

ANNEX

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

of XXX

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
DRAFT

(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 aid¹, and in particular point (a) of Article 1(1) thereof,

After consulting the Advisory Committee on State aid,

Whereas:

- (1) Regulation (EU) No 651/2014 declares certain categories of aid compatible with the internal market.
- (2) Undertakings participating in European Territorial Cooperation ('ETC') projects covered by Regulation (EU) No 1299/2013 of the European Parliament and of the Council² or by [new ETC Regulation] often find 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 in order to facilitate their compliance with State aid rules should be addressed. 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.
- (3) In addition, given the limited effect on trade and competition of small amounts of aid granted to undertakings participating in ETC projects, simple rules for cases where the aggregate amount of aid per undertaking per project does not exceed a certain ceiling should be laid down.
- (4) 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 deemed excellent and worthy of receiving public funding, but cannot be

¹ OJ L 248, 24.9.2015, p. 1.

² 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).

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 small and medium enterprises 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.

- (5) State aid granted to certain projects of common interest in the area of digital connectivity infrastructures covered by Regulation (EU) No XX/2020 of the European Parliament and of the Council (CEF2 Regulation) can be considered compatible with the internal market and be exempted from the notification requirement under certain conditions.
- (6) Grants provided to researchers under the 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.
- (7) Combined public funding of national and Union centrally managed resources provided to 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 European research and development competitiveness, 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 evaluated, ranked and selected by independent experts in line with Horizon 2020 or Horizon Europe Framework Programme rules, following trans-national calls, where at least three Member States participate (or two in the case of Teaming actions), 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 these co-funded research and development projects should be considered compatible with the internal market and 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.
- (8) The Horizon 2020 and Horizon Europe Framework programmes define which research and innovation actions are eligible for funding. In this regard, the Commission notes that research and innovation action, as defined under the Horizon Framework Programme, will normally correspond to fundamental research and industrial research activities, as defined in this Regulation. Moreover, innovation action supported under the Horizon Framework Programme will normally correspond to the definition of experimental development activities under this Regulation. The simplifications as provided for in this Regulation in the area of research and development should, however, not be used to 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. The Commission points out that 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 would consequently be excluded from the scope of this Regulation.

- (9) The Digital Europe Programme will support and accelerate the digitalisation of the European economy and society, and bring its benefits to European citizens, public administrations and businesses across the Union. The programme is complementary to research, development and innovation projects supported under the Horizon Europe Programme, to the Connect Europe Facility Digital programme and to InvestEU. It will support the reinforcement of digital capacities (e.g. data, computing, cybersecurity capacities) to the public sector as well as to SMEs and the research and innovation communities. The programme will provide financial contribution to advanced computing including High Performance-, cloud-, edge- and quantum computing, Artificial Intelligence including the creation of European Digital Innovation Hubs, testing and experimentation facilities. It will also support digital skills and cybersecurity equipment and tools.
- (10) Financial products supported by the InvestEU Fund may involve funds controlled by Member States, including EU shared management funds, in order to increase leverage and support additional investments in Europe. For instance, Member States have the possibility to contribute a part of Union shared management funds 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. In respect of such cases, the Commission intends to provide further guidance on the typical scenarios supported under the InvestEU Regulation.
- (11) Where national funds, including EU 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 should be considered compatible with the internal market and exempted from the notification requirement in order to facilitate the implementation of the InvestEU Fund.
- (12) The design of the InvestEU Fund incorporates a number of important competition safeguards, such as supporting investments which deliver Union policy objectives and EU 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 exempted from the notification requirement based on a limited set of conditions.
- (13) 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) in paragraph 1, points (m) and (n) are replaced by the following:

“(m) aid for regional airports;

(n) aid for ports; and”;

(b) in paragraph 1, 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.”;”;

(c) 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 point (b) of Article 8(1) of the [InvestEU Programme] Regulation, 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;"

(d) 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, and aid to European Territorial Cooperation projects;

(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 Territorial Cooperation projects and aid involved in financial products supported by the InvestEU Fund;”;

(e) 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 in accordance with 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 to SMEs under Article 56f and aid to financial intermediaries under Section 16 of Chapter III, provided undertakings in difficulty are not treated more favourably than other undertakings.

