

**COMMISSION REGULATION (EU) 2021/1237****of 23 July 2021****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****(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 <sup>(1)</sup>, and in particular Article 1(1), point (a), thereof,

After consulting the Advisory Committee on State aid,

Whereas:

- (1) Commission Regulation (EU) No 651/2014 <sup>(2)</sup> constitutes an important exemption from the general rule that Member States have to notify any plans to grant new aid to the Commission before implementing them, provided that certain pre-defined conditions have been fulfilled.
- (2) In view of the economic and financial consequences that the COVID-19 pandemic has had on undertakings and in order to ensure consistency with the general policy response adopted by the Commission, especially in the period 2020-2021, Regulation (EU) No 651/2014 should be adapted. Undertakings which became undertakings in difficulty as a consequence of the COVID-19 pandemic should remain eligible for aid under Regulation (EU) No 651/2014 for a limited period, namely from 1 January 2020 to 31 December 2021. In addition, beneficiaries of regional investment aid, which have temporarily or permanently laid off staff due to the COVID-19 pandemic in the period from 1 January 2020 to 30 June 2021, should not be considered to have breached the obligation to maintain those jobs in the area concerned for a period of five years from the date the post was first filled, or three years in the case of small and medium-sized enterprises (“SMEs”).
- (3) State aid granted to undertakings participating in European Innovation Partnership for agricultural productivity and sustainability (“EIP”) Operational Group projects covered by Article 35 of Regulation (EU) No 1305/2013 of the European Parliament and of the Council <sup>(3)</sup>, or in community-led local development (“CLLD”) projects covered by Regulation (EU) No 1303/2013 of the European Parliament and of the Council <sup>(4)</sup> or by Regulation (EU) 2021/1060 of the European Parliament and of the Council <sup>(5)</sup> has little impact on competition, in particular, in view of the positive role the aid plays for sharing knowledge, especially for local and farming communities, as well as the often collective nature of the aid, and its relatively small scale. The nature of these projects is integrated, multi-actor and multi-sector, which can lead to certain difficulties for their classification under State aid law. Given

<sup>(1)</sup> OJ L 248, 24.9.2015, p. 1.

<sup>(2)</sup> 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).

<sup>(3)</sup> Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005 (OJ L 347, 20.12.2013, p. 487).

<sup>(4)</sup> 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 Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (OJ L 347, 20.12.2013, p. 320).

<sup>(5)</sup> 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).

the local nature of individual EIP Operational Group and CLLD projects, selected on the basis of a multi-annual local development strategy determined and implemented by public-private partnership and their orientation to community, social, environmental and climate interest, this Regulation should address certain difficulties faced by EIP Operational Group and CLLD projects in order to facilitate their compliance with State aid rules.

- (4) Given the limited effect on trade and competition of small amounts of aid granted to SMEs benefitting, directly or indirectly, from EIP Operational Group and CLLD projects, simple rules for cases where the aggregate amount of aid per project does not exceed a certain ceiling should be laid down.
- (5) Undertakings participating in European Territorial Cooperation ('ETC') projects covered by Regulation (EU) No 1299/2013 of the European Parliament and of the Council <sup>(6)</sup> or by Regulation (EU) 2021/1059 of the European Parliament and of the Council <sup>(7)</sup> often experience difficulties in financing additional costs stemming from the cooperation between partners located in different regions and in different Member States or third countries. Given the importance of ETC for the cohesion policy, providing a framework for the implementation of joint actions and policy exchanges between national, regional and local actors from different Member States or third countries, certain difficulties faced by ETC projects should be addressed in order to facilitate their compliance with State aid rules. In the light of the Commission's experience, Regulation (EU) No 651/2014 should apply to aid for ETC projects, irrespective of the size of the beneficiary undertakings.
- (6) In addition, given the limited effect on trade and competition of small amounts of aid granted to undertakings participating in ETC projects, in particular, where those undertakings receive that aid indirectly, simple rules for cases where the aggregate amount of aid per undertaking per project does not exceed a certain ceiling should be laid down.
- (7) Research and development projects or feasibility studies awarded a Seal of Excellence quality label following an evaluation and ranking carried out by independent experts, which are regarded as excellent and worthy of receiving public funding, but cannot be funded under the Horizon Framework Programme due to lack of available budget, may be supported by national resources including resources from the European Structural and Investment Funds for the period 2014-2020, and from the European Regional Development Fund and the European Social Fund+ for the period 2021-2027. State aid granted to such research and development projects which are carried out by SMEs should be considered compatible with the internal market and be exempted from the notification requirement under certain conditions. In addition, it should not be necessary to reassess eligibility conditions already assessed at Union level in accordance with the Horizon 2020 or Horizon Europe Framework programme rules prior to the awarding of the Seal of Excellence label. The profit or non-profit character of the entities carrying out the projects is not a relevant criterion under competition law.
- (8) State aid granted to support the deployment of certain performant fixed broadband networks and State aid granted to support the deployment of certain performant passive mobile networks should be considered compatible with the internal market and be exempted from the notification requirement under certain conditions, in order to help bridge the digital divide in market failure areas, while limiting risks of distorting competition and crowding out private investment.
- (9) State aid granted in the form of connectivity vouchers for consumers in order to facilitate teleworking, online education and training services as well as for SMEs should be considered compatible with the internal market and be exempted from the notification requirement under certain conditions, in order to help bridge the digital divide in market failure areas, while limiting risks of distorting competition and crowding out private investment.

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<sup>(6)</sup> Regulation (EU) No 1299/2013 of the European Parliament and of the Council of 17 December 2013 on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal (OJ L 347, 20.12.2013, p. 259).

<sup>(7)</sup> 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).

- (10) State aid granted to certain projects of common interest in the area of trans-European digital connectivity infrastructures financed under Regulation (EU) 2021/1153 of the European Parliament and of the Council<sup>(8)</sup> or awarded a Seal of Excellence quality label under that Regulation should be considered compatible with the internal market and be exempted from the notification requirement under certain conditions, in order to help bridge the digital divide in market failure areas, while limiting risks of distorting the competition and crowding out private investment.
- (11) Grants provided to researchers under the European Research Council ('ERC') Proof of Concept and under the Marie Skłodowska-Curie actions ('MSCA') that qualify as economic activities should also be considered compatible with the internal market when they benefit from a Seal of Excellence quality label.
- (12) Combined public funding from national resources and resources directly managed by the Union for research and development projects (such as those implemented under a European institutionalised Partnership based on Article 185 or Article 187 of the Treaty or programme co-fund action as defined in the Horizon Europe Framework programme) can contribute to improving the competitiveness of European research and development, as such research and development projects are considered to meet objectives of common European interest and address well-defined market failures. This is considered to be the case where such projects are selected on the basis of the evaluation and ranking made by independent experts in line with Horizon 2020 or Horizon Europe Framework Programme rules, following trans-national calls, where at least three Member States (two Member States in the case of Teaming actions), or alternatively two Member States and at least one associated country, participate. The financial contributions made by Member States, including resources from the European Structural and Investment Funds for the period 2014-2020, and from the European Regional Development Fund and the European Social Fund+ for the period 2021-2027, to those co-funded research and development projects should be considered compatible with the internal market and be exempted from the notification requirement under certain conditions. In addition, it should not be necessary to reassess eligibility conditions already assessed at trans-national level in accordance with Horizon 2020 or Horizon Europe programme rules by independent experts prior to a research and development project's selection.
- (13) The Horizon 2020 and Horizon Europe Framework programmes define which research and innovation actions are eligible for funding. In this regard, research and innovation action, as defined under the Horizon Framework Programme, will normally correspond to fundamental research and industrial research activities, as defined in Regulation (EU) No 651/2014. Moreover, innovation action supported under the Horizon Framework Programme will normally correspond to the definition of experimental development activities under Regulation (EU) No 651/2014. The simplifications provided for in this Regulation in the area of research and development should, however, not be used to introduce aid measures that finance activities that are not eligible under State aid rules for research and development, that is to say, activities going beyond the scope of experimental development activities. To this effect, the definitions regarding Technological Readiness Level ('TRL') may also be taken into account by the Member States. State aid for research and development activities at TRL 9 level is considered to go beyond the scope of the definition of experimental development and should consequently be excluded from the scope of Regulation (EU) No 651/2014.
- (14) Support for energy efficiency measures in certain buildings can be combined, under the InvestEU Fund and subject to simplified conditions, with support for the on-site production of renewable energy and its storage, for on-site charging points for vehicles and for the digitalisation of these buildings. This combined support under simplified conditions is possible for residential buildings, buildings dedicated to the provision of education or social services, buildings dedicated to activities related to public administration or to justice, police or fire-fighting services, and buildings in which economic activities occupy less than 35 % of the internal floor area. Given the nature of the activities taking place in such buildings, support to improve the energy performance of such buildings has a more limited impact on competition. To ensure a consistent treatment of projects financed with the InvestEU Fund and with purely national resources, it is appropriate to amend the provisions of Regulation (EU) No 651/2014 concerning investment aid for energy efficiency measures and to introduce compatibility conditions for facilitating the combination under the same project of investments in energy efficiency measures with investments improving

<sup>(8)</sup> 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).

the energy performance of the building (that is to say, integrated on-site installations generating renewable energy, on-site equipment for the charging of electric vehicles of the building's users), and investments for the digitalisation of the building, in particular to increase its smart readiness. To that end, the entire investment cost of the energy efficiency measure and the various pieces of equipment should constitute the eligible costs while a uniform maximum aid intensity would apply.

- (15) To ensure a consistent treatment between projects financed with the support of the InvestEU Fund and with purely national resources, it is appropriate to amend Regulation (EU) No 651/2014 by introducing compatibility conditions for investment aid for certain types of low emission mobility infrastructure for road vehicles. Investment aid for publicly accessible recharging or refuelling infrastructure for road vehicles should be considered compatible with the internal market and be exempted from the notification requirement of Article 108(3) of the Treaty in so far as it allows for an increased level of environmental protection and does not unduly distort competition. As regards refuelling infrastructure, in the absence of a harmonised definition of low-carbon hydrogen, only investment aid for refuelling infrastructure supplying road vehicles with renewable hydrogen should be covered by the block exemption. The Commission will consider extending the scope of the relevant provisions to also include low-carbon hydrogen once a harmonised definition is adopted. In addition, for both recharging and refuelling infrastructure certain safeguards should be in place to limit distortions of competition. The compatibility conditions should, in particular, ensure that support generates additional investments and addresses market failures or sub-optimal investment situations, that the development of the market is not hindered by support and, in particular, that there is open and non-discriminatory access to the infrastructure. In addition, investment aid for recharging or refuelling infrastructure should be granted on the basis of a competitive bidding process to ensure proportionality and minimise distortions on the infrastructure market. Finally, to stimulate effective competition, aid granted to the same beneficiary under each measure should be capped.
- (16) Financial products supported by the InvestEU Fund may involve funds controlled by Member States, including Union shared management funds, contributions stemming from the Recovery and Resilience Facility, or other contributions by Member States, in order to increase leverage and support additional investments in the Union. For instance, Member States have the possibility of contributing a part of Union shared management funds or Recovery and Resilience Facility resources to the Member State compartment of the EU guarantee under the InvestEU Fund. Moreover, Member States could finance the financial products backed by the InvestEU Fund through their own funds or national promotional banks. Such financing may qualify as 'State resources' and may be imputable to the State if the Member States have discretion as to the use of those resources. Conversely, when Member States have no discretion as to the use of the resources or act in line with normal market conditions, the use of those funds may not constitute State aid.
- (17) Where national funds, including Union shared management funds, constitute State aid within the meaning of Article 107(1) of the Treaty, a set of conditions should be set out on the basis of which the aid could be considered compatible with the internal market and be exempted from the notification requirement in order to facilitate the implementation of the InvestEU Fund.
- (18) The design of the InvestEU Fund incorporates a number of important competition safeguards, such as supporting investments which deliver Union policy objectives and Union added value and the requirement for the InvestEU Fund to be additional and address market failures and sub-optimal investment situations. Moreover, the governance system and decision-making process will ensure, before issuing the EU guarantee, that the InvestEU supported operations meet the above requirements. Finally, the support provided by the InvestEU Fund will be transparent and its effects will be evaluated. Therefore, State aid involved in the financial products supported by the InvestEU Fund should be considered compatible with the internal market and be exempted from the notification requirement based on a limited set of conditions.
- (19) Regulation (EU) No 651/2014 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EU) No 651/2014 is amended as follows:

