|  |  |  |  |
| --- | --- | --- | --- |
|  |  | Investícia do Vašej budúcnosti |  |

**ANNEX 2 to the Call for Expression of Interest No JER-005/4**

**Portfolio Risk Sharing Loan Financial Instrument: Description and Selection Criteria**

**Part I: Description of the Financial Instrument**

Capitalised expressions utilised herein shall have the meaning attributed to them in the above mentioned Call for Expression of Interest.

1. **Rationale**

The instrument aims to support additional bank lending to SMEs, by providing funding by means of a loan to financial intermediaries to be complemented with the bank’s own funding. The combined pot of funds is then to be on-lent to eligible SMEs at preferential interest rates. The credit risk of each eligible SME loan included in the portfolio is shared with the Financial Instrument.

The objective of the Financial Instrument is to enhance SME access to finance by primarily:

1. providing funding and effective credit risk sharing to Financial Intermediaries to increase the availability of funding for SMEs;
2. incentivising Financial Intermediaries to offer better financing terms for the SMEs, in particular to reduce interest rates charged to SMEs.
3. **Structure**

The loan (the “**Loan**”) shall be granted by the European Investment Fund (“**EIF**”) acting through the JEREMIE Holding Fund (“**JHF**”), in the name of Slovenský zaručný a rozvojový fond, s.r.o. (“**SZRF**”), to a Financial Intermediary (the “**Financial Intermediary**”). It shall partly cover the credit risk associated to underlying, newly extended loans to SMEs (“**SME Transactions**”) included in the eligible portfolio (the “**Portfolio**”).

In order to ensure an alignment of interest between the Financial Intermediary and the JHF, eligible SME Transactions shall be co-financed at a rate of 30% by the Financial Intermediary.

The Loan shall constitute a senior loan and shall cover losses (relating to unpaid principal only) incurred by the Financial Intermediary in respect of each defaulted eligible Underlying Transaction up to 70% of the loan amount, and in no case exceeding in total the PRS Loan amount.

The origination, due diligence, documentation and servicing of the Underlying Transactions shall be performed by the Financial Intermediary in accordance with its standard origination and servicing procedures.

In this context, the Financial Intermediary shall have the sole direct client credit relationship with each SME.

Underlying Transactions (according to pre-defined eligibility criteria on a loan-by-loan and portfolio basis) will be automatically covered, by way of submitting inclusion notices on a quarterly basis until the end of the relevant inclusion period.

1. **Indicative Summary of Transaction Terms**

These indicative terms are an outline of the principal terms and conditions for the Financial Instrument described herein, which are subject to change and non-exhaustive.

When used in this section, the term “EIF” means the EIF acting through the JHF.

