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PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ESTABLISHING THE INVESTEU PROGRAMME AND ANNEXES

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COMMISSION STAFF WORKING DOCUMENT EVALUATION OF THE EUROPEAN FUND FOR STRATEGIC INVESTMENT, OF THE EUROPEAN INVESTMENT ADVISORY HUB, AND OF THE EUROPEAN INVESTMENT PROJECT PORTAL ACCOMPANYING THE DOCUMENT PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ESTABLISHING THE INVESTEU PROGRAMME

Submitted by HM Treasury on 13 July 2018

SUBJECT MATTER

1. The Commission has proposed a Regulation, as part of the suite of legislation for the next Multiannual Financial Framework, covering non-grant budget activity within the EU. The use of the EU budget for non-grant activity, such as loans, equity investments and guarantees, has grown over recent financial frameworks.

2. Under the current MFF, non-grant activity forms a component of centrally managed budget programmes, such as Horizon 2020. The current MFF's budget allocation for non-grant 'financial instruments' created at EU level stands at €5.2bn (£4.6bn[1]), and supports investment in a wide variety of sectors. Such financial instruments can also be created by Member States using part of their allocation under European Structural and Investment Funds (ESIF) programmes. The current MFF's budget allocation for financial instruments delivered in this way is €21bn (£18.4bn).

3. After the current MFF began, the EU also created the European Fund for Strategic Investments (EFSI), which supports the risk bearing capacity of the European Investment Bank (EIB) through a €26bn (£22.8bn) guarantee underpinned by provisioning (at 35%) of EU budget resources of €9.1bn (£8.0bn). The EU guarantee enables the EIB to undertake riskier activities and introduce higher-risk products to support a wider range of activities, in part through effective mobilisation of private investment. The Fund aims to mobilise €500bn (£438bn) of additional investment in the Union by the mid-2020s. Evaluations indicate EFSI is on-track, with 66% of this target mobilised as of end-2017.

4. The Commission's proposal for the next MFF, the InvestEU programme, will be based on the EFSI model, leveraging budgetary resources to maximise private investment. It proposes to combine the 16 centrally managed instruments of the current

[1] The exchange rate at 31st May 2018 was €1 = £0.8768. This is the exchange rate to be used in all Explanatory Memoranda during June 2018. All subsequent conversions from Euro to sterling have been converted at this exchange rate.

MFF into a single investment support mechanism. This aims to eliminate the current difficulties many financial intermediaries and final recipients have with the complex and heterogenous portfolio of instruments – including standardisation of eligibility and reporting rules.

The programme will be composed of:

i. the InvestEU fund providing for the EU guarantee;
ii. the InvestEU Advisory Hub (providing mainly technical assistance);
iii. the InvestEU Portal (providing a database for promoting projects in search of financing);
iv. blending operations (i.e. with grants funded by EU budget spending programmes).

InvestEU Guarantee and Fund

5. The size of the proposed EU guarantee for InvestEU is €38.0bn (£33.3bn), with an EU budget provision of €15.2bn (£13.3bn). The provisioning rate (40%) is reflective of the riskiness of the portfolios envisaged.

6. The budgetary envelope for the MFF period 2021-2027 would be €14.75bn (£12.93bn), encompassing €525mn (£460mn) for project development assistance and related costs and €14.2bn (£12.5bn) of the provisioning required for the guarantee. The other €1.0bn (£0.9bn) of the guarantee will be covered by revenues, repayments and recoveries generated by existing financial instruments and EFSI.

Policy windows and compartments

7. There would be four policy 'windows' under the proposals:

i. Sustainable Infrastructure – €11.5bn (£10.1bn) guarantee;
ii. Research innovation and digitisation – €11.25bn (£9.86bn) guarantee;
iii. Small and Medium-Sized Enterprises (SMEs) – €11.25bn (£9.86bn) guarantee;
iv. Social Investment and Skills – €4.5bn (£3.9bn) guarantee.

8. Within each of these windows, there will be two 'compartments' to the EU Guarantee:

i. EU compartment: addressing market failures and sub-optimal investment throughout the Union and related to Union priorities;
ii. Member State compartment: Member States will have the option to contribute part of their funds under shared management[2] into the InvestEU Fund. This will in turn be used to address specific market failures or sub-optimal investment in one of several Member States through implementing partners approved by the Commission.

[2] European Regional Development Fund (ERDF), the European Social Fund+ (ESF+), the Cohesion Fund, the European Maritime and Fisheries Fund (EMFF) and the European Agriculture Fund for Rural Development (EAFRD)

Third country access

9. The proposed regulation allows for participation by third countries in the EU compartment of policy windows. Access would be permitted for:

i. European Free Trade Area (EFTA) members which are members of the European Economic Area (EEA), in accordance with the EEA agreement;
ii. acceding, candidate and potential EU countries through their respective agreements;
iii. countries covered by the European Neighbourhood Policy through their respective agreements;
iv. other third countries, in accordance with the conditions laid down in a specific agreement covering participation of the third country in any EU programme.

10. Under the proposals, contributions from third countries shall increase the EU guarantee and correspond to specific policy windows.

Implementing Partners

11. There will be multiple implementing partners, with a large role foreseen for the EIB given its presence in all Member States and experience managing the EFSI.

12. The Commission shall only conclude a guarantee agreement with an implementing partner should it pass an assessment in line with the Financial Regulation to ensure they are fit to manage EU funds or guarantees. To deliver through the EU compartment partners, they must operate in at least three Member States.

