

EAPB Comments on the ECON/BUDG Draft Report 2018/0229 on the establishment of the InvestEU Programme

I. Governance Structure

- **Amendments 71-87**

The EAPB welcomes the deletion of the Project Team as a key step in making the governance structure more efficient. In addition, we would like to draw the attention of the European Parliament to the confusing composition of the amendments modifying the governance structure. Not only is it unclear what is the envisaged final wording of the Regulation but also readers also entirely miss the actual mission and tasks of the Steering Board and the Advisory Board, as well as the integration of the Risk Management in the overall governance structure.

- **Amendment 86 and 87: Risk Assessment Methodology**

The EAPB urges the co-legislators to review the new amendments. It has to be clarified that the Risk Assessment Methodology is only an instrument for the governance bodies of the InvestEU, while the (Pillar Assessed) Implementing Partner provides the required information/data required. The fact is that Implementing Partners, as any other financial institutions, have got their own, tried and tested risk assessment systems and methodologies. Developing a centralized methodology to be used for InvestEU investments would generate an enormous burden on the potential intermediaries, potentially discouraging many to directly participate in the programme. The duplication of risk assessment would not only make the process more costly and time-consuming for the intermediaries but also for the final beneficiary.

II. Consistency with the Financial Regulation

Unlike EFSI, the InvestEU Programme in MFF 2021-27 will be fully governed by the new Financial Regulation. Against this background we deem it as necessary to synchronize the terminology of the Regulation proposal with the new Financial Regulation.

Article 209 of the Financial Regulation:

Principles and conditions applicable to financial instruments and budgetary guarantees

1. Financial instruments and budgetary guarantees shall be used in accordance with the principles of sound financial management, transparency, proportionality, non-discrimination, equal treatment and subsidiarity, and in accordance with their objectives.
2. Financial instruments and budgetary guarantees shall:
 - (a) address **market failures or sub-optimal investment situations** and provide support, in a proportionate manner, only to final recipients that are deemed economically viable according to internationally accepted standards at the time of the Union financial support;

The Amendments 11 and 49 of the Draft Report are very helpful. Nevertheless, in order to align the wording with the Financial Regulation, the EAPB suggests crossing out all attributes to **“market failures or sub-optimal investment situations”**, such as **“specific”**, **“Union wide”** or **“Member State specific”**. These attributes are not defined in the Financial Regulation or in any other EU legislation and could potentially lead to arbitrary interpretations. Any such derogation from the Financial Regulation weakens the legal certainty and could hamper the implementation. Against this background we also **support the deletions by the Amendments 50, 51.**

- Amendment 11

Recital 19

Text proposed by the Commission

(19) Each policy window should be composed of two compartments, that is to say an EU compartment and a Member State compartment. **The EU compartment** should address **Union-wide** market failures **or** sub-optimal investment situations **in a proportionate manner; supported actions should have a clear European added value.** The Member State compartment **should give Member States the possibility to contribute a share of their resources of Funds under shared management to the provisioning of the EU guarantee to use the EU guarantee for financing or investment operations to address specific market failures or sub-optimal investment situations in their own territory, including in vulnerable and remote areas such as the outermost regions of the Union, to deliver objectives of the Fund under shared management.** Actions supported from the InvestEU Fund through either EU or Member State compartments should not duplicate or crowd out private financing or distort competition in the internal market.

- Amendment 49

Article 8 – paragraph 1 – introductory part

Text proposed by the Commission

1. Each policy window referred to in Article 7(1) shall consist of two compartments **addressing** specific market failures **or** sub-optimal investment situations **as follows:**

Amendment

(19) Each policy window should be composed of two compartments, that is to say an EU compartment and a Member State compartment. **Both compartments** should address **Union-wide and/or Member State specific** market failures **and/or** sub-optimal investment situations **related to Union policy objectives. In addition, it should be possible for Member States contribute to the Member State compartment in the form of guarantees or cash.** Actions supported from the InvestEU Fund through either EU or Member State compartments should not duplicate or crowd out private financing or distort competition in the internal market.

Amendment

1. Each policy window referred to in Article 7(1) shall consist of two compartments: **the EU compartment and the Member State compartment. Both compartments shall address Union-wide and/or Member State specific** market failures **and/or** sub-optimal investment situations **related to Union policy objectives.**

III. Selection of Implementing Partners

- **New Amendment: Recital 29, Amendment 20 of the Draft Report**

The EAPB suggests to include a message ensuring that particularly NPBI from regions or smaller Member States, and those lacking long-standing experience, are assisted by the EU bodies and that the set of rules imposed on implementing partners (e.g. the Pillar Assessment) take into account their size.

Amendment 20 - Recital 29

Text proposed by the Commission

(29) In selecting implementing partners for the deployment of the InvestEU Fund, the Commission should consider the counterpart's capacity to fulfil the objectives of the InvestEU Fund and ~~contribute its own resources~~, in order to ensure adequate geographical coverage and diversification, to crowd-in private investors and to provide sufficient risk diversification as well as new solutions to address market failures and sub-optimal investment situations. Given its role under the Treaties, its capacity to operate in all Member States and the existing experience under the current financial instruments and the EFSI, the **European Investment Bank** ('EIB') Group should remain a privileged implementing partner under the InvestEU Fund's EU compartment. In addition to the EIB Group, national promotional banks or institutions should be able to offer a complementary financial product range given that their experience and capabilities at regional level could be beneficial for the maximisation of the impact of public funds on the territory of the Union. Moreover, it should be possible to have other international financial institutions as implementing partners, in particular when they present a comparative advantage in terms of specific expertise and experience in certain Member States. It should also be possible for other entities fulfilling the criteria laid down in the Financial Regulation to act as implementing partners.