* 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)”;

(2) Article 2 is amended as follows:

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

(b) the following point (86b) is inserted:

“(86b) "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;”;

(c) point 138 is replaced by the following:

“(138) “next generation access (NGA) networks” means advanced networks which have at least the following characteristics:

(i) they deliver services reliably at a very high speed per subscriber through optical (or equivalent technology) backhaul sufficiently close to user premises to guarantee the actual delivery of the very high speed;

(ii) they support a variety of advanced digital services including converged all-IP services; and

(iii) they have substantially higher upload speeds (compared to basic broadband networks).

At the current stage of market and technological development, NGA networks are: (a) fibre-based access networks (FTTx), (b) advanced upgraded cable networks and (c) certain advanced wireless access networks capable of delivering reliable high- speeds per subscriber. NGA networks include networks capable of providing 1 Gbps upload and download speeds. References to NGA networks include next generation backhaul networks (NGN), where these are necessary for the NGA deployment;”;

(d) the following point (138a) is inserted:

“(138a) “next generation backhaul networks (NGN)” mean advanced backhaul networks that can support the deployment of NGA networks through optical fibre (or equivalent technology);”;

(e) the following points (166) to (178) are added:

“Definitions 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 as defined in Article 2 of the [InvestEU Programme] Regulation;

(167) "financial intermediary" means any financial institution, other than an implementing partner, regardless of its form and ownership, involved in the implementation of budgetary guarantees. Such intermediaries may, amongst others, include banks, non-banking credit institutions, investment funds, micro-finance institutions, guarantee societies, leasing companies and national promotional banks or institutions;

(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) "projects of common interest in the area of digital connectivity infrastructures" has the meaning as defined in Article 8 of Regulation XX (CEF2 Regulation).

(170) "appropriate mapping" in the specific context of Article 56e(2)(b)(i) means mapping not older than 18 months of the NGA/NGN infrastructures that pass the premises of an eligible socio economic driver, as well as of the quality of service in terms of speed offered under usual peak-time condition by such infrastructure. This mapping shall be carried out by the competent public authority, shall take into account all NGA/NGN infrastructure existing or credibly planned in the next three years or within the same time frame of the planned supported intervention, and shall be performed at address level on the basis of premises passed (not premises connected);

(171) "public consultation" in the specific context of Article 56e(2)(b)(i) means a public consultation carried out by the competent public authority through publication on an appropriate website available to any interested stakeholders for at least 1 month with the objective of gathering substantiated information from stakeholders regarding NGA/NGN infrastructure existing or credibly planned in the next three years or within the same time frame of the planned supported intervention that passes the premises of an eligible socio economic driver , based on information at address level on the basis of premises passed;

(172) "premises passed" in the specific context of Article 56e(2)(b)(i) means premises which can be connected within a short period of time at affordable prices for the end user (activation fees), regardless of whether these premises are connected to the network. An operator may report premises as passed only if, following a request from an end user, it commits to connect the premises for normal activation fees, i.e. without any additional or exceptional cost if this is the standard commercial practice and, in any case, not exceeding the usual cost in the Member State concerned, which may be defined by the relevant authority. Furthermore, the operator must be able to connect and activate the service at the specific premises within 4 weeks from the date of the request;

(173) "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* or subsequent legal acts replacing said decision);

(174) "TEN-T urban node" means an urban area where the transport infrastructure of the TEN-T network, such as ports including passenger terminals, airports, railway stations, logistic platforms and freight terminals located in and around an urban area, is connected with other parts of that infrastructure and with the infrastructure for regional and local traffic; as defined in point (p) of Article 3 of Regulation (EU) No 1315/2013 of the European Parliament and of the Council**;

(175) "new entrant" means a railway undertaking as defined in 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 less than ten 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 in any Member State prior to 1 January 2010;

(176) "ecosystem", "biodiversity" and "the good condition of an ecosystem" have the meaning as defined in Article 2(1) of the [(draft) Regulation of the European Parliament and of the Council on the establishment of a framework to facilitate sustainable investment];

(177) "residential building" means a building constituted of single-family or multi-family dwellings where non-residential entities do not occupy more than [25]% of the total floor area;

(178) "small mid-cap" means an undertaking whose number of employees does not exceed 499, calculated in accordance with Articles 3 to 5 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 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).