|  |  |
| --- | --- |
| **Instrument** | Portfolio Risk Sharing Loan. |
| **Structure** | The Portfolio Risk Sharing instrument is a loan from a Jeremie Holding Fund to a Financial Intermediary (a ‘Borrower’) to co-finance the new portfolio of the eligible Underlying Transactions (‘Portfolio’), combined with credit risk sharing of the Portfolio on a loan by loan basis.The Financial Intermediary shall maintain an economic exposure of at least 20% of the outstanding amount of each Underlying Transaction (the “Relevant Portion”) included in the Portfolio and it shall not enter into any credit support, guarantee or other transfer of risk arrangements with respect to the Relevant Portion.The JHF will provide funds to selected Financial Intermediaries pursuant to individual PRS Loan Agreements. Subject to the risk-sharing element set out below, the Borrower undertakes to repay to the Lender the disbursed amount of the PRS Loan and any interest accrued thereon. The Borrower further undertakes to originate a new Portfolio of eligible Underlying Transactions, partly funded from the disbursed funds under the PRS Loan at the Co-Financing Rate. The origination, due diligence, documentation and execution of the Underlying Transactions will be performed by the Borrower in accordance with its normal standard procedures. The Borrower will be responsible (in compliance with its internal policies and procedures) for the handling of payments, the on-going monitoring, the reporting to the Lender.Eligible Underlying Transactions (according to pre-defined eligibility criteria on a loan-by- loan and portfolio level) will be automatically included in the Portfolio, by way of submitting inclusion notices on a quarterly basis.The PRS Loan Amount shall be periodically reduced by a portion of the Losses incurred by the Borrower on the Portfolio, therefore providing risk sharing to the Borrower. The extent of the risk sharing element for the Borrower is dependent on the level of the Risk-sharing Rate. |
| **Risk Sharing – automatic netting of the PRS Loan Outstanding Principal Amount** | As of the last day of each Calculation Period, the PRS Loan Outstanding Principal Amount immediately prior to such date shall be reduced by the amount of Covered Losses calculated based on the Report received by the Lender with respect to that Calculation Period. The Borrower shall include the information about the Losses incurred by the Borrower during a Calculation Period at the latest in the Report sent to the Lender not later than by the second Report Date immediately succeeding the last day of such Calculation Period in which such Losses were incurred by the Borrower (if Losses are reported after that date they shall not be considered Covered Losses).At any time, the Lender’s liability for coverage of the Losses shall not be higher than the PRS Loan Outstanding Principal Amount at such time. No Losses shall be borne by the Lender if the PRS Loan Outstanding Principal Amount is reduced to zero. |
| **Language** | English |
| **Governing Laws** | English Law |
| **Lender** | JHF |
| **Borrower** | Financial Intermediary |
| **PRS Loan Amount** | The product of (i) the Reference Portfolio Amount and (ii) the Co-financing Rate.  |
| **PRS Loan Currency** | EUR  |
| **Reference Portfolio Amount** | The maximum size of the PortfolioDenominated in the PRS Loan Currency, the maximum aggregate notional amount of newly originated eligible Underlying Transactions (the relevant amount for a Revolving Credit Transaction being the Credit Limit Amount) that may be drawn by the Final Beneficiaries and co-financed by the Lender using the PRS Loan at any time during the Inclusion Period. The Borrower shall at all times ensure that for each Revolving Credit Transaction included in the Portfolio, an amount equal to the Credit Limit Amount of such Revolving Credit Transaction multiplied by the Co-financing Rate has been drawn down by the Borrower under the PRS Loan.The Borrower shall at all times ensure that for each Underlying Transaction which is not a Revolving Credit Transaction and which is included in the Portfolio, an amount equal to the disbursed principal amount of the Underlying Transaction multiplied by the Co-financing Rate has been drawn down by the Borrower under the PRS Loan. |
| **Re-utilisation** | Subject to confirmation by the EIF, the aggregate of the principal repayments from eligible Underlying Transactions which are not Revolving Credit Transactions, which were received by the Borrower during the Availability Period may be used by the Borrower to co-finance new eligible Underlying Transactions to be included in the Portfolio by the Inclusion Period End Date.Re-utilisation of funds repaid to the Borrower from eligible Underlying Transactions which are not Revolving Credit Transactions after the end of the Availability Period is not permitted. |
| **Co-financing Rate** | 70%For each eligible Underlying Transaction included in the Portfolio, the portion of the eligible Underlying Transaction principal amount co-financed by the PRS Loan.  |
| **Risk- sharing Rate** | 70%With respect to eligible Defaulted Underlying Transactions included in the Portfolio, the Risk –sharing Rate determines the: i) portion of the Losses, which are to be covered by the Lender through a reduction of the PRS Loan Outstanding Principal Amount and ii) portion of the Actual Loss Recoveries payable to the Lender. |
| **Loss(es)** | Means, at any time, the following amounts with respect to Defaulted Underlying Transactions included in the Portfolio: 1. any principal amounts (but excluding any interest, late payment or default interest, capitalised interest, fees and any other costs and expenses) due, payable and outstanding at such time following occurrence of either an eligible Underlying Transaction Default or Underlying Transaction Acceleration; or
2. any reduction in the principal amounts (but excluding any interest, late payment or default interest, capitalised interest, fees and any other costs and expenses) as a result of an eligible Underlying Transaction Restructuring.
 |
| **Covered Losses** | Means the amount by which the PRS Loan Outstanding Principal Amount is reduced as of at the end of a Calculation Period, which is equal to the higher of the following amounts:1. **zero** and
2. **A x B**.

where: A = an amount equal to all Losses incurred on eligible Defaulted Underlying Transactions which must be reported by the Borrower in the Report sent to the Lender not later than the second Report Date to occur after such Losses are incurred by the Borrower; B = the Risk-sharing Rate.At any time the amount of Covered Losses cannot exceed the PRS Loan Outstanding Principal Amount at such time.  |
| **PRS Loan Outstanding Principal Amount**  | Means an amount of principal outstanding under PRS Loan, i.e. cumulative principal disbursed to the Borrower and not repaid or reduced as a result of the application of the Covered Losses.  |
| **Defaulted Underlying Transaction** | An Underlying Transaction included in the Portfolio with respect to which the Borrower suffered a Loss.If an Underlying Transaction becomes a Defaulted Underlying Transaction by reason of Underlying Transaction Restructuring, only the principal amount by which an Underlying Transaction has been reduced shall be regarded as a Defaulted Underlying Transaction, with the remaining part of that Underlying Transaction continuing as a Performing Underlying Transaction for the purposes of the PRS Loan Agreement. |
| **Performing Underlying Transaction** | All Underlying Transactions included in the Portfolio other than Defaulted Underlying Transactions. |
| **Underlying Transaction Acceleration** | Means, in respect of an Underlying Transaction the occurrence of en event of default (howsoever defined pursuant to the Borrower’s internal policies and procedures[[1]](#footnote-2)) under the Underlying Transaction, which has entitled the Borrower to accelerate payment of any such amounts owed to it and the Borrower has exercised such right of acceleration, in each case, in accordance with the terms of the relevant Underlying Transaction (or is prevented from exercising such right of acceleration solely by application of mandatory laws and regulations preventing or staying the exercise of such right). |
| **Underlying Transaction Default** | Means, in respect of an Underlying Transaction and unless otherwise specified in the specific terms schedule of the PRS Loan Agreement that (i) the Borrower considers at any time (acting reasonably in accordance with its internal procedures) that a Financial Beneficiary is unlikely to meet its payment obligations under such Underlying Transaction (without recourse by the Borrower to action such as realisation of security); or (ii) a Final Beneficiary has failed to meet any payment obligation under the relevant Underlying Transaction which has continued for at least 90 consecutive calendar days. |
| **Underlying Transaction Restructuring** | Means, in respect of an Underlying Transaction, that the Borrower (acting in a commercially reasonable manner and in accordance with its standard internal policies and procedures) agrees to the restructuring of such Underlying Transaction such that the amount of principal scheduled to be paid by a Final Beneficiary is reduced in order to improve the collectability of the claims arising from the relevant Underlying Transaction. |
| **Servicing of the Portfolio** **/Actual Loss Recoveries** | The Borrower shall perform the servicing of the Portfolio, including monitoring and recovery actions.The Borrower shall take recovery actions (including the enforcement of any security) in relation to each eligible Defaulted Underlying Transaction in accordance with its internal guidelines and procedures.Actual Loss Recoveries means each amount, net of recovery and foreclosure costs (if any), recovered or received by the Borrower in respect of a Loss.The Borrower shall pay to the Lender an amount equal to the product of:* Each Actual Loss Recovery; and
* the Risk Sharing Rate.

