Art.66)			
Aid for studies and consultancy services on environmental protection and energy matters (Art.67)			
Aid schemes to make good the damage caused by certain natural disasters (Art.68)			
Aid for culture and heritage conservation (Art.69)			
Aid schemes for audiovisual works (Art.70)			
Aid for fixed broadband networks (Art.71)			

Aid for mobile networks (Art.72)			
Aid for projects of common interest in the area of trans-European digital connectivity infrastructure (Art.73)			
Aid for backhaul networks (Art.74)			
Connectivity vouchers (Art.75)			
Social connectivity vouchers (Art.76)			
Aid for sport and multifunctional recreational infrastructure (Art.77)			
Investment aid for local infrastructure (Art.78)			
Aid for airports (Art.79)			
Aid for ports (Art.80)			
Aid involved in financial instruments and budgetary guarantees supported by the InvestEU Fund [and the InvestEU Instrument of the European Competitiveness Fund] (Art.82)			
Aid involved in intermediated commercially-driven financial products supported by the InvestEU Fund [and the InvestEU Instrument of the European Competitiveness Fund] (Art.83)			

ANNEX III

Provisions for the publication of information as set out in Article 11(1).

Member States shall organise their comprehensive State aid websites, on which the information set out in Article 11(1) is to be published, in such a way as to allow easy access to the information. Information shall be published in a spreadsheet data format, which allows data to be searched, extracted and easily published on the internet, for instance in CSV or XML format. Access to the website shall be allowed to any interested party without restrictions. No prior user registration shall be required to access the website.

The following information on individual awards as set out in Article 11(1)(c) shall be published:

— Name of the beneficiary[104]

— Beneficiary's identifier

— Size of enterprise (SME/ large enterprise) at the time of granting

— Region in which the beneficiary is located, at NUTS (Nomenclature of Territorial Units for Statistics) level 2

— Sector of activity at NACE group level

— Aid amount in national currency[105]

— Aid instrument[106] (Grant/Interest rate subsidy, Loan/Repayable advances/Reimbursable grant, Guarantee, Tax advantage or tax exemption, Equity or quasi-equity instrument, Contract for difference, Other (please specify))

— Date of granting

— Objective of the aid

— Granting authority

— If applicable, name of the entrusted entity, and the names of the selected financial intermediaries

— Reference of the aid measure[107].

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104 As regards risk finance aid, the beneficiary is the final beneficiary, not the investor i.e. not the financial intermediary or the natural person carrying out the investment.

105 Gross grant equivalent unless this Regulation allows the use of nominal amounts. For measures involving a financial intermediary investing in a final beneficiary or a project, the aid amount is the amount of the investment. For operating aid, the annual amount of aid per beneficiary can be provided.

106 If the aid is granted through multiple aid instruments, the aid amount shall be provided for each instrument.

107 As provided by the Commission under the electronic procedure referred to in Article 11 of this Regulation.

ANNEX IV

Definition of small mid-cap enterprises

1. Enterprise

An enterprise is considered to be any entity engaged in an economic activity, irrespective of its legal form. This includes partnerships or associations regularly engaged in an economic activity.

This Annex provides an exhaustive list of criteria for determining if an undertaking qualifies as a small mid-cap enterprise.

2. Staff headcount and financial ceilings

The category of small mid-cap enterprises is made up of enterprises which are not small and medium-sized enterprises in accordance with Annex I, employ fewer than 750 persons and have an annual turnover not exceeding EUR 150 million or an annual balance sheet total not exceeding EUR 129 million.

3. Types of enterprise taken into consideration in calculating staff headcount numbers and financial amounts

3.1. An 'autonomous enterprise' is any enterprise which is not classified as a partner enterprise within the meaning of point 3.2 or as a linked enterprise within the meaning of point 3.5.

3.2. 'Partner enterprises' are all enterprises which are not classified as linked enterprises within the meaning of point 3.4 and where one enterprise (upstream enterprise) holds, either solely or jointly with one or more linked enterprises within the meaning of point 3.5, 25 % or more of the capital or voting rights of another enterprise (downstream enterprise).

3.3. Except in the cases set out in point 3.4, an enterprise is not considered a small mid-cap enterprise if 25 % or more of the capital or voting rights are directly or indirectly controlled, jointly or individually, by one or more public bodies.

3.4. By way of derogation from point 3.2, an enterprise may be ranked as autonomous, and therefore as not having any partner enterprises, even if 25 % or more of its capital or voting rights are held by the following investors, if those investors are not linked, within the meaning of point 3.5, either individually or jointly to the enterprise in question:

(a) public investment corporations, venture capital or private equity funds, individuals or groups of individuals with a regular venture capital investment activity that invest equity capital in unquoted businesses ('business angels'), provided the total investment of those business angels in the same enterprise is less than EUR 5 000 000;

(b) universities or non-profit research centres;

(c) institutional investors, including regional development funds;

(d) autonomous local authorities with an annual budget of less than EUR 10 million and fewer than 5 000 inhabitants.

3.5. 'Linked enterprises' are enterprises which have any of the following relationships with each other:

(a) an enterprise has a majority of the shareholders' or members' voting rights in another enterprise;

(b) an enterprise has the right to appoint or remove a majority of the members of the administrative, management or supervisory body of another enterprise;

(c) an enterprise has the right to exercise a dominant influence over another enterprise pursuant to a contract entered into with that enterprise or to a provision in its memorandum or articles of association;

(d) an enterprise, which is a shareholder in or member of another enterprise, controls alone, pursuant to an agreement with other shareholders in or members of that enterprise, a majority of shareholders' or members' voting rights in that enterprise.