** 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).";

(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 added:

“(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 Curie Skłodowska 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 defined in Article 25d;”

(c) the following point (gg) is added:

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

(4) in Article 5 (2), 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) and (k) are added:

“(i) aid for undertakings participating in European Territorial Cooperation projects, if the relevant conditions in Articles 20 or 20a are fulfilled;

(j) aid for research and development projects awarded a Seal of Excellence quality label, Marie Skłodowska-Curie 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 Articles 25a, 25b, 25c or 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.”;

(6) in Article 7 (1), the second subparagraph 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 [new CPR Regulation], 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).”;

(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 under the support of the InvestEU Fund under Section 16 of Chapter III and the cost covered by it shall not be considered for determining compliance with the cumulation provisions of paragraph 3. Instead, the amount relevant for such compliance shall be calculated by first deducting the nominal amount of the financing supported by the InvestEU Fund from the total eligible project costs and subsequently calculating the highest aid intensity or aid amount applicable to the aid under this Regulation only on the basis of the total remaining eligible costs. The nominal amount of financing provided to the final beneficiaries under the support of the InvestEU Fund shall, in cases of Articles for which the notification threshold is expressed as a maximum aid amount, 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 aid entailed in such loans or guarantees provided to the final beneficiaries may be calculated on the basis of the reference rate prevailing at the time of

the granting of the aid and can be used for ensuring 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 Articles 20a, 21, 22, 23, and Section 16 of Chapter III 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.”;

(8) in Article 9, 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, each individual aid award exceeding EUR 60 000.

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 44 of new ETC Regulation], whichever is applicable, is located. Alternatively, the participating Member States may also decide that each of them shall provide the information relating to the aid measures within their territory on the respective websites. As regards aid granted to European Territorial Cooperation projects referred to in Article 20a the publication obligations laid down in this paragraph shall not apply.

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(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):

0,06-05 (only for primary agricultural production);

0,5-1;

1-2;

2-5;

5-10;

10-30; and

30 and more.”;

* 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.

- (9) Article 11 is replaced by the following:

“Article 11

Reporting

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 44 of new ETC Regulation], 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;
- (b) an annual report, as referred to in Commission Regulation (EC) No 794/2004*, as amended, in electronic form, on the application of this Regulation, containing the information indicated in the Implementing Regulation, in respect of each whole year or each part of the year during which this Regulation applies.

This Article shall not apply in respect of aid granted to European Territorial Cooperation projects referred to in Article 20a.”;

* Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty (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. This Article shall not apply in respect of aid granted to European Territorial Cooperation projects referred to in Article 20a.”

- (11) in Article 14, 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 [new ETC Regulation], 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 [new CPR], whichever is applicable.”

(13) after Article 19, the following title is inserted:

**“Section 2a
Aid for European Territorial Cooperation”**

(14) 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 [new ETC 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 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 43 of new ETC Regulation], 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; and
- (f) costs for infrastructure and works.

3. The expertise and services referred to in point (d) of paragraph 2 shall not be a continuous or periodic activity nor relate to the undertaking's usual operating costs, such as routine tax consultancy services, regular legal services, or routine advertising.

4. The aid intensity shall not exceed the maximum co-financing rate provided for in Regulation (EU) No 1299/2013 or [new ETC Regulation].

* 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).”

(15) 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 [new ETC 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 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.”;

(16) 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, 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.”;

(17) 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, and evaluated, ranked and selected 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 2 Member States and evaluated, ranked and selected 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, excluding, where applicable, 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. 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.”;
- (18) 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 and/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 the [InvestEU Fund] Regulation [reference] and the InvestEU Investment Guidelines [reference].
4. The maximum thresholds laid down in Articles 56e and 56f shall apply to the total outstanding financing, in so far as that financing contains aid, provided under any financial product supported by the InvestEU Fund. The maximum thresholds shall apply:
 - (a) per project in the case of aid covered by Article 56e(2) and (3), Article 56e(4)(a)(i), Article 56e(5) and (6), Article 56e(7)(a) and (b) and Article 56e(8);
 - (b) per final beneficiary in the case of aid covered by Article 56e(4)(a)(ii) and (iii), Article 56e(7)(d), Article 56e(9) 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 comply with
 - (a) the conditions set out in one of paragraphs 2 to 9; and