13. Eligible types of financing that implementing partners may engage in include loans, guarantees, capital market instruments and any other form of funding to be channelled directly to final recipients. They may also provide funding and guarantees to other financial institutions that in turn offer eligible financing to final recipients.

Governance

14. The InvestEU Fund will have an advisory board consisting of representatives of the implementing partners and the other consisting of representatives of the Member States. It will advise the Commission on the design of financial products to be implemented under the InvestEU Fund, give advice on market failures and sub-optimal investment situations etc. The advisory board will also function as a platform for Member States to be informed about the ongoing implementation of the Fund and allow for exchanges of views.

15. A project team put forward by implementing partners shall be put at the disposal of the Commission. The team will prepare a scoreboard assessing the risk profile, potential benefit and eligibility of potential financing and investment operations for the Investment Committee, which will in turn decide whether to cover these operations with the EU guarantee. The Investment Committee shall be composed of six external experts: four permanent members and two experts with expertise in the specific policy window being discussed.

SCRUTINY HISTORY

17. Explanatory Memorandum 8353/18 was submitted on 18 June 2018. This covered the Communication from the Commission on *A Modern Budget for a Union that Pretexts, Empowers and Defends, The Multiannual Financial Framework for 2021-27*.

MINISTERIAL RESPONSIBILITY

18. The Chancellor of the Exchequer has responsibility for United Kingdom policy on European Union monetary and economic issues. The Foreign and Commonwealth Secretary and Secretary of State for Exiting the EU are responsible for overall United Kingdom policy towards the European Union.

INTEREST OF THE DEVOLVED ADMINISTRATIONS

19. The EU budget is a reserved matter under the UK's devolution settlements. However, the devolved administrations have an interest in the EU budget and have been consulted in the preparation of this EM.

LEGAL AND PROCEDURAL ISSUES

i. Legal basis

20. The proposal is based on Article 173 (competitiveness of the Union’s industry) and the third paragraph of Article 175 (Economic, Social and Territorial Cohesion) of the Treaty for the Functioning of the European Union.

ii. European Parliament Procedure

23. Ordinary Legislative Procedure.

iii. Voting procedure

24. Qualified Majority Voting.

iv. Impact on United Kingdom Law

25. There is no impact on UK law.

v. Application to Gibraltar

26. None.

vi. Fundamental rights analysis

27. None. The Government agrees with the Commission in that the proposal does not have an impact on fundamental rights.

APPLICATION TO THE EUROPEAN ECONOMIC AREA

28. The proposal states conditions by which EEA countries may participate in InvestEU.

SUBSIDIARITY

29. The EU Compartment of the InvestEU Programme will cover investments and access to finance in supporting EU policies by addressing EU-wide market failures and investment gaps. The Member State Compartment that will seek to address country-specific market failures and investment gaps would be voluntary. As such, the proposal is consistent with the principle of subsidiarity.

30. More widely, the EU Budget is a matter of exclusive Community competence and the European Commission presents the statement pursuant to treaty and regulation.

APPLICATION TO THE EUROPEAN ECONOMIC AREA

31. Not applicable

SUBSIDIARITY

32. No subsidiarity concerns arise.

POLICY IMPLICATIONS

33. On 23 June 2016, the EU referendum was held and the people of the United Kingdom voted to leave the European Union. The Government respected the result and triggered Article 50 of the Treaty on European Union on 29th March 2017 to begin the process of exit. Until exit negotiations are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will also continue to negotiate, implement and apply EU legislation.

34. The Joint Report of 8 December 2017[3] on progress during phase 1 of negotiations sets out the principles regarding the UK's rights and obligations in respect of the EU budget following its withdrawal. In the context of the wider Article 50 negotiations, these principles will become legally binding through a Withdrawal Agreement.

35. Negotiations on EU programmes starting in the next Multiannual Financial Framework are primarily a matter for the 27 remaining member states, as the UK will no longer be a member state of the European Union when it begins in 2021.

36. As the Prime Minister made clear in Florence and in subsequent speeches, the UK will want to continue working with the EU in ways that promote the long-term economic development of our continent. This includes continuing to take part in those specific policies and programmes which are greatly to the UK and the EU's joint advantage.

[3] https://www.gov.uk/government/publications/joint-report-on-progress-during-phase-1-of-negotiations-under-article-50-teu-on-the-uks-orderly-withdrawal-from-the-eu

37. As the Prime Minister has also made clear, in relation to any UK participation in policies and programmes in the next MFF, the UK would want to make an ongoing contribution to cover our fair share of the costs involved and the exact terms would be subject to negotiation.

38. The UK supports the principle of simplifying the requirements and processes faced by financial intermediaries and final recipients in gaining access to financial instruments. Where the UK may have an interest in certain programmes and policies, such as those that promote science, education and culture, the Government will take into account the potential interaction of these with financial instruments.

CONSULTATION

38. Not applicable

IMPACT ASSESSMENT

39. Not applicable.

FINANCIAL IMPLICATIONS

40. There are no direct financial implications for the UK from these proposals. As set out above, where it would be in the mutual interest of the UK and the EU for the UK to participate in an EU programme, the UK would make an ongoing contribution to cover our fair share of the costs involved in any participation. The exact terms would be subject to negotiation.

TIMETABLE

41. It is expected that discussions on these regulations in sectoral working groups will start soon, once these groups are formed.

42. The Commission are pushing for an overall agreement on the next MFF by May 2019, but this is uncertain.

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