(1) Article 1 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) points (m) and (n) are replaced by the following:

‘(m) aid for regional airports;

(n) aid for ports;’;

(ii) the following points (o) and (p) are added:

‘(o) aid for European Territorial Cooperation projects; and

(p) aid involved in financial products supported by the InvestEU Fund.’;

(b) in paragraph 2, point (a) is replaced by the following:

‘(a) schemes under Sections 1 (with the exception of Article 15), 2, 3, 4, 7 (with the exception of Article 44) and 10 of Chapter III of this Regulation and aid implemented in the form of financial products under Section 16 of that Chapter, if the average annual State aid budget per Member State exceeds EUR 150 million, from six months after their entry into force. For aid under Section 16 of Chapter III of this Regulation, only contributions by a Member State to the Member State compartment of the EU guarantee, referred to in Article 9(1), point (b), of Regulation (EU) 2021/523 of the European Parliament and the Council \*, which are earmarked for a specific financial product shall be taken into account for assessing whether the average annual State aid budget of that Member State related to the financial product exceeds EUR 150 million. The Commission may decide that this Regulation shall continue to apply for a longer period to any of these aid schemes after having assessed the relevant evaluation plan notified by the Member State to the Commission, within 20 working days from the scheme’s entry into force. Where the Commission has already extended the application of this Regulation beyond the initial six months as regards such schemes, Member States may decide to extend those schemes until the end of the period of application of this Regulation, provided that the Member State concerned has submitted an evaluation report in line with the evaluation plan approved by the Commission. However, regional aid granted under this Regulation may be extended, by derogation, until the end of the period of validity of the relevant regional aid maps;

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

(c) in paragraph 3, points (a) and (b) are replaced by the following:

‘(a) aid granted in the fishery and aquaculture sector, as covered by Regulation (EU) No 1379/2013 of the European Parliament and of the Council \* with the exception of training aid, aid for SMEs’ access to finance, aid in the field of research and development, innovation aid for SMEs, aid for disadvantaged workers and workers with disabilities, regional investment aid in outermost regions, regional operating aid schemes, aid for European Innovation Partnership for agricultural productivity and sustainability (“EIP”) Operational Group projects, aid for community-led local development (“CLLD”) projects, aid to European Territorial Cooperation projects, and aid involved in financial products supported by the InvestEU Fund, except for operations listed in Article 1(1) of Commission Regulation (EU) No 717/2014 \*\*;

(b) aid granted in the primary agricultural production sector, with the exception of regional investment aid in outermost regions, regional operating aid schemes, aid for consultancy in favour of SMEs, risk finance aid, aid for research and development, innovation aid for SMEs, environmental aid, training aid, aid for disadvantaged workers and workers with disabilities, aid to European Innovation Partnership for agricultural

productivity and sustainability (EIP) Operational Group projects, aid to community-led local development (CLLD) projects, aid to European Territorial Cooperation projects and aid involved in financial products supported by the InvestEU Fund;

\* Regulation (EU) No 1379/2013 of the European Parliament and of the Council of 11 December 2013 on the common organisation of the markets in fishery and aquaculture products, amending Council Regulations (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).

\*\* Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid in the fishery and aquaculture sector (OJ L 190, 28.6.2014, p. 45).;

(d) paragraph 4 is replaced by the following:

‘4. This Regulation shall not apply to:

- (a) aid schemes which do not explicitly exclude the payment of individual aid in favour of an undertaking which is subject to an outstanding recovery order following a previous Commission decision declaring an aid granted by the same Member State illegal and incompatible with the internal market, with the exception of aid schemes to make good the damage caused by certain natural disasters and aid schemes covered by Article 19b, Section 2a as well as Section 16 of Chapter III;
- (b) ad hoc aid in favour of an undertaking as referred to in point (a);
- (c) aid to undertakings in difficulty, with the exception of aid schemes to make good the damage caused by certain natural disasters, start-up aid schemes, regional operating aid schemes, aid schemes covered by Article 19b, aid to SMEs under Article 56f and aid to financial intermediaries under Articles 16, 21, 22 and 39 as well as Section 16 of Chapter III, provided undertakings in difficulty are not treated more favourably than other undertakings. However, this Regulation shall apply, by derogation, to undertakings which were not in difficulty on 31 December 2019 but became undertakings in difficulty during the period from 1 January 2020 to 31 December 2021.;

(2) Article 2 is amended as follows:

(a) points (63), (64) and (65) are deleted;

(b) the following points (102a), (102b) and (102c) are inserted:

‘(102a) “recharging infrastructure” means a fixed or mobile infrastructure supplying road vehicles with electricity;

(102b) “refuelling infrastructure” means a fixed or mobile infrastructure supplying road vehicles with hydrogen;

(102c) “renewable hydrogen” means hydrogen produced through the electrolysis of water (in an electrolyser, powered by electricity stemming from renewable sources), or through the reforming of biogas or biochemical conversion of biomass, if in compliance with sustainability criteria set out in Article 29 of Directive (EU) 2018/2001 of the European Parliament and of the Council \*.

\* 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).;

(c) the following points (103a) to (103e) are inserted:

‘(103a) “residential building” means a building constituted exclusively of single-family or multi-family dwellings;

(103b) “social services” means clearly identified services, meeting social needs, in particular as regards health and long-term care, childcare, access to and reintegration into the labour market, social housing (which means housing for disadvantaged citizens or socially less advantaged groups who due to solvency constraints are unable to obtain housing at market conditions) and the care and social inclusion of vulnerable groups (as explained in recital 11 of Commission Decision 2012/21/EU \*);

- (103c) “digitalisation” means the adoption of 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;
- (103d) “smart readiness” means the capability of buildings (or building units) to adapt their operation to the needs of the occupant, including optimising energy efficiency and overall performance, and to adapt their operation in reaction to signals from the grid;
- (103e) “small mid-cap” means an undertaking that is not an SME and whose number of employees does not exceed 499, calculated in accordance with Articles 3 to 6 of Annex I, the annual turnover of which does not exceed EUR 100 million or the annual balance sheet of which does not exceed EUR 86 million; several entities shall be considered as one undertaking if any of the conditions listed in Article 3(3) of Annex I is fulfilled;

\* Commission Decision 2012/21/EU of 20 December 2011 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest (OJ L 7, 11.1.2012, p. 3).;

(d) point (133) is deleted;

(e) point (137) is replaced by the following:

‘(137) “passive network” means a network without any active element, such as: civil engineering infrastructure, pipes, ducts, inspection chambers, manholes, dark fibre, cabinets, power supply, antenna installations, passive antennas, masts, poles and towers;’

(f) point (138) is deleted;

(g) the following points (139a), (139b), and (139c) are inserted:

‘(139a) “premises passed” means premises which can be connected within a short period of time at the normal activation fee for the end-user, regardless of whether those premises are connected to the network. An operator shall report premises as passed only if, following a request from an end-user, it commits to connect the premises for normal activation fees, meaning without any additional or exceptional cost and, in any case, not exceeding the average activation fee in the Member State concerned. The provider of electronic communications networks and services shall be able to connect and activate the service at the specific premises within four weeks from the date of the request;

(139b) “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;

(139c) “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 of the European Parliament and of the Council \*, such as connected and automated mobility, similar smart mobility services for railways or digital connectivity on inland waterways;

\* 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).;

(h) the following heading and points (166) to (172) are added:

**Definitions for aid involved in financial products supported by the InvestEU Fund (terms defined under other headings of this Article shall have the same meaning as laid down therein also for aid involved in financial products supported by the InvestEU Fund)**

- (166) “InvestEU Fund”, “EU guarantee”, “financial product”, “national promotional banks or institutions” and “implementing partner” have the meaning set out in Article 2 of Regulation (EU) 2021/523;
- (167) “financial intermediary” for the purposes of Section 16 means a financial intermediary within the meaning of point (34), with the exception of implementing partners;
- (168) “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;
- (169) “TEN-T urban node” has the meaning set out in Article 3, point (p), of Regulation (EU) No 1315/2013 of the European Parliament and of the Council \*;
- (170) “new entrant” means a railway undertaking within the meaning of Article 3(1) of Directive 2012/34/EU of the European Parliament and of the Council \*\*, which fulfils the following conditions:
- (a) it received a licence pursuant to Article 17(3) of Directive 2012/34/EU for the relevant market segment less than 20 years before the aid is granted;
- (b) 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 prior to 1 January 2010;
- (171) “urban transport” means transport within a city or an agglomeration and its commuting zones;
- (172) “ecosystem”, “biodiversity” and “the good condition of an ecosystem” have the meaning set out in Article 2 of Regulation (EU) 2020/852 of the European Parliament and of the Council \*\*\*.

\* 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).

\*\* 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).