- (b) in case the financing is provided in the form of loans to the final beneficiary, it shall 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 trans-European digital connectivity infrastructure shall comply with the following requirements:

(a) General cumulative conditions:

- (i) The project is a project of common interest in the area of digital connectivity infrastructure under the Regulation XX (CEF2 Regulation);
- (ii) 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;
- (iii) The beneficiary provides a financial contribution of at least 25% of the eligible costs through its own resources or by external financing in a form that is exempted of any public financial support. Alternatively when such external financing is provided via an investment platform combining different sources of financing, this condition is replaced by the presence in such a platform of 30% of private investment;
- (iv) Only eligible investment costs under the Regulation XX (CEF2 Regulation) for the deployment of the infrastructure are eligible for aid;
- (v) The project is selected in compliance with the Regulation XX (CEF2 Regulation): i) by an independent financial intermediary appointed by the European Commission on the basis of commonly agreed investment guidelines; ii) by the European Commission through a competitive bidding process based on clear, transparent and non-discriminatory criteria; or iii) by independent experts appointed by the European Commission;
- (vi) The project enables connectivity capabilities going beyond the requirements relating to any existing legal obligations, such as those included in a spectrum license;
- (vii) The project ensures third party open wholesale access including unbundling under fair, reasonable and non-discriminatory conditions in line with Article 52(5) and (6); for the purposes of this Article, a project may offer equivalent virtual unbundling instead of physical unbundling if the virtual access product is recognized as equivalent to physical unbundling by the national regulatory authority of a Member State or by the Commission;
- (viii) The project falls under one of the categories of projects specified under subparagraph (b) below and fulfils the relevant specific conditions.

(b) Specific conditions:

- (i) The following cumulative specific criteria shall apply for investments in networks capable of providing symmetric download and upload speeds of at least 1Gbps:
 - The project aims to connect socio-economic drivers as defined in article 8.3.(a) of the Regulation XX (CEF2 Regulation) that are public or private undertakings entrusted with the operation of services of general economic interest in the areas of education, social services including health, public administration, transport,

postal services, culture, as referred to in Article 106(2) of the Treaty and in line with the Commission Decision 2012/21/EU or subsequent legal acts replacing said decision;;

- The project is based on an identified market failure verified by available appropriate mapping or, when such mapping is not available, by a public consultation;
 - Eligible socio-economic drivers can only be connected to the project infrastructure if they do not have access to infrastructure existing or credibly planned in the next three years or within the same time frame of the planned supported intervention that is capable of providing symmetric download and upload speeds of at least 200 Mbps or a download speed of at least 500 Mbps.
 - The project demonstrates a step change, in that if, as a result of the subsidised intervention, (i) a significant new investment in the broadband network is undertaken and (ii) the subsidised infrastructure brings significant new capabilities to the market in terms of broadband service availability and capacity, speeds and competition compared to infrastructure existing or credibly planned in the next three years or within the same time frame of the planned supported intervention. For a project to be considered to bring significant new investments, these investments must go beyond marginal investments related merely to the upgrade of the active components of the network. With regard to the demonstration of significant new capabilities to the market in terms of broadband service availability and capacity, speeds and competition, the subsidised infrastructure shall (i) ensure at least a doubling of download and upload speeds compared to existing and/or planned infrastructure and (ii) be capable of providing symmetric download and upload speeds of at least 1Gbps.
 - Aid shall not be granted for projects that include areas where two NGA/NGN networks are present or are credibly planned in the next three years or within the same time frame of the planned supported intervention or that include areas where at least one very high-capacity network capable of providing symmetric download and upload speeds of at least 1Gbps is present or is credibly planned within the next three years or within the same time frame of the planned supported intervention.
- (ii) The following cumulative specific criteria shall apply to cross-border investments in the deployment of 5G corridors along major transport paths:
- The project ensures uninterrupted cross-border coverage in a 5G corridor along major transport routes, including roads, rail and inland waterways, as defined in the Regulation XX (CEF2 Regulation);
 - The project consists of a cross-border section as defined under the Regulation XX (CEF2 Regulation) which (i) involves at least two Member States by crossing the border between two or more