There is a presumption that no dominant influence exists if the investors referred to in point 3.4, are not involving themselves directly or indirectly in the management of the enterprise in question, without prejudice to their rights as stakeholders.

3.5.1. Enterprises having any of the relationships set out in point 3.5 above through one or more other enterprises, or any one of the investors mentioned in point 3.4, are also considered to be linked.

3.5.2. Enterprises which have one or other of the relationships set out in point 3.5 above through a natural person or group of natural persons acting jointly are also considered linked enterprises if they engage in their activity or in part of their activity in the same relevant market or in adjacent markets. For the purposes of this point, 'adjacent market' means the market for a product or service situated directly upstream or downstream of the relevant market.

3.5.3. Where an alternative investment fund as defined in Article 4(1), point (a), of Directive 2011/61/EU[108] has invested into an enterprise, the following should not be considered 'linked enterprises' for the purposes of point 3.5.:

(a) that enterprise and that alternative investment fund;

(b) that enterprise and the manager of that alternative investment fund;

(c) that enterprise and another enterprise in which that alternative investment fund has invested.

The first subparagraph applies if all the following conditions are met:

(a) the alternative investment fund and its manager, and the enterprises concerned maintain separate accounting records;

(b) the alternative investment fund and its manager have a pre-defined investment strategy to exit the enterprise or enterprises concerned, including by realising their value through the sale of the enterprise or other means.

3.6. Enterprises may make a declaration of status as an autonomous enterprise, partner enterprise or linked enterprise, including the data regarding the ceilings set out in point 2. The declaration may be made even if the capital is spread in such a way that it is not possible to determine exactly by whom it is held, in which case the enterprise may declare in good faith that it can legitimately presume that it is not owned as to 25 % or more by one enterprise or jointly by enterprises linked to one another. Such declarations are made without prejudice to the checks and investigations provided for by national or Union rules.

4. Data used for the staff headcount and the financial amounts and reference period

4.1. The data to apply to the staff headcount and the financial amounts are those relating to the latest approved accounting period and calculated on an annual basis, taking into account the ownership structure and existing links as they are at the time of the granting of aid. They are taken into account from the date of closure of the accounts. The amount selected for the turnover is calculated excluding value added tax and other indirect taxes.

4.2. In order to prevent that mere temporary fluctuations of headcount and financial indicators lead to a temporary loss or acquisition of the small mid-cap status, where, at the date of closure of the accounts, an enterprise finds that, on an annual basis, it has exceeded or fallen below the headcount or financial ceilings stated in point 2, this will not result in the loss or acquisition of the status of small mid-cap enterprise unless those ceilings are exceeded over

108 Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1, ELI: http://data.europa.eu/eli/dir/2011/61/oj).

two consecutive accounting periods. The perimeter of the enterprise must be assessed based on its ownership structure and existing links at the date of granting.

4.3. In the case of newly established enterprises whose accounts have not yet been approved, the data to apply is to be derived from a bona fide estimate made during the financial year.

5. Staff headcount

5.1. The headcount corresponds to the number of persons who worked full-time within the enterprise in question or on its behalf during the entire reference year under consideration ('annual work units'). The work of persons who have not worked the full year, the work of those who have worked part-time, regardless of duration, and the work of seasonal workers are counted as fractions of annual work units. The staff consists of the following:

(a) employees;

(b) persons working for the enterprise being subordinated to it and deemed to be employees under national law;

(c) owner-managers;

(d) partners engaging in a regular activity in the enterprise and benefiting from financial advantages from the enterprise.

5.2. Apprentices or students engaged in vocational training with an apprenticeship or vocational training contract are not included as staff. The duration of maternity or parental leaves is not counted.

6. Establishing the data of an enterprise

6.1. In the case of an autonomous enterprise, the data, including the number of staff, are determined exclusively on the basis of the accounts of that enterprise.

6.2. The data, including the headcount, of an enterprise having partner enterprises or linked enterprises as referred to in point 3 are determined on the basis of the accounts and other data of the enterprise or, where they exist, the consolidated accounts of the enterprise, or the consolidated accounts in which the enterprise is included through consolidation.

To the data referred to in the first subparagraph are added the data of any partner enterprise of the enterprise in question situated immediately upstream or downstream from it. Aggregation is proportional to the percentage interest in the capital or voting rights, whichever is greater. In the case of crossholdings, the greater percentage applies.

To the data referred to in the first and second subparagraph is added 100 % of the data of any enterprise, which is linked directly or indirectly to the enterprise in question, where the data were not already included through consolidation in the accounts.

6.3. For the application of point 6.2, the data of the partner enterprises of the enterprise in question are derived from their accounts and their other data, consolidated if they exist. To these is added 100 % of the data of enterprises which are linked to these partner enterprises unless their accounts data are already included through consolidation.

For the application of point 6.2, the data of the enterprises which are linked to the enterprise in question are to be derived from their accounts and their other data, consolidated if they exist. To that data is added, pro rata, the data of any possible partner enterprise of that linked enterprise, situated immediately upstream or downstream from it, unless it has already been included in the consolidated accounts with a percentage at least proportional to the percentage identified under point 6.2, second paragraph.

6.4. Where in the consolidated accounts no staff data appear for a given enterprise, these are calculated by aggregating proportionally the data from its partner enterprises and by adding the data from the enterprises to which the enterprise in question is linked.