\*\*\* 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).;

(3) in Article 4, paragraph 1 is amended as follows:

(a) point (f) is replaced by the following:

‘(f) for aid for undertakings participating in European Territorial Cooperation projects: for aid under Article 20, EUR 2 million per undertaking, per project; for aid under Article 20a, the amounts laid down in Article 20a(2) per undertaking, per project;’;

(b) in point (i), the following points (vii) to (x) are inserted:

‘(vii) for aid for SMEs for research and development projects awarded a Seal of Excellence quality label and implemented under Article 25a, the amount referred to in Article 25a;

(viii) for aid Marie Skłodowska-Curie actions and ERC Proof of Concept actions implemented under Article 25b, the amounts referred to in Article 25b;

(ix) for aid involved in co-funded research and development projects implemented under Article 25c, the amounts referred to in Article 25c;

(x) for aid for Teaming actions, the amounts referred to in Article 25d;’;



(c) point (s) is replaced by the following:

‘(s) for investment aid for environmental protection, excluding investment aid for publicly accessible recharging or refuelling infrastructure for zero or low emission vehicles, investment aid for the remediation of contaminated sites and aid for the distribution network part of the energy efficient district heating and cooling installation: EUR 15 million per undertaking per investment project; EUR 30 million for aid for energy efficiency investments in certain buildings falling within the scope of Article 38(3a); and EUR 30 million of total nominal outstanding financing for aid for energy efficiency investments in certain buildings falling within the scope of Article 38(7);

(d) the following point (sa) is inserted:

‘(sa) for investment aid for publicly accessible recharging or refuelling infrastructure for zero or low emission vehicles: EUR 15 million per undertaking per project and, in the case of schemes, an average annual budget of up to EUR 150 million;’;

(e) point (t) is replaced by the following:

‘(t) for investment aid for energy efficiency projects, the amounts set out in Article 39(5);’;

(f) point (y) is replaced by the following:

‘(y) for aid for the deployment of fixed broadband networks awarded in the form of a grant: EUR 100 million total costs per project; for aid for fixed broadband infrastructures awarded in the form of a financial instrument the nominal amount of total financing provided to any final beneficiary per project must not exceed EUR 150 million;’;

(g) the following points (ya), (yb) and (yc) are inserted:

‘(ya) for aid for the deployment of 4G or 5G mobile networks awarded in the form of a grant: EUR 100 million total costs per project; for aid for 4G or 5G mobile networks awarded in the form of a financial instrument the nominal amount of total financing provided to any final beneficiary per project must not exceed EUR 150 million;

(yb) for aid for certain projects of common interest in the area of trans-European digital connectivity infrastructures financed under Regulation (EU) 2021/1153 or awarded a Seal of Excellence quality label under that Regulation awarded in the form of a grant: EUR 100 million total costs per project; for aid for certain projects of common interest in the area of trans-European digital connectivity infrastructures awarded in the form of a financial instrument the nominal amount of total financing provided to any final beneficiary per project must not exceed EUR 150 million;

(yc) for aid in the form of connectivity vouchers schemes: the total State aid budget over 24 months for all connectivity voucher schemes in a Member State must not exceed EUR 50 million (total amount including national and regional or local voucher schemes);’;

(h) the following points (gg) and (hh) are added:

‘(gg) for aid involved in financial products supported by the InvestEU Fund: the amounts laid down in Section 16 of Chapter III;

(hh) for aid to SMEs for costs incurred by participating in community-led local development (“CLLD”) projects and European Innovation Partnership for agricultural productivity and sustainability (“EIP”) Operational Group projects: for aid under Article 19a, EUR 2 million per undertaking, per project; for aid under Article 19b, the amounts laid down in Article 19b(2) per project.’;

(4) in Article 5, paragraph 2 is amended as follows:

(a) the following point (ea) is inserted:

‘(ea) aid to undertakings for their participation in European Territorial Cooperation projects under Article 20a, where it provides for a cap ensuring that the applicable threshold laid down in Article 20a is not exceeded;’;

(b) the following point (l) is added:

‘(l) aid involved in financial products supported by the InvestEU Fund, if the conditions laid down in Section 16 of Chapter III are fulfilled.’;

(5) in Article 6(5), the following points (i), (j), (k) and (l) are added:

- '(i) aid for undertakings participating in European Territorial Cooperation projects, if the relevant conditions in Article 20 or Article 20a are fulfilled;
- (j) aid for research and development projects awarded a Seal of Excellence quality label, Marie Skłodowska-Curie actions and ERC Proof of Concept actions awarded a Seal of Excellence quality label, aid involved in co-funded projects and in co-funded Teaming actions, if the relevant conditions laid down in Article 25a, Article 25b, Article 25c or Article 25d are fulfilled;
- (k) aid involved in financial products supported by the InvestEU Fund, if the conditions laid down in Section 16 of Chapter III are fulfilled;
- (l) aid for SMEs participating in or benefitting from community-led local development ("CLLD") projects and European Innovation Partnership for agricultural productivity and sustainability ("EIP") Operational Group projects, if the relevant conditions in Article 19a or Article 19b are fulfilled.;

(6) in Article 7(1), the second sentence is replaced by the following:

'The amounts of eligible costs may be calculated in accordance with the 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 \*\*, whichever is applicable provided that the operation is at least partly financed through a Union fund that allows the use of those simplified cost options and that the category of costs is eligible according to the relevant exemption provision.

\* 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).

\*\* 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 8 is amended as follows:

(a) in paragraph 3, point (b) is replaced by the following:

- '(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.

Financing provided to the final beneficiaries with support from the InvestEU Fund covered by Section 16 of Chapter III and the cost covered by this financing shall not be considered for determining compliance with the cumulation provisions laid down in the first sentence of this point. Instead, the amount relevant for determining compliance with the cumulation provisions of the first sentence of this point shall be calculated as follows. 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; second, the maximum aid shall be calculated by applying the relevant highest aid intensity or aid amount only to the total remaining eligible costs.

In cases of Articles for which 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 in Article 4 are respected.

Alternatively, for senior loans or guarantees on senior loans supported by the InvestEU Fund under Section 16 of Chapter III, the gross grant equivalent of the aid entailed in such loans or guarantees provided to the final beneficiaries may be calculated in accordance with Article 5(2), point (b) or (c), as appropriate. This gross grant equivalent of the aid can be used for ensuring, in line with the first sentence of this point, 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.;

(b) paragraph 4 is replaced by the following:

‘4. Aid without identifiable eligible costs exempted under Article 19b, 20a, 21, 22 or 23, Article 56e(5), point (a)(ii) or (iii), Article 56e(8), point (d), Article 56e(10) and Article 56f may be cumulated with any other State aid with identifiable eligible costs. Aid without identifiable eligible costs may be cumulated with any other State aid 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 56e(5), point (a)(ii) or (iii), Article 56e(8), point (d), Article 56e(10) and Article 56f may be cumulated with other aid without identifiable eligible costs exempted under those Articles.’;

(8) Article 9 is amended as follows:

(a) paragraphs 1 and 2 are replaced by the following:

‘1. The Member State concerned shall ensure the publication on a comprehensive State aid website, at national or regional level of:

- (a) the summary information referred to in Article 11 in the standardised format laid down in Annex II or a link providing access to it;
- (b) the full text of each aid measure, as referred to in Article 11 or a link providing access to the full text;
- (c) the information referred to in Annex III on each individual aid award exceeding EUR 500 000, or for beneficiaries active in primary agricultural production, other than those to which Section 2a applies, each individual aid award for such production exceeding EUR 60 000 and for beneficiaries active in the fishery and aquaculture sector, other than those to which Section 2a applies, each individual aid award exceeding EUR 30 000.

As regards aid granted to European Territorial Cooperation projects referred to in Article 20, 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 21 of Regulation (EU) No 1299/2013 of the European Parliament and of the Council \*, or Article 45 of Regulation (EU) 2021/1059 of the European Parliament and of the Council \*\*, whichever is applicable, is located. Alternatively, the participating Member States may decide that each of them shall provide the information relating to the aid measures within their territory on the respective websites.

The publication obligations laid down in the first subparagraph shall not apply to aid granted to European Territorial Cooperation projects referred to in Article 20a, as well as European Innovation Partnership for agricultural productivity and sustainability (“EIP”) Operational Group projects and community-led local development (“CLLD”) projects under Article 19b.

2. For schemes in the form of tax advantages, and for schemes covered by Article 16 and 21 \*\*\* the conditions set out in paragraph 1, first subparagraph, point (c) of this Article shall be considered fulfilled if Member States publish the required information on individual aid amounts in the following ranges (in EUR million):

0,03-0,5 (only for fishery and aquaculture);

0,06-0,5 (only for primary agricultural production);

0,5-1;

1-2;

2-5;

5-10;

10-30; and

30 and more.

\* Regulation (EU) No 1299/2013 of the European Parliament and of the Council of 17 December 2013 on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal (OJ L 347, 20.12.2013, p. 259).

\*\* 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).

\*\*\* For schemes under Article 16 and 21 of the present Regulation, the requirement to publish information on each individual award exceeding EUR 500 000 can be waived with respect to SMEs which have not carried out any commercial sale in any market.;

(b) the following paragraph 3a is inserted:

‘3a. 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 under InvestEU, the Member State remains under the obligation to ensure the publication of information as laid down in paragraph 1, first subparagraph, point (c). However, this obligation is deemed to be fulfilled if the implementing partner provides to the Commission the information as laid down 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 stipulates the requirement to provide to the Commission the information as laid down in paragraph 1, first subparagraph, point (c).;’

(9) in Article 11, paragraph 1 is replaced by the following:

‘1. Member States, or in the case of aid granted to European Territorial Cooperation projects under Article 20, alternatively the Member State in which the Managing Authority, as defined in Article 21 of Regulation (EU) No 1299/2013, or Article 45 of Regulation (EU) 2021/1059, whichever is applicable, 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 laid down 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 its entry into force; and

(b) an annual report, as referred to in Commission Regulation (EC) No 794/2004 \* 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 promotional bank acting as an implementing partner or acting as a financial intermediary under InvestEU, this obligation of the Member State is deemed to be fulfilled if the implementing partner provides the annual reports to the Commission, in accordance with the relevant reporting requirements laid down in the guarantee agreement signed between the Commission and the implementing partner.

This first subparagraph shall not apply in respect of aid granted to European Territorial Cooperation projects referred to in Article 20a, as well as to European Innovation Partnership for agricultural productivity and sustainability (“EIP”) Operational Group projects and to community-led local development (“CLLD”) projects as referred to Article 19b.

\* 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).;

(10) in Article 12, paragraph 1 is replaced by the following:

‘1. In order to enable the Commission to monitor the aid exempted from notification by this Regulation, Member States, or alternatively, in the case of aid granted to European Territorial Cooperation projects referred to in Article 20, 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 laid down in this Regulation are fulfilled. 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 European Territorial Cooperation projects referred to in Article 20a, as well as to European Innovation Partnership for agricultural productivity and sustainability Operational Group projects and to community-led local development (“CLLD”) projects as referred to Article 19b.;

(11) Article 14 is amended as follows:

(a) in paragraph 9, point (c) is replaced by the following:

‘(c) each job created through the investment shall be maintained in the area concerned for a period of at least five years from the date the post was first filled, or three years in the case of SMEs, except if the job is lost between 1 January 2020 and 30 June 2021.;

(b) paragraph 15 is replaced by the following:

‘15. For an initial investment linked to European territorial cooperation projects covered by Regulation (EU) No 1299/2013, or Regulation (EU) 2021/1059, 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 is incurred. In assisted areas eligible for aid under Article 107(3)(c) of the Treaty, this provision shall apply to large undertakings only if the initial investment concerns a new economic activity.;

(12) in Article 16, paragraph 4 is replaced by the following:

‘4. The eligible costs shall be the overall costs of the urban development project to the extent that they comply with Articles 37 and 65 of Regulation (EU) No 1303/2013, or Articles 67 and 68 of Regulation (EU) 2021/1060, whichever is applicable.;

(13) the following Articles 19a and 19b are inserted:

*Article 19a*

**Aid for costs incurred by SMEs participating in community-led local development (“CLLD”) or European Innovation Partnership for agricultural productivity and sustainability (“EIP”) Operational Group projects**

1. Aid for costs incurred by SMEs participating in CLLD projects, designated as LEADER local development under the European Agricultural Fund for Rural Development, covered by Regulation (EU) No 1303/2013 or Regulation (EU) 2021/1060, as well as for EIP Operational Group projects covered by Article 35 of Regulation (EU) No 1305/2013, shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided the conditions laid down in this Article and in Chapter I are fulfilled.