- Member States, or (ii) crosses the border of at least one Member State and a European Economic Area country;
- The project ensures a significant new investment in the broadband network going beyond marginal investments related merely to the upgrade of the active components of the network.
 - The project supports the deployment of new passive infrastructure only if existing passive infrastructure cannot be reused.
- (iii) The following cumulative specific criteria shall apply to cross-border terabit backbone projects interconnecting certain computing facilities, supercomputing facilities and data infrastructure as defined below:
- The project supports the interconnection with unconstrained end to end connectivity of a minimum of 1Tbps, either by direct connection or by deploying those elements necessary to join a pan-European backbone, of at least two computing facilities, supercomputing facilities or data infrastructures i) that participate in the European High Performance Computing Joint Undertaking established under Council Regulation (EU) 2018/1488 (Council Regulation (EU) 2018/1488 of 28 September 2018 establishing the European High Performance Computing Joint Undertaking ST/10594/2018/INIT, OJ L 252, 8.10.2018, p. 1–34), research infrastructures, research flagships and missions defined under Regulation XX/XXXX (Horizon Europe Regulation) and Council Regulation (EC) No 723/2009 of 25 June 2009 on the Community legal framework for a European Research Infrastructure Consortium (ERIC) (OJ L 206, 8.8.2009, p. 1.); and ii) which are located in at least two EU Member States or an EU Member State and a member of the European Research Area;
 - The project ensures a significant new investment in the broadband network going beyond marginal investments, such as investments related to mere software upgrades or licensing;
 - The project is implemented through the purchase of capacity and/or equipment carried out through public procurement;
 - The project supports the deployment of new passive infrastructure only if existing passive infrastructure cannot be reused.
- (iv) The following cumulative specific criteria shall apply to cross-border cross backbone networks projects interconnecting cloud infrastructures:
- The project interconnects the cloud infrastructures of socio-economic drivers as defined in article 8.3.(a) of the Regulation XX (CEF2 Regulation) that are public or private undertakings entrusted with the operation of services of general economic interest in the areas of education, social services including health, public administration, transport, postal services, culture, as referred to in Article 106(2) of the Treaty and in line with the Commission Decision 2012/21/EU* or subsequent legal acts replacing said decision;

- The project consists of the deployment of new cross-border backbone networks or a significant upgrade of existing ones that (i) involve at least two Member States by crossing the border between two or more Member States or (ii) cross the border between at least one Member State and a European Economic Area country;
 - The project covers at least three entities among eligible socio-economic drivers operating in a different Member State than the others;
 - The project ensures a significant new investment in the broadband network going beyond marginal investments, such as investments related to mere software upgrades or licensing. The project shall be capable of providing symmetric download and upload speeds of at least multiples of 10Gbps;
 - The project supports the deployment of new passive infrastructure only if existing passive infrastructure cannot be reused.
- (v) The following cumulative specific criteria shall apply to investment in cross-border submarine cables:
- The project consists of cross-border sections as defined under the Regulation XX (CEF2 Regulation) which (i) involve at least two Member States by crossing the border between two or more Member States, or (ii) cross the border of at least one Member State and a European Economic Area country. Alternatively, the supported infrastructure is a wholesale only network and improves the connectivity of European outermost regions or overseas territories, even within a single Member State.
 - Aid shall not be granted for projects in routes served already by two existing or planned backbone infrastructures.
 - The project ensures a significant new investment in the broadband 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 capable of providing symmetric download and upload speeds of at least 1Gbps.
 - The project supports the deployment of new passive infrastructure only if existing passive infrastructure cannot be reused.

3. Aid for energy generation and energy infrastructure shall comply with the following requirements:

- (a) aid shall only be granted for investments in energy infrastructure in gas and electricity that is subject to third party access, tariff regulation and unbundling in line with the internal energy market legislation for the following categories of projects:
- (i) as regards energy storage, projects included in the Union list of Projects of Common Interest in Annex VII of Regulation (EU) No 347/2013 of the European Parliament and of the Council*;
 - (ii) as regards energy infrastructure projects other than storage:
 - smart grids;

- projects, which fulfil any of the criteria laid down in Article 4(1)(c) of Regulation (EU) No 347/2013;
 - projects included in the Union list of Projects of Common Interest in Annex VII to Regulation (EU) No 347/2013;
 - projects in assisted areas;
- (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 shall not be granted for hydropower installations that do not comply with the conditions laid down in Directive 2000/60/EC**;
 - (iii) 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) of this paragraph 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) of this paragraph under the support of the InvestEU Fund shall not exceed EUR 75 million.