Amendment

(29) In selecting implementing partners for the deployment of the InvestEU Fund, the Commission should consider the counterpart's capacity to fulfil the objectives of the InvestEU Fund and **to contribute to it as defined in Art. 2 – paragraph 1 – point 2 a (new)**; in order to ensure adequate geographical coverage and diversification, to crowd-in private investors and to provide sufficient risk diversification as well as new solutions to address market failures and sub-optimal investment situations, **and ensure economic, social and territorial cohesion**. Given its role under the Treaties, its capacity to operate in all Member States and the existing experience under the current financial instruments and the EFSI, the EIB Group should remain a privileged implementing partner under the InvestEU Fund's EU compartment. In addition to the EIB Group, national, **regional and local** promotional banks or institutions should be able to offer a complementary financial product range given that their experience and capabilities at regional level could be beneficial for the maximisation of the impact of public funds on the territory of the Union. **The rules governing the participation of NPBIs in the programme shall be proportional to complexity and size of implementing partner concerned to ensure an even playing field for smaller, younger, and regional NPBIs. The Commission shall provide assistance to potential implementing partners wishing to participate in the programme.** Moreover, it should be possible to have other international financial institutions as implementing partners, in particular when they present a comparative advantage in terms of specific expertise and experience in certain Member States. It should also be possible for other entities fulfilling the criteria laid down in the Financial Regulation to act as implementing partners.

- **Amendment 68**

This requirement is very unclear and inspires many questions concerning banking secrecy rules and data protection laws. We suggest abandoning this proposal.

Article 12 – paragraph 3 – point b b (new)

Text proposed by the Commission

Amendment

~~(b b) the capacity of the implementing partner to give public evidence of the financing and investment operations;~~

- **Amendment 69**

The EAPB deems this proposal very critically and suggest its deletion. Should potential Implementing Partners be selected according to their „past experience“ with EU financial instruments, it would allow for an interpretation discriminating against newly established promotional banks or those without prior experience in the management of EU financial instruments. This contradicts the EU's support for establishing NPBI across all EU Member States and attracting as many implementing partners as possible.

Article 12 – paragraph 3 – point b c (new)

Text proposed by the Commission

Amendment

~~(b c) the capacity of the implementing partner to manage financial instruments, as result of a past experience with financial instruments and managing authorities referred to in Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council.~~

IV. Other

- **Amendment 28 - definition of the financial contribution**

The EAPB welcomes this previously missing definition of *financial contribution* and invites the co-legislators to support it.

Article 2 – paragraph 1 – point 2 a (new)

(2 a) *'financial contribution' means a contribution from an implementing partner in the form of own risk taking capacity and/or financial support to an operation covered by this Regulation;*

- **Amendment 42 - SMEs in the Innovation Window**

The EU Commission's proposal continues in the commonly criticized separation between SME and Innovation funding which is under the current programming period represented by the mutually excluding rules of COSME and Horizon 2020 programmes. The EAPB has been reporting about the inefficiencies of this approach and would once again like to invite the co-legislators to reconsider this limitation. Against this background we recommend not to generally exclude innovative SMEs from the Research & Innovation policy window. Although we are aware of the SME Policy Window, the future financial instruments under both windows might differ and for some innovative SMEs those under the Research & Innovation Window might be more suitable.

Article 7 – paragraph 1 – point a and b

Text proposed by the Commission

(b)... research, innovation and digitisation policy window: comprises research and innovation activities, transfer of research results to the market, demonstration and deployment of innovative solutions and support to scaling up of innovative **companies other than SMEs** as well as digitisation of Union industry

- Amendment 61

Article 10 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

(b)... research, innovation and digitisation policy window: comprises research and innovation activities, transfer of research results to the market, demonstration and deployment of innovative solutions and support to scaling up of innovative companies **other than SMEs** as well as digitisation of Union industry

Amendment

1 a. *The EU guarantee under the EU compartment shall be allocated to implementing partners. At least 75% of the EU guarantee under the EU compartment shall be allocated to the EIB Group.*

Amounts exceeding 75% of the EU guarantee may be made available to the EIB Group in the event that national promotional banks or institutions cannot fully use the remaining share of the guarantee. National promotional banks or institutions may fully benefit from the EU guarantee also in case they decide to access to it through the EIB or the European Investment Fund.

The EIB Group shall aim to involve national and regional promotional banks or institutions when financing projects and designing financial instruments in their respective Member States and regions in order to assure the highest possible added value and subsidiarity.

- **New amendment: availability of the Member State compartment for regions**

Art. 8, paragraph 1 (b)

*the Member State compartment shall address **specific** market failures or suboptimal investment situations in one or several Member States to deliver objectives of the contributing Funds under shared management. **A contribution agreement can also be concluded by a Member State on behalf of its region of which authority wishes to use its allocation of funds under shared management in the InvestEU Programme. Such agreement shall provide for investment activities on the territory of the contributing region and shall be subject to equal conditions as set out in the Article 9 of the Regulation.***