2. The following costs, set out in Article 35(1) of Regulation (EU) No 1303/2013 or Article 34(1) of Regulation (EU) 2021/1060, whichever is applicable, shall be eligible for CLLD and EIP Operational Group projects:

- (a) the costs of preparatory support, capacity building, training and networking with a view of preparing and implementing a CLLD strategy or an EIP Operational Group project;
- (b) implementation of approved operations;
- (c) preparation and implementation of the group’s cooperation activities;
- (d) running costs linked to the management of the implementation of the CLLD strategy or of the EIP Operational Group project;
- (e) animation of the EIP community or the CLLD strategy in order to facilitate exchange between stakeholders to provide information and to promote the strategy and the projects, and to support potential beneficiaries with a view of developing operations and preparing applications.

3. The aid intensity shall not exceed the maximum co-financing rates provided for in the Fund specific Regulations supporting CLLD and EIP Operational Groups.

*Article 19b*

**Limited amounts of aid to SMEs benefitting from community-led local development (“CLLD”) or European Innovation Partnership for agricultural productivity and sustainability (“EIP”) Operational Group projects**

1. Aid to undertakings participating in, or benefitting from, CLLD or EIP Operational Group projects, as referred to in Article 19a(1), shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided the conditions laid down in this Article and in Chapter I are fulfilled.

2. The total amount of aid under this Article granted per project shall not exceed EUR 200 000 for CLLD projects, and EUR 350 000 for EIP Operational Group projects.;

(14) after Article 19b, the following section heading is inserted:

*SECTION 2a*

***Aid for European Territorial Cooperation;***

(15) Article 20 is replaced by the following:

*Article 20*

**Aid for costs incurred by undertakings participating in European Territorial Cooperation project**

1. Aid for costs incurred by undertakings participating in European Territorial Cooperation projects covered by Regulation (EU) No 1299/2013 or Regulation (EU) 2021/1059 shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided the conditions laid down in this Article and in Chapter I are fulfilled.

2. To the extent that they are linked to the cooperation project, the following costs, which shall have the meaning ascribed to them in Commission Delegated Regulation (EU) No 481/2014 \*, or Articles 38 to 44 of Regulation (EU) 2021/1059, whichever is applicable, shall be eligible costs:

- (a) staff costs;
- (b) office and administrative costs;
- (c) travel and accommodation costs;
- (d) external expertise and services costs;
- (e) equipment costs;
- (f) costs for infrastructure and works.

3. The aid intensity shall not exceed the maximum co-financing rate provided for in Regulation (EU) No 1303/2013 or Regulation (EU) 2021/1060 and/or Regulation (EU) 2021/1059, whichever is applicable.

\* Commission Delegated Regulation (EU) No 481/2014 of 4 March 2014 supplementing Regulation (EU) No 1299/2013 of the European Parliament and of the Council with regard to specific rules on eligibility of expenditure for cooperation programmes (OJ L 138, 13.5.2014, p. 45).;

(16) the following Article 20a is inserted:

*Article 20a*

**Limited amounts of aid to undertakings for participation in European Territorial Cooperation projects**

1. Aid to undertakings for their participation in European Territorial Cooperation projects covered by Regulation (EU) No 1299/2013 or by Regulation (EU) 2021/1059 shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided the conditions laid down in this Article and in Chapter I are fulfilled.

2. The total amount of aid under this Article granted to an undertaking per project shall not exceed EUR 20 000.;

(17) in Article 25, paragraph 1 is replaced by the following:

'1. Aid for research and development projects, including research and development projects having received a Seal of Excellence quality label under the Horizon 2020 or under the Horizon Europe programme and co-funded research and development projects and, where applicable, aid for co-funded Teaming actions, shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.;

(18) the following Articles 25a to 25d are inserted:

*Article 25a*

#### **Aid for projects awarded a Seal of Excellence quality label**

1. Aid for SMEs for research and development projects as well as feasibility studies awarded a Seal of Excellence quality label under the Horizon 2020 or the Horizon Europe programme, shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.

2. The eligible activities of the aided research and development project or feasibility study shall be those defined as eligible under the Horizon 2020 or the Horizon Europe programme rules, excluding activities going beyond experimental development activities.

3. 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 2020 or Horizon Europe programme rules.

4. The maximum aid amount shall not exceed EUR 2,5 million per SME per research and development project or feasibility study.

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 research and development project or feasibility study under the Horizon 2020 or under the Horizon Europe programme rules.

*Article 25b*

#### **Aid for Marie Skłodowska-Curie actions and ERC Proof of Concept actions**

1. Aid for Marie Skłodowska-Curie actions and ERC Proof of Concept actions awarded a Seal of Excellence quality label under the Horizon 2020 or the Horizon Europe programme shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.

2. The eligible activities of the aided action shall be those defined as eligible under the Horizon 2020 or 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 2020 or 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 2020 or the Horizon Europe programme.

*Article 25c*

#### **Aid involved in co-funded research and development projects**

1. Aid provided to a co-funded research and development project or a feasibility study (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) 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 transnational calls in line with the Horizon 2020 or Horizon Europe programme rules, shall be compatible with the

internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty provided that the conditions laid down in this Article and in Chapter I are fulfilled.

2. The eligible activities of the aided research and development project or feasibility study shall be those defined as eligible under the Horizon 2020 or the Horizon Europe programme rules, excluding activities going beyond experimental development activities.
3. The categories, maximum amounts and methods of calculation of eligible costs shall be those defined as eligible under the Horizon 2020 or the Horizon Europe programme rules.
4. The total public funding provided shall not exceed the funding rate established for the research and development project or feasibility study following the selection, ranking and evaluation under the Horizon 2020 or Horizon Europe programme rules.
5. The funding provided by the Horizon 2020 or Horizon Europe programme shall cover at least 30 % of the total eligible costs of a research and innovation action or an innovation action as defined under the Horizon 2020 or Horizon Europe programme.

#### *Article 25d*

#### **Aid for Teaming actions**

1. 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 2020 or the Horizon Europe programme rules, shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty provided that the conditions laid down in this Article and in Chapter I are fulfilled.
2. The eligible activities of the co-funded Teaming action shall be those defined as eligible under the Horizon 2020 or Horizon Europe programme rules. Activities going beyond experimental development activities are excluded.
3. The categories, maximum amounts and methods of calculation of eligible costs shall be those defined as eligible under the Horizon 2020 or the Horizon Europe programme rules. In addition, investment costs in project-related tangible and intangible assets shall be eligible.
4. The total public funding provided shall not exceed the funding rate established for the Teaming action following the selection, ranking and evaluation under the Horizon 2020 or the 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.
5. For investment aid for infrastructures 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. In order 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 in order 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.;



(19) the following Article 36a is inserted:

*Article 36a*

**Investment aid for publicly accessible recharging or refuelling infrastructure for zero and low emission road vehicles**

1. Aid for the deployment of recharging or refuelling infrastructure for the supply of energy to zero and low emission road vehicles for transport purposes shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.

2. This Article shall only cover aid granted for the deployment of recharging or refuelling infrastructures that supply vehicles with electricity or renewable hydrogen for transport purposes. The Member State shall ensure that the requirement to supply renewable hydrogen is complied with throughout the economic lifetime of the infrastructure.

3. The eligible costs shall be the costs of the construction, installation or upgrade of the recharging or refuelling infrastructure. These may include the costs of the recharging or refuelling infrastructure itself, installation of or upgrades to electrical or other components, including power transformers that are required for connecting the recharging or refuelling infrastructure to the grid or to a local electricity or hydrogen production or storage unit, as well as related technical equipment, civil engineering works, land or road adaptations, installation costs and costs for obtaining related permits. The costs of local production or storage units generating or storing the electricity and the costs of local hydrogen production units are excluded.

4. Aid under this Article shall be granted in a competitive bidding process on the basis of clear, transparent and non-discriminatory criteria and the aid intensity may reach up to 100 % of the eligible costs.

5. The aid granted to any one beneficiary shall not exceed 40 % of the overall budget of the scheme concerned.

6. Aid under this Article shall only be granted for the construction, installation or upgrade of recharging or refuelling infrastructure accessible to the public and providing non-discriminatory access to users, including in relation to tariffs, authentication and payment methods and other terms and conditions of use.

7. The necessity of aid to incentivise the deployment of recharging or refuelling infrastructure of the same category (for example, for recharging infrastructure: normal or high power) shall be verified through an *ex ante* open public consultation or an independent market study. In particular, it shall be verified that no such infrastructure is likely to be deployed on commercial terms within three years from the publication of the aid measure.

8. By way of derogation from paragraph 7, the necessity of aid for recharging or refuelling infrastructure can be presumed where either battery electric vehicles (for recharging infrastructures) or hydrogen vehicles (for refuelling infrastructures) represent respectively less than 2 % of the total number of vehicles of the same category registered in the Member State concerned. For the purpose of this paragraph, passenger cars and light commercial vehicles shall be considered as being part of the same category of vehicles.

9. Any concession or other entrustment to a third party to operate the supported recharging or refuelling infrastructure shall be assigned on a competitive, transparent and non-discriminatory basis, having due regard to the applicable procurement rules.’;

(20) Article 38 is amended as follows:

(a) paragraph 3 is replaced by the following:

‘3. The eligible costs shall be the extra investment costs necessary to achieve the higher level of energy efficiency. They shall be determined as follows:

(a) where the costs of investing in energy efficiency can be identified in the total investment cost as a separate investment, this energy efficiency-related cost shall constitute the eligible costs;

- (b) where the investment relates to the improvement of the energy efficiency of (i) residential buildings; (ii) buildings dedicated to the provision of education or social services; (iii) buildings dedicated to activities related to public administration or to justice, police or fire-fighting services; or (iv) buildings referred to in points (i), (ii) or (iii) and in which activities other than those mentioned in those points occupy less than 35 % of the internal floor area, the entire investment costs necessary to achieve a higher level of energy efficiency shall constitute the eligible costs, provided that the energy efficiency improvements lead to a reduction in primary energy demand of at least 20 % in the case of renovation and to primary energy savings of at least 10 % compared to threshold set for the nearly zero-energy building requirements in national measures implementing Directive 2010/31/EU of the European Parliament and of the Council \* in the case of new buildings. The initial primary energy demand and the estimated improvement shall be established by reference to an Energy Performance Certificate as defined in Article 2(12) of Directive 2010/31/EU;
- (c) in all other cases, the costs of investing in energy efficiency shall be identified by reference to a similar, less energy efficient investment that would have been credibly carried out without the aid. The difference between the costs of the two investments identifies the energy efficiency-related cost and constitutes the eligible costs.

The costs not directly linked to the achievement of a higher level of energy efficiency shall not be eligible.