4. Aid for social, educational, cultural and natural heritage infrastructure and activities shall comply with the following requirements:

- (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, for education or for cultural purposes and activities set out in Article 53(2), including natural heritage;
 - (ii) EUR 30 million for the activities related to social services and culture;
 - (iii) EUR 5 million for education and training.
- (b) aid shall not be granted for training aimed at complying with mandatory national training requirements.

5. Aid for transport and transport infrastructures shall comply with the following requirements:

- (a) aid for infrastructure, except ports, shall be provided only to the following projects:
- (i) projects of common interest as defined in point (a) of Article 3 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***, provided the beneficiary is a new entrant;
 - (iv) urban transport;
 - (v) alternative fuel infrastructure or zero/low emission mobility infrastructure.

- (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 points (a) or (b) of this paragraph to any final beneficiary per project under the support of the InvestEU Fund shall not exceed EUR 150 million.

6. Aid for other infrastructures shall comply with the following requirements:

- (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) of this Regulation, 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.

7. Aid for environmental protection, including climate protection, shall comply with the following requirements:

- (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) insofar as the aid measure relates to measures improving the energy efficiency in residential buildings and buildings dedicated to the provision of activities related to social services, it may also be granted for measures that simultaneously improve the energy efficiency of the residential building and integrate installations generating renewable energy on-site the residential building concerned by the energy efficiency aid measure, subject to the following conditions:
 - (i) the integrated on-site renewable energy generating installation relates to production of electricity and/or heat; it may be combined with storage equipment;
 - (ii) the output of the installation generating renewable energy on-site shall not exceed by more than 20% the overall aggregated consumption demand of the building residents;
 - (iii) the installed capacity of the installation generating renewable energy shall not exceed 500 kW;
 - (iv) the final beneficiary of the aid may be either the owner of the building or a tenant;
- (c) the nominal amount of total financing provided to any final beneficiary per project referred to in points (a) and (b) of this paragraph under the support of the InvestEU Fund shall not exceed EUR 50 million;
- (d) aid for measures that improve the energy efficiency of buildings may also relate to the facilitation of energy performance contracts subject to the following conditions:
 - (i) the nominal amount of total financing provided per final beneficiary under the support of the InvestEU Fund does not exceed EUR [30] million;
 - (ii) the support takes the form of loan or guarantee;
 - (iii) the support is provided to SMEs or small mid-caps;
 - (iv) the support is provided only for energy performance contracting within the meaning of Article 2(27) of Directive 2012/27/EU on energy efficiency****.

8. Aid for research, development, innovation and digitalisation shall comply with the following requirements:

- (a) aid may be granted for:
 - (i) fundamental research;
 - (ii) industrial research;
 - (iii) experimental development;
 - (iv) process 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 (i), (ii) and (iii) of point (a) of this paragraph, 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 points (iv), (v) and (vi) of point (a) of this paragraph, 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.

9. SMEs or small mid-caps may, besides compatibility grounds provided for in paragraphs (2) to (8) of this Article, also receive aid in the form of financing supported by the InvestEU Fund provided that:

- (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) microenterprises;
 - (ii) SMEs that have not yet been operating in any market or have been operating for less than 7 years following their first commercial sale;
 - (iii) 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;
 - (iv) innovative enterprises;
 - (v) 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(61a); or
- (b) the nominal amount of total financing provided per final beneficiary under the support of the InvestEU Fund does not exceed EUR 2 million.

Article 56f

Conditions for aid involved in 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 by the commercial financial intermediary shall not exceed EUR 7.5 million.

* 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).

** Directive 2000/60/EC of the European Parliament and of the Council establishing a framework for Community action in the field of water policy (OJ L XXX).

*** 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) Nos 1191/69 and 1107/70 (OJ L 315, 3.12.2007, p. 1).

**** Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (OJ L 315, 14.11.2012, p. 1).

Article 2

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

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels,

For the Commission
The President
Ursula VON DER LEYEN