\* 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).;

- (b) the following paragraph 3a is inserted:

‘3a. For the buildings referred to in paragraph 3, point (b), the investment in improving the energy efficiency of the building may be combined with investments in any or all of the following:

- (a) integrated on-site renewable energy installations generating electricity and/or heat;
- (b) equipment for the storage of the energy generated by the on-site renewable energy installation;
- (c) equipment and related infrastructure incorporated in the building for the recharging of electric vehicles of the building’s users;
- (d) investments in the digitalisation of the building, in particular to increase its smart readiness. Eligible investments may include interventions limited to passive in-house wiring or structured cabling for data networks and, if necessary, the ancillary part of the passive network on the private property outside the building. Wiring or cabling for data networks outside the private property is excluded.

In case of any such combined works as set out in the first subparagraph, points (a) to (d), the entire investment cost of the various pieces of equipment shall constitute the eligible costs.

The aid may be granted either to the building owner(s) or to the tenant(s), depending on who is commissioning the energy efficiency works.’;

- (c) the following paragraph 7 is inserted:

‘7. Aid for measures that improve the energy efficiency of buildings may also relate to the facilitation of energy performance contracts subject to the following cumulative conditions:

- (a) the support takes the form of a loan or guarantee to the provider of the energy efficiency improvement measures under an energy performance contract, or consists in a financial product aimed to refinance the respective provider (e.g. factoring, forfeiting);
- (b) the nominal amount of total outstanding financing provided under this paragraph per beneficiary does not exceed EUR 30 million;
- (c) the support is provided to SMEs or small mid-caps;
- (d) the support is provided for energy performance contracting within the meaning of Article 2, point (27) of Directive 2012/27/EU;
- (e) the energy performance contracting relates to a building referred to in paragraph 3, point (b).’;

(21) Article 39 is amended as follows:

(a) the title is replaced by the following:

*'Article 39*

**Investment aid for energy efficiency projects in buildings in the form of financial instruments';**

(b) the following paragraph 2a is inserted:

'2a. Where the investment relates to the improvement of the energy efficiency of (i) residential buildings; (ii) buildings dedicated to the provision of education or social services; (iii) buildings dedicated to activities related to public administration or to justice, police or fire-fighting services; or (iv) buildings referred to in points (i), (ii) or (iii) and in which activities other than those mentioned in those points occupy less than 35 % of the floor area, energy efficiency projects under this Article may also be combined with any of the following investments:

- (a) integrated on-site renewable energy installation generating electricity and/or heat;
- (b) equipment for the storage of the energy generated from the on-site renewable energy installation;
- (c) equipment and related infrastructure incorporated in the building for the charging of electric vehicles of the building users;
- (d) investments in the digitalisation of the building, in particular to increase its smart readiness. Eligible investments may include interventions limited to passive in-house wiring or structured cabling for data networks and, if necessary, the ancillary part of the passive network on the private property outside the building. Wiring or cabling for data networks outside the private property is excluded.'

(c) paragraphs 3, 4 and 5 are replaced by the following:

'3. The eligible costs shall be the overall costs of the energy efficiency project, except for buildings referred to in paragraph 2a, where the eligible costs shall be the overall costs of the energy efficiency project as well as the investment cost of the various pieces of equipment listed in paragraph 2a.

4. The aid shall be granted in the form of an endowment, equity, a guarantee or a loan to an energy efficiency fund or other financial intermediary, which shall pass it on to the largest extent possible to the final beneficiaries, being the building owners or tenants, in the form of higher volumes of financing, lower collateral requirements, lower guarantee premiums or lower interest rates.

5. The aid granted by the energy efficiency fund or other financial intermediary to the eligible energy efficiency projects may take the form of loans or guarantees. The nominal value of the loan or the amount guaranteed shall not exceed EUR 15 million per project at the level of the final beneficiaries, except in the case of combined investments referred to in paragraph 2a, where it shall not exceed EUR 30 million. The guarantee shall not exceed 80 % of the underlying loan.'

(22) Article 52 is replaced by the following:

*'Article 52*

**Aid for fixed broadband networks**

1. Aid for fixed broadband network deployment shall be compatible with the internal market pursuant to Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.

2. The eligible costs shall be all costs for the construction, management and operation of a fixed broadband network. The maximum aid amount for a project shall be established on the basis of a competitive selection process as set out in paragraph 6, point (a). Where an investment is carried out in accordance with paragraph 6, point (b), without a competitive selection process, the aid amount shall not exceed the difference between the eligible costs and the operating profit of the investment. The operating profit shall be deducted from the eligible costs *ex ante* on the basis of reasonable projections and verified *ex post* through a claw-back mechanism.

3. The following alternative types of investment are eligible:
  - (a) fixed broadband network deployment to connect households and socioeconomic drivers in areas where there is no network able to reliably provide speeds of at least 30 Mbps download (threshold speeds) present or credibly planned to be deployed within three years from the moment of publication of the planned aid measure or within the same time horizon as the deployment of the subsidised network, which shall not be shorter than two years. This shall be verified by mapping and public consultation in accordance with paragraph 4. Areas with at least one present or credibly planned network able to reliably provide speeds of at least 30 Mbps download shall be excluded. The aided network shall ensure at least a doubling of download and upload speeds compared to the present or credibly planned networks and shall be able to reliably provide at least 30 Mbps download speeds (target speeds);
  - (b) fixed broadband network deployment to connect households and socioeconomic drivers in areas where there is no network able to reliably provide speeds of at least 100 Mbps download (threshold speeds) present or credibly planned to be deployed within three years from the moment of publication of the planned aid measure or within the same time horizon as the deployment of the subsidised network, which shall not be shorter than two years. This shall be verified by mapping and public consultation in accordance with paragraph 4. Areas with at least one present or credibly planned network able to reliably provide speeds of at least 100 Mbps download shall be excluded. The aided network shall ensure at least a doubling of download and upload speeds compared to the present or credibly planned networks and shall be able to reliably provide at least 300 Mbps download and 100 Mbps upload speeds (target speeds);
  - (c) fixed broadband network deployment to connect only socioeconomic drivers in areas where there is only one network able to reliably provide speeds of at least 100 Mbps download but below 300 Mbps download (threshold speeds) present or credibly planned to be deployed within three years from the moment of publication of the planned aid measure or within the same time horizon as the deployment of the subsidised network, which shall not be shorter than two years. This shall be verified by mapping and public consultation in accordance with paragraph 4. Areas with at least one present or credibly planned network able to reliably provide speeds of at least 300 Mbps download shall be excluded. Areas with at least two present or credibly planned networks able to reliably provide speeds of at least 100 Mbps download shall also be excluded. The aided network shall ensure at least a doubling of download and upload speeds compared to the present or credibly planned networks and shall be able to reliably provide at least 1 Gbps download speeds (target speeds).
4. The mapping and public consultation referred to in paragraph 3 shall meet all the following requirements:
  - (a) the mapping shall identify the geographic target areas envisaged to be covered under the public intervention and shall take into account all present public and private networks able to reliably provide the threshold speeds identified in paragraph 3 depending on the type of investment. The mapping shall be performed: (i) for purely fixed networks, at address level on the basis of premises passed and (ii) for fixed wireless access networks, at address level on the basis of premises passed or on the basis of maximum 100 x100 metre grids. For points (i) and (ii) the mapping shall always be verified through a public consultation;
  - (b) the public consultation shall be carried out by the competent public authority through publication of the main characteristics of the planned measure and the list of geographic target areas identified in the mapping exercise in accordance with point (a) on an appropriate website (including at national level). The public consultation shall invite interested parties to comment on the measure and to submit substantiated information in accordance with point (a) regarding their networks able to reliably provide the threshold speeds set out in paragraph 3 in the target area that are present or credibly planned to be deployed within three years from the moment of publication of the planned aid measure. If the granting authority takes a shorter or longer time horizon than three years for the deployment of the subsidised infrastructure, the same time horizon, which cannot be shorter than two years, must also be used to assess whether networks referred to in the previous sentence are credibly planned to be deployed. The public consultation shall last at least 30 days.
5. The aided project shall bring a significant improvement (step change) compared to networks present or credibly planned to be deployed within three years from the moment of publication of the planned aid measure or within the same time horizon as the deployment of the subsidised network, which cannot be shorter than two years, in accordance with paragraph 4. A step change takes place if, as a result of the subsidised intervention, a significant new

investment in the broadband network is undertaken and the subsidised network brings significant new capabilities to the market in terms of broadband internet access service availability and capacity, speeds and competition compared to the present or credibly planned networks. The project must include substantial investments in passive infrastructure going beyond marginal investments related merely to the upgrade of the active elements of the network.

6. The aid shall be granted as follows:

- (a) the aid shall be allocated to providers of electronic communications networks and services on the basis of an open, transparent and non-discriminatory competitive selection procedure in line with the principles of public procurement rules and respecting the principle of technology neutrality, without prejudice to the applicable public procurement rules, based on the most economically advantageous offer. For the purposes of the competitive selection procedure, the aid granting authority shall establish in advance objective, transparent and non-discriminatory qualitative award criteria that have to be weighed against the requested aid amount. At similar quality conditions the bidder with the lowest amount of aid requested shall be awarded the aid;
- (b) when the aid is granted without a competitive selection procedure to a public authority to deploy and manage, directly or through an in-house entity, a fixed broadband network, the public authority or the in-house entity, as the case may be, shall provide only wholesale services using the subsidised network. The public authority shall ensure accounting separation between the funds used for the operation of the network and other funds at its disposal. Any concession or other entrustment to a third party to build or operate the network shall be allocated through an open, transparent and non-discriminatory competitive selection procedure, in line with the principles of public procurement rules and respecting the principle of technology neutrality, without prejudice to the to the applicable public procurement rules, based on the most economically advantageous offer.

7. The operation of the subsidised network shall offer the widest possible active and passive wholesale access, in accordance with Article 2, point (139), under fair and non-discriminatory conditions, including physical unbundling. A project may offer virtual unbundling instead of physical unbundling if the virtual access product is declared as equivalent to physical unbundling by the national regulatory authority. Active wholesale access shall be granted for at least seven years and the wholesale access to the physical infrastructure including ducts or poles shall not be limited in time. The same access conditions shall apply to the entirety of the subsidised network, including on parts of the network where existing infrastructures have been used. The access obligations shall be enforced irrespective of any change in ownership, management or operation of the subsidised network. In the case of aid for the construction of ducts, the ducts shall be large enough to cater for at least three networks and different network topologies.

8. The wholesale access price shall be based on one of the following benchmarks: (i) the average published wholesale prices that prevail in other comparable, more competitive areas of the Member State or the Union; or (ii) in the absence of such published prices, the regulated prices already set or approved by the national regulatory authority for the markets and services concerned; or (iii) in the absence of such published or regulated prices, the pricing shall comply with cost orientation and the methodology mandated in accordance with the sectorial regulatory framework. Without prejudice to the competences of the national regulatory authority under the regulatory framework, the national regulatory authority shall be consulted on the terms and conditions for access, including on prices, and on disputes related to the application of this Article.

9. Member States shall put in place a monitoring and claw-back mechanism if the amount of aid granted to the project exceeds EUR 10 million.;

(23) the following Articles 52a, 52b, and 52c are inserted:

*'Article 52a*

#### **Aid for 4G and 5G mobile networks**

1. Aid for 4G and 5G mobile network deployment shall be compatible with the internal market pursuant to Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.

2. The eligible costs shall be all costs for the construction, management and operation of a passive mobile network. The maximum aid amount for a project shall be established on the basis of a competitive selection process as set out in paragraph 7, point (a). Where an investment is carried out in accordance with paragraph 7, point (b), without a competitive selection process, the aid amount shall not exceed the difference between the eligible costs and the operating profit of the investment. The operating profit shall be deducted from the eligible costs *ex ante* on the basis of reasonable projections and verified *ex post* through a claw-back mechanism.

3. 5G investment shall be located in areas where mobile networks have not been deployed or where only mobile networks able to support mobile services of up to 3G are available and where there are no 4G and no 5G mobile networks present or credibly planned to be deployed within three years from the moment of publication of the planned aid measure or within the same time horizon as the deployment of the subsidised network, which shall not be shorter than two years. This shall be verified by mapping and public consultation in accordance with paragraph 4. 4G investment shall be located in areas where mobile networks have not been deployed or where only mobile networks able to support mobile services of up to 2G are available and where there are no 3G, 4G or 5G mobile networks present or credibly planned to be deployed within three years from the moment of publication of the planned aid measure or within the same time horizon as the deployment of the subsidised network, which shall not be shorter than two years. This shall be verified by mapping and public consultation in accordance with paragraph 4.

4. The mapping and public consultation referred to in paragraph 3 shall meet all the following requirements:

(a) the mapping shall clearly identify the geographic target areas envisaged to be covered under the public intervention and shall take into account all present mobile networks, depending on the type of investment. Mapping shall be performed on the basis of maximum 100 x100 metre grids. Mapping shall always be verified through a public consultation;

(b) the public consultation shall be carried out by the competent public authority through publication of the main characteristics of the planned measure and the list of geographic target areas identified in the mapping exercise in accordance with point (a) on an appropriate website (including at national level). The public consultation shall invite interested parties to comment on the measure and to submit substantiated information in accordance with point (a) regarding their mobile networks in the target area that are present or credibly planned to be deployed within three years from the moment of publication of the planned aid measure. If the granting authority takes a shorter or longer time horizon than three years for the deployment of the subsidised infrastructure, the same time horizon, which cannot be shorter than two years, must also be used to assess whether networks referred to in the previous sentence are credibly planned to be deployed. The public consultation shall last at least 30 days.

5. The aided infrastructure shall not be taken into account to meet the coverage obligations of the mobile networks operators that arise out of conditions attached to rights of use of 4G and 5G spectrum.

6. The supported project shall bring a significant improvement (step change) compared to mobile networks present or credibly planned to be deployed within three years from the moment of publication of the planned aid measure or within the same time horizon as the deployment of the subsidised network, which cannot be shorter than two years, in accordance with paragraph 4. A step change takes place if, as a result of the subsidised intervention, a significant new investment in the mobile network is undertaken and the subsidised network brings significant new capabilities to the market in terms of mobile service availability, capacity, speeds and competition compared to the present or credibly planned networks. The project must include substantial investments in passive infrastructure going beyond marginal investments related merely to the upgrade of the active elements of the network.

7. The aid shall be granted as follows:

(a) the aid shall be allocated to providers of electronic communications networks and services on the basis of an open, transparent and non-discriminatory competitive selection process in line with the principles of public procurement rules and respecting the principle of technology neutrality, without prejudice to the applicable public procurement rules, based on the most economically advantageous offer. For the purposes of the

competitive selection procedure, the aid granting authority shall establish in advance objective, transparent and non-discriminatory qualitative award criteria that have to be weighed against the requested aid amount. At similar quality conditions the bidder with the lowest amount of aid requested shall be awarded the aid;

- (b) when the aid is granted without a competitive selection procedure to a public authority to deploy and manage, directly or through an in-house entity, a passive mobile network, the public authority or the in-house entity, as the case may be, shall provide only wholesale services using the subsidised network. The public authority shall ensure accounting separation between the funds used for the operation of the network and other funds at the disposal of the public authority. Any concession or other entrustment to a third party to build or operate the network shall be allocated through an open, transparent and non-discriminatory competitive selection process, in line with the principles of public procurement rules and respecting the principle of technology neutrality without prejudice to the to the applicable public procurement rules, based on the most economically advantageous offer.

8. The operation of the subsidised network shall offer the widest possible active and passive wholesale access, in accordance with Article 2, point (139), under fair and non-discriminatory conditions. Active wholesale access shall be granted for at least seven years and wholesale access to the physical infrastructure including ducts or poles shall not be limited in time. The same access conditions shall apply on the entirety of the subsidised network, including on the parts of such network where existing infrastructures have been used. The access obligations shall be enforced irrespective of any change in ownership, management or operation of the subsidised network. In the case of aid for the construction of ducts, the ducts shall be large enough to cater at least for all existing mobile networks operators.

9. The wholesale access price shall be based on one of the following benchmarks: (i) the average published wholesale prices that prevail in other comparable, more competitive areas of the Member State or the Union; or (ii) in the absence of such published prices, the regulated prices already set or approved by the national regulatory authority for the markets and services concerned; or (iii) in the absence of such published or regulated prices, the pricing shall comply with the cost orientation and the methodology mandated in accordance with the sectorial regulatory framework. Without prejudice to the competences of the national regulatory authority under the regulatory framework, the national regulatory authority shall be consulted on the terms and conditions for access, including on prices, and on disputes related to the application of this Article.

10. Member States shall put in place a monitoring and claw-back mechanism if the amount of aid granted to the project exceeds EUR 10 million.

11. The use of the publicly funded 4G or the 5G network to provide fixed wireless access services shall only be allowed as follows:

- (a) in areas where there is no network able to reliably provide speeds of at least 30 Mbps download present or credibly planned to be deployed within three years from the moment of publication of the planned aid measure or within the same time horizon as the deployment of the subsidised network, which cannot be shorter than two years, if the following cumulative conditions are met: (i) the mapping and public consultation exercise also takes into account the fixed broadband networks present or credibly planned determined according to Article 52(4); (ii) the supported 4G or 5G fixed wireless access solution is able to reliably provide speeds of at least 30 Mbps download and at least a doubling of download and upload speed compared to the fixed networks present or credibly planned in those areas;
- (b) in areas where there is no network able to reliably provide speeds of at least 100 Mbps download present or credibly planned to be deployed within three years from the moment of publication of the planned aid measure or within the same time horizon as the deployment of the subsidised network, which cannot be shorter than two years, if the following cumulative conditions are met: (i) the mapping and public consultation exercise takes also into account the fixed broadband networks present or credibly planned determined according to Article 52(4); (ii) the supported 4G or 5G fixed wireless access solution is able to reliably provide speeds of at least 300 Mbps download and 100 Mbps upload and at least a doubling of download and upload speed compared to the fixed networks present or credibly planned in those areas.

*Article 52b***Aid for projects of common interest in the area of trans-European digital connectivity infrastructure**

1. 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 be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty provided that the conditions laid down in this Article and in Chapter I are fulfilled.

2. Projects shall fulfil the cumulative general compatibility conditions laid down in paragraph 3. They shall, in addition, fall under one of the categories of eligible projects laid down in paragraph 4 and shall fulfil all specific compatibility conditions for the relevant category laid down in that paragraph. Only projects which refer solely to the elements and entities specified under each relevant category in that paragraph shall fall within the scope of the exemption in paragraph 1.

3. The general cumulative compatibility conditions shall be the following:

- (a) the beneficiary must provide a financial contribution of at least 25 % of the eligible costs 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 must not contain any public financial support laid down 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 are eligible for aid;
- (c) the project must 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 based on clear, transparent and non-discriminatory criteria;
  - (iii) by independent experts appointed by the Commission;
- (d) the project must 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 must ensure third party open wholesale access including unbundling under fair, reasonable and non-discriminatory conditions in accordance with Article 52(7) and (8) or Article 52a(8) and (9) as appropriate.

4. 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 laid down in Regulation (EU) No 1315/2013 (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 data infrastructures that: (1) are hosting entities of the European High Performance Computing Joint Undertaking established in accordance with Council Regulation (EU) 2018/1488 \*, or are research infrastructures and other computing and data infrastructures supporting research flagships and missions set out in Regulation (EU) 2021/695 of the European Parliament and of the Council \*\* and Council 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 cloud infrastructures of certain socioeconomic drivers that meet the following specific cumulative conditions:
- (i) the project interconnects cloud infrastructures 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;
- (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 must not concern routes served already by at least two present or credibly planned backbone infrastructures;

- (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. The project shall be able to reliably provide symmetric download and upload speeds of at least 1 Gbps;
- (iv) the project supports the deployment of new passive infrastructure only if existing passive infrastructure cannot be reused.

#### Article 52c

#### Connectivity vouchers

1. Aid in the form of a connectivity voucher scheme for consumers in order to facilitate teleworking, online education, training services or for SMEs shall be compatible with the internal market pursuant to Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.
2. The duration of a voucher scheme shall not exceed 24 months.
3. The following categories of voucher schemes shall be eligible:
  - (a) voucher schemes available to consumers for subscribing to a new broadband internet access service or upgrading the current subscription to a service providing speeds of at least 30 Mbps download, provided that all providers of electronic communications services able to reliably provide speeds of at least 30 Mbps download are eligible under the vouchers scheme, whereas vouchers shall not be awarded for switching providers providing the same speeds or for upgrades of an existing subscription of at least 30 Mbps download;
  - (b) voucher schemes available to SMEs for subscribing to a new broadband internet access service or upgrading the current subscription to a service providing speeds of at least 100 Mbps download, provided that all providers able to reliably provide speeds of at least 100 Mbps download are eligible under the vouchers scheme, whereas vouchers shall not be awarded for switching providers providing the same speeds or upgrades of an existing subscription of at least 100 Mbs download.
4. The vouchers shall cover up to 50 % of the total set-up costs and monthly fee to subscribe to a broadband internet access service with the speeds specified in paragraph 3, whether on a stand-alone basis or as part of a bundle of services, which include at least the necessary terminal equipment (modem/router) for access to the internet with the speed specified in paragraph 3. The voucher shall be paid by the public authorities directly to the end-users or directly to the service provider chosen by the end-users, in which case the amount of the voucher shall be deducted from the end-users' invoice.
5. The vouchers shall be available to consumers or SMEs only in areas where there is at least one existing network able to reliably provide the speeds specified in paragraph 3, which shall be verified by mapping and public consultation. The mapping exercise and the public consultation shall identify the geographic target areas covered by at least one network able to reliably provide the speed specified in paragraph 3 for the duration of the vouchers scheme, the eligible providers present in the area and collect information to calculate their market share. The mapping shall be performed (i) for wireline-based fixed networks at address level on the basis of premises passed; and (ii) for fixed wireless access networks or mobile networks at address level on the basis of premises passed or on the basis of maximum 100 x100 metre grids. The mapping shall always be verified through a public consultation. The public consultation shall be carried out by the competent public authority through publication of the main characteristics of the planned measure and the list of geographic target areas identified in the mapping exercise on an appropriate website, including at national level. The public consultation shall invite interested parties to comment on the draft measure and to submit substantiated information regarding their existing networks able to reliably provide the speed specified in paragraph 3. The public consultation shall last at least 30 days.
6. The voucher scheme shall comply with the principle of technological neutrality, in the sense that the vouchers can be used for subscriptions to services of any operators able to reliably provide the speeds specified in paragraph 3 over an existing broadband network, irrespective of the technologies used. In order to facilitate the choice of the consumers or SMEs, the list of eligible providers for each of the geographic target areas shall be published on-line and every interested providers shall be able to apply for being included on the basis of open, transparent and non-discriminatory criteria.

7. In order to be eligible, in cases where the provider of the broadband internet access service is vertically integrated and has a retail market share above 25 %, it must offer on the corresponding wholesale access market to any electronic communication services provider at least one wholesale access product able to ensure that the access-seeker will be able to reliably provide a retail service at the speed specified in paragraph 3, under open, transparent and non-discriminatory conditions. The wholesale access price shall be set on one of the following benchmarks: (i) the average published wholesale prices that prevail in other comparable, more competitive areas of the Member State or the Union; or (ii) in the absence of such published prices, the regulated prices already set or approved by the national regulatory authority for the markets and services concerned; or (iii) in the absence of such published or regulated prices, the pricing shall comply with the cost orientation and the methodology mandated in accordance with the sectorial regulatory framework. Without prejudice to the competences of the national regulatory authority under the regulatory framework, the national regulatory authority shall be consulted on the terms and conditions for access, including on prices, and on disputes related to the application of this Article.

\* 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).

\*\* Regulation (EU) 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013 (OJ L 170, 12.5.2021, p. 1).;

(24) the following Section 16 is inserted after Article 56c:

SECTION 16

#### ***Aid involved in financial products supported by the InvestEU Fund***

*Article 56d*

##### **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 be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in Chapter I, this Article, and either Article 56e or Article 56f are fulfilled.
3. The aid shall comply with all applicable conditions laid down in Regulation (EU) 2021/523 and the InvestEU Investment Guidelines laid down in the Annex to Commission Delegated Regulation (EU) 2021/1078 \*.
4. The maximum thresholds laid down in Articles 56e and 56f 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 covered by Article 56e(2) and (4), Article 56e(5), point (a)(i), Article 56e(6) and (7), Article 56e(8), points (a) and (b), and Article 56e(9);
  - (b) per final beneficiary in the case of aid covered by Article 56e(5), points (a)(ii) and (iii), Article 56e(8), point (d), Article 56e(10) and Article 56f.
5. Aid shall not be granted in the form of refinancing of or guarantees on existing portfolios of financial intermediaries.

*Article 56e*

##### **Conditions for aid involved in financial products supported by the InvestEU Fund**

1. Aid to the final beneficiary under a financial product supported by the InvestEU Fund shall:
  - (a) comply with the conditions set out in one of paragraphs 2 to 9; 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 fulfilling all general and specific compatibility conditions laid down in Article 52b. The nominal amount of total financing provided to any final beneficiary per project under the support of the InvestEU Fund shall not exceed EUR 150 million.
3. Aid for investments in fixed broadband networks to connect only certain eligible socioeconomic drivers shall comply with the following conditions:
  - (a) aid shall only be granted to projects fulfilling all compatibility conditions laid down in Article 52 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 150 million;
  - (c) the project connects only 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. Projects including elements or entities other than those specified under this point are excluded;
  - (d) by way of derogation from Article 52(4), the identified market failure must be verified either by available appropriate mapping or, when such mapping is not available, by a public consultation, as follows:
    - (i) the mapping can be considered appropriate if it is not older than 18 months and includes all networks able to reliably provide speeds of at least 100 Mbps download but below 300 Mbps download (threshold speeds) that pass the premises of an eligible socioeconomic driver identified in point (c). This mapping must be carried out by the competent public authority, must take into account all networks able to reliably provide the threshold speeds present or credibly planned in the next three years or within the same time horizon as the planned supported intervention, which cannot be shorter than two years, and must be performed (i) for purely fixed networks at address level on the basis of premises passed; and (ii) for fixed wireless access networks at address level on the basis of premises passed or on the basis of maximum 100 x100 metre grids;
    - (ii) the public consultation must be carried out by the competent public authority through publication on an appropriate website inviting interested parties to comment on the draft measure and to submit substantiated information regarding networks able to reliably provide speeds of at least 100 Mbps download but below 300 Mbps download (threshold speeds) present or credibly planned in the next three years or within the same time horizon as the planned supported intervention, which cannot be shorter than two years, that pass the premises of an eligible socioeconomic driver as referred to in point (c), based on information: (i) for purely fixed networks, at address level on the basis of premises passed; and (ii) for fixed wireless access networks, at address level on the basis of premises passed or on the basis of maximum 100 x100 metre grids. The public consultation shall last at least 30 days.
4. Aid for energy generation and energy infrastructure shall comply with the following conditions:
  - (a) aid shall only be granted for investments in energy infrastructure in gas and electricity not exempted from third party access, tariff regulation and unbundling, based on the internal energy market legislation 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 of the European Parliament and of the Council \*\*;
    - (ii) as regards electricity infrastructure:
      - (1) smart grids, including investments in the development, smartening and modernisation of electricity transmission and distribution infrastructure;
      - (2) other projects:
        - which fulfil any of the criteria laid down in Article 4(1)(c) of Regulation (EU) No 347/2013, or
        - which are included in the prevailing Union list of Projects of Common Interest in Annex VII to Regulation (EU) No 347/2013;

- (3) other projects, with the exclusion of electricity storage, in assisted areas;
- (iii) electricity storage projects, based on new and innovative technology, irrespective of the voltage level of the connection to the network;
- (b) investment aid for generation 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;
  - (ii) aid may be granted to new installations also in combination with storage equipment or hydrogen electrolyzers, provided that both the electricity or hydrogen storage equipment and the hydrogen electrolyzers only use the energy generated by renewable energy installation(s);
  - (iii) aid shall not be granted for hydropower installations that do not comply with the conditions laid down in Directive 2000/60/EC;
  - (iv) in case of installations producing biofuels, aid shall only be granted for installations producing sustainable biofuels other than food based biofuels.
- (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 150 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 75 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 100 million per project for investments in infrastructure used for the provision of social services and for education; EUR 150 million per project for cultural and heritage conservation purposes and activities set out in Article 53(2), including natural heritage;
  - (ii) EUR 30 million for activities related to social services;
  - (iii) EUR 75 million for activities related to culture and heritage conservation; and
  - (iv) EUR 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 infrastructures 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;
  - (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 of the European Parliament and of the Council <sup>\*\*\*</sup>, provided the beneficiary is a new entrant;
  - (iv) urban transport;
  - (v) recharging or refuelling infrastructure that supplies vehicles with electricity or renewable hydrogen;
- (b) aid for port infrastructure projects shall comply with the following requirements:
  - (i) aid may only be provided for investments in access infrastructure and port infrastructure that are made available to interested users on an equal and non-discriminatory basis on market terms;
  - (ii) any concession or other entrustment to a third party to construct, upgrade, operate or rent aided port infrastructure shall be assigned on a competitive, transparent, non-discriminatory and unconditional basis;
  - (iii) aid shall not be granted for investments in port superstructures.

- (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 150 million.
7. Aid for other infrastructures 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 in waste recycling and preparation for re-use in line with Article 47(1) to (6), insofar as it is aimed at managing waste generated by other undertakings;
  - (iii) investment in research 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 100 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 to physical surroundings (including climate change) or natural resources by a beneficiary's own activities, insofar as the investment goes beyond Union standards for environmental protection or increases the level of environmental protection in the absence of Union standards or constitutes an early adaptation to future Union standards for environmental protection;
  - (ii) measures improving the energy efficiency of an undertaking, insofar as the energy efficiency improvements are not undertaken to ensure that the undertaking complies with Union standards already adopted, even if they are not yet in force;
  - (iii) remediation of contaminated sites, 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 45(3);
  - (iv) environmental studies;
  - (v) enhancement and restoration of biodiversity and ecosystems where that activity contributes to protecting, conserving or restoring biodiversity and to achieving the good condition of ecosystems, or to protecting ecosystems that are already in good condition;
- (b) without prejudice to point (a), where the aid measure relates to the improvement of the energy efficiency of (1) residential buildings; (2) buildings dedicated to the provision of education or social services or to activities related to justice, police or fire-fighting services; (3) buildings dedicated to activities related to public administration; or (4) buildings referred to in (1), (2) or (3) and in which activities other than those mentioned in (1), (2) or (3) occupy less than 35 % of the internal floor area, aid may also be granted for measures that simultaneously improve the energy efficiency of those buildings and integrate any or all of the following investments:
- (i) integrated installations generating renewable energy on-site of the building concerned by the energy efficiency aid measure. The integrated on-site renewable energy installation relates to production of electricity and/or heat. It may be combined with equipment for the storage of the renewable energy generated on-site;
  - (ii) on-site storage installations;
  - (iii) equipment and related infrastructure incorporated to the building for the recharging of electric vehicles of the building's users;
  - (iv) investments for the digitalisation of the building, in particular to increase its smart readiness. The investments for the digitalisation of the building may include interventions limited to passive in-house wiring or structured cabling for data networks and, if necessary, the ancillary part of the passive network on the private property outside the building. Wiring or cabling for data networks outside the private property is excluded;

- The final beneficiary of the aid may be either building owner(s) or tenant(s), depending on who obtains the financing for the project;
- (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 50 million;
  - (d) 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 50 million per final beneficiary and building;
  - (e) aid for measures that improve the energy efficiency of buildings referred to in point (b) may also relate to the facilitation of energy performance contracts subject to the following conditions:
    - (i) the support takes the form of a loan or guarantee to the provider of the energy efficiency improvement measures under an energy performance contract, or consists in a financial product aimed to refinance the respective provider (e.g. factoring, forfeiting);
    - (ii) the nominal amount of total financing provided under the support of the InvestEU Fund does not exceed EUR 30 million;
    - (iii) the support is provided to SMEs or small mid-caps;
    - (iv) the support is provided for energy performance contracting within the meaning of Article 2(27) of Directive 2012/27/EU;
    - (v) the energy performance contracting relates to a building referred to in paragraph 8, point (b).
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 75 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 30 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 provided that one of the following conditions are fulfilled:
- (a) the nominal amount of total financing provided per final beneficiary under the support of the InvestEU Fund does not exceed EUR 15 million and is provided to:
    - (i) unlisted SMEs that have not yet been operating in any market or have been operating for less than 7 years following their first commercial sale;
    - (ii) unlisted SMEs entering a new product or geographical market, where the initial investment for entering into a new product or geographical market must be higher than 50 % of the average annual turnover in the preceding 5 years;
    - (iii) SMEs and small mid-caps that are innovative enterprises as defined in Article 2, point (80);
  - (b) the nominal amount of total financing provided per final beneficiary under the support of the InvestEU Fund does not exceed EUR 15 million and is provided to SMEs or small mid-caps whose principal activities are located in assisted areas provided that the financing is not used for relocation of activities as defined in Article 2, point (61a);

- (c) the nominal amount of total financing provided per final beneficiary under the support of the InvestEU Fund does not exceed EUR 2 million and is provided to SMEs or small mid-caps.

*Article 56f*

**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 which shall be selected in an open, transparent and non-discriminatory way based on objective criteria.
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 to each final beneficiary through the commercial financial intermediary shall not exceed EUR 7,5 million.

\* 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).

\*\* Regulation (EU) No 347/2013 of the European Parliament and of the Council of 17 April 2013 on guidelines for trans-European energy infrastructure and repealing Decision No 1364/2006/EC and amending Regulations (EC) No 713/2009, (EC) No 714/2009 and (EC) No 715/2009 (OJ L 115, 25.4.2013, p. 39).

\*\*\* 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).;

- (25) in Article 58, paragraph 3a is replaced by the following:

'3a. Any individual aid granted between 1 July 2014 and 2 August 2021 in accordance with the provisions of this Regulation as applicable at the time of granting the aid shall be compatible with the internal market and exempted from the notification requirement of Article 108(3) of the Treaty. Any individual aid granted before 1 July 2014 in accordance with the provisions of this Regulation, with the exception of Article 9, as applicable either before or after 10 July 2017, or before or after 3 August 2021, shall be compatible with the internal market and exempted from the notification requirement of Article 108(3) of the Treaty.;

- (26) in Annex II, Part II is replaced by the text set out in the Annex to this Regulation.

*Article 2*

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

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

Done at Brussels, 23 July 2021.

*For the Commission*  
*The President*  
Ursula VON DER LEYEN



## ANNEX

## PART II

**to be provided through the established Commission electronic notification system as laid down in Article 11**

Please indicate under which provision of the GBER the aid measure is implemented.

Primary Objective – General Objectives (list)	Objectives (list)	Maximum aid intensity in % or Maximum annual aid amount in national currency (in full amounts)	SME – bonuses in %
Regional aid – investment aid <sup>(1)</sup> (Art. 14)	<input type="checkbox"/> Scheme	...%	...%
	<input type="checkbox"/> Ad hoc aid	...%	...%
Regional aid – operating aid (Art. 15)	<input type="checkbox"/> In sparsely populated areas (Art. 15(2))	...%	...%
	<input type="checkbox"/> In very sparsely populated areas (Art. 15(3))	...%	...%
	<input type="checkbox"/> In outermost regions (Art. 15(4))	...%	...%
<input type="checkbox"/> Regional urban development aid (Art. 16)		... national currency	...%
SME aid (Arts. 17 – 19b)	<input type="checkbox"/> Investment aid to SMEs (Art. 17)	...%	...%
	<input type="checkbox"/> Aid for consultancy in favour of SMEs (Art. 18)	...%	...%
	<input type="checkbox"/> Aid to SMEs for participation in fairs (Art. 19)	...%	...%
	<input type="checkbox"/> Aid for costs incurred by SMEs participating in community-led local development (“CLLD”) or European Innovation Partnership for agricultural productivity and sustainability (“EIP”) Operational Group projects (Art. 19a)	...%	...%
	<input type="checkbox"/> Limited amounts of aid to SMEs benefitting from community-led local development (“CLLD”) or European Innovation Partnership for agricultural productivity and sustainability (“EIP”) Operational Group projects (Art 19b) <sup>(2)</sup>	...national currency	...%
Aid for European Territorial Cooperation (Arts. 20 – 20a)	<input type="checkbox"/> Aid for costs incurred by undertakings participating in European Territorial Cooperation projects (Art. 20)	...%	...%
	<input type="checkbox"/> Limited amounts of aid to undertakings for participation in European Territorial Cooperation projects (Art. 20a) <sup>(2)</sup>	...national currency	...%

SME aid – SMEs' access to finance (Arts. 21-22)	<input type="checkbox"/> Risk finance aid (Art. 21)		...national currency	...%
	<input type="checkbox"/> Aid for start-ups (Art. 22)		...national currency	...%
<input type="checkbox"/> SME aid – Aid to alternative trading platforms specialised in SMEs (Art. 23)			...%; in case the aid measure takes the form of start-up aid: ... national currency	...%
<input type="checkbox"/> SME aid – Aid for scouting costs (Art. 24)			...%	...%
Aid for research, development and innovation (Arts. 25 – 30)	Aid for research and development projects (Art. 25)	<input type="checkbox"/> Fundamental research (Art. 25(2)(a))	...%	...%
		<input type="checkbox"/> Industrial research (Art. 25(2)(b))	...%	...%
		<input type="checkbox"/> Experimental development (Art. 25(2)(c))	...%	...%
		<input type="checkbox"/> Feasibility studies (Art. 25(2)(d))	...%	...%
	<input type="checkbox"/> Aid for projects awarded a Seal of Excellence quality label (Art. 25a)		...national currency	...%
	<input type="checkbox"/> Aid for Marie Skłodowska-Curie actions and European Research Council Proof of Concept actions (Art. 25b)		...national currency	...%
	<input type="checkbox"/> Aid involved in co-funded research and development projects (Art. 25c)		...%	...%
	<input type="checkbox"/> Aid for Teaming actions (Art. 25d)		...%	...%
	<input type="checkbox"/> Investment aid for research infrastructures (Art. 26)		...%	...%
	<input type="checkbox"/> Aid for innovation clusters (Art. 27)		...%	...%
	<input type="checkbox"/> Innovation aid for SMEs (Art. 28)		...%	...%
	<input type="checkbox"/> Aid for process and organisational innovation (Article 29)		...%	...%
	<input type="checkbox"/> Aid for research and development in the fishery and aquaculture sector (Art. 30)		...%	...%
<input type="checkbox"/> Training aid (Art. 31)			...%	...%

Aid for disadvantaged workers and workers with disabilities (Arts. 32-35)	<input type="checkbox"/> Aid for the recruitment of disadvantaged workers in the form of wage subsidies (Art. 32)	...%	...%
	<input type="checkbox"/> Aid for the employment of workers with disabilities in the form of wage subsidies (Art. 33)	...%	...%
	<input type="checkbox"/> Aid for compensating the additional costs of employing workers with disabilities (Art. 34)	...%	...%
	<input type="checkbox"/> Aid for compensating the costs of assistance provided to disadvantaged workers (Art.35)	...%	...%
Aid for Environmental protection (Arts. 36-49)	<input type="checkbox"/> Investment aid enabling undertakings to go beyond Union standards for environmental protection or increase the level of environmental protection in the absence of Union standards (Art. 36)	...%	...%
	<input type="checkbox"/> Investment aid for publicly accessible recharging or refuelling infrastructure for zero and low emission road vehicles (Art. 36a)	...%	...%
	<input type="checkbox"/> Investment aid for early adaptation to future Union standards (Art. 37)	...%	...%
	<input type="checkbox"/> Investment aid for energy efficiency measures (Art. 38)	...%	...%
	<input type="checkbox"/> Investment aid for energy efficiency projects in buildings in the form of financial instruments (Art. 39)	...national currency	...%
	<input type="checkbox"/> Investment aid for high-efficiency cogeneration (Art. 40)	...%	...%
	<input type="checkbox"/> Investment aid for the promotion of energy from renewable sources (Art. 41)	...%	...%
	<input type="checkbox"/> Operating aid for the promotion of electricity from renewable sources (Art. 42)	...%	...%
	<input type="checkbox"/> Operating aid for the promotion of energy from renewable sources in small scale installation (Art. 43)	...%	...%
	<input type="checkbox"/> Aid in the form of reductions in environmental taxes under Council Directive 2003/96/EC (Art. 44 of this Regulation)	...%	...%
	<input type="checkbox"/> Investment aid for remediation of contaminated sites (Art. 45)	...%	...%
	<input type="checkbox"/> Investment aid for energy efficient district heating and cooling (Art. 46)	...%	...%
	<input type="checkbox"/> Investment aid for waste recycling and re-utilisation (Art. 47)	...%	...%
	<input type="checkbox"/> Investment aid for energy infrastructure (Art. 48)	...%	...%
<input type="checkbox"/> Aid for environmental studies (Art. 49)	...%	...%	

<input type="checkbox"/> Aid schemes to make good the damage caused by certain natural disasters (Art. 50)	Maximum aid intensity		...%	...%
	Type of natural disaster		<input type="checkbox"/> earthquake <input type="checkbox"/> avalanche <input type="checkbox"/> landslide <input type="checkbox"/> flood <input type="checkbox"/> tornado <input type="checkbox"/> hurricane <input type="checkbox"/> volcanic eruption <input type="checkbox"/> wild fire	
	Date of occurrence of the natural disaster		dd/mm/yyyy to dd/mm/yyyy	
<input type="checkbox"/> Social aid for transport for residents of remote regions (Art. 51)			...%	...%
<input type="checkbox"/> Aid for fixed broadband networks (Art. 52)			...national currency	...%
<input type="checkbox"/> Aid for 4G and 5G mobile networks (Art. 52a)			...national currency	...%
<input type="checkbox"/> Aid for projects of common interest in the area of trans-European digital connectivity infrastructure (Art. 52b)			...national currency	...%
<input type="checkbox"/> Connectivity vouchers (Art. 52c)			...%	...%
<input type="checkbox"/> Aid for culture and heritage conservation (Art. 53)			...%	...%
<input type="checkbox"/> Aid schemes for audiovisual works (Art. 54)				
			...%	...%
<input type="checkbox"/> Aid for sport and multifunctional recreational infrastructures (Art. 55)			...%	...%
<input type="checkbox"/> Investment aid for local infrastructures (Art. 56)			...%	...%
<input type="checkbox"/> Aid for regional airports (Art. 56a)			...%	...%
<input type="checkbox"/> Aid for maritime ports (Art. 56b)			...%	...%
<input type="checkbox"/> Aid for inland ports (Art. 56c)			...%	...%
Aid involved in financial products supported by the InvestEU Fund (Arts. 56d-56f)	Art. 56e	<input type="checkbox"/> 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 (Art. 56e(2))	...national currency	...%
		<input type="checkbox"/> Aid for investments in fixed broadband networks to connect only certain eligible socioeconomic drivers (Art. 56e(3))	...national currency	...%
		<input type="checkbox"/> Aid for energy generation and energy infrastructure (Art. 56e(4))	...national currency	...%
		<input type="checkbox"/> Aid for social, educational, cultural and natural heritage infrastructure and activities (Art. 56e(5))	...national currency	...%

	<input type="checkbox"/>	Aid for transport and transport infrastructures (Art. 56e(6))	...national currency	...%
	<input type="checkbox"/>	Aid for other infrastructures (Art. 56e(7))	...national currency	...%
	<input type="checkbox"/>	Aid for environmental protection, including climate protection (Art. 56e(8))	...national currency	...%
	<input type="checkbox"/>	Aid for research, development, innovation and digitalisation (Art. 56e(9))	...national currency	...%
	<input type="checkbox"/>	Aid in the form of financing supported by the InvestEU Fund provided to SMEs or small mid-caps (Art 56e(10))	...national currency	...%
	<input type="checkbox"/>	Aid involved in intermediated commercially-driven financial products supported by the InvestEU Fund (Art. 56f)	...national currency	...%

(<sup>1</sup>) In the case of ad hoc regional aid supplementing aid awarded under aid scheme(s), please indicate both the aid intensity granted under the scheme and the intensity of the ad hoc aid.

(<sup>2</sup>) According to Article 11(1), reporting on aid granted under Article 19b is not mandatory. Reporting on such aid is, therefore, merely optional.

(<sup>3</sup>) According to Article 11(1), reporting on aid granted under Article 20a is not mandatory. Reporting on such aid is, therefore, merely optional.