The Borrower shall send to the Lender at any relevant Payment Date a recovery notice with accompanying schedules setting out all Actual Loss Recoveries received by the Borrower in the preceding calendar quarter and shall pay to the Lender any relevant amount determined as set out above for a particular calendar quarter.The Lender shall be entitled to its portion of the Actual Loss Recovery up to the date on which the Borrower, acting in good faith and in commercially reasonable manner determines in accordance with its internal guidelines and recovery procedures that the recovery period for the relevant defaulted eligible Underlying Transactions shall be terminated. |
| **Undrawn PRS Loan Amount** | At any point in time PRS Loan Amount minus the aggregate Drawdowns. |
| **Drawdowns**  | PRS Loan shall be drawable ex ante in multiple tranches such drawdowns being subject to relevant Conditions Precedents.PRS Loan must be drawn during the Drawdown Period following which Undrawn PRS Loan Amount will be cancelled.Utilisation request(s) shall be made for the amount which is not lower than the Minimum Tranche Size and not higher than the Maximum Tranche Size. Not more than one utilisation request shall be made by the Borrower in any calendar month. |
| **Drawdown Period** | The period, during which the PRS loan can be drawn down, starting on the PRS Loan Effective Date and ending on the Inclusion Period End Date.  |
| **Maximum Tranche Size** | As per specific terms schedule of the PRS Loan Agreement. |
| **Minimum Tranche Size** | As per specific terms schedule of the PRS Loan Agreement. |
| **Conditions Precedent to the first disbursement** | The first disbursement of the PRS Loan shall be made by the Lender to the Borrower subject to the receipt by the Lender of the following (in form and substance satisfactory to the Lender): * 1. Valid utilisation request (in the form as provided in the schedule to the PRS Loan Agreement);
	2. Legal opinion satisfactory to the Lender, addressed to the Lender on the enforceability of the PRS Loan Agreement against the Borrower and on the capacity of the Borrower to execute the PRS Loan Agreement;
	3. Specimen of the signatures authorised to sign the utilisation request and other finance documents related to the transaction on behalf of the Borrower (accompanied by an English translation);
	4. Costs and expenses borne incurred by the Lender in connection with the preparation, printing and execution of the PRS Loan Agreement has been paid by the Borrower including any fee owed to any legal advisor of the Lender appointed in connection with the PRS Loan Agreement;
	5. No Event of Default or potential Event of Default has occurred;
	6. A certificate from the Borrower certifying, inter alia, that there have been no material changes in the Borrower’s Credit and Collection Policy since the Due Diligence meeting with the Lender or the Borrower has already informed the Lender on such changes;
	7. Other Conditions Precedents (if any) (to be set out in specific terms schedule to the PRS Loan Agreement).
 |
| **Conditions Precedent to subsequent disbursement(s)** | Subsequent disbursements shall be made by the Lender to the Borrower subject to the receipt by the Lender of the following (in form and substance satisfactory to the Lender): 1. Valid utilisation request (in the form as provided in the schedule to the PRS Loan Agreement); and
2. No Event of Default or potential Event of Default has occurred; and
3. No Extraordinary Inclusion Period End Date has occurred; and
4. The Report or any other proof or evidence satisfactory to the Lender and annexed to the valid utilisation request evidencing that the Borrower has disbursed to Final Beneficiaries under signed loan documentation (the relevant amount for a Revolving Credit Transaction being the Credit Limit Amount) not less than a relevant quotient of the aggregate amount disbursed to the Borrower, such quotient as defined in the specific terms schedule to the PRS Loan Agreement;
5. Other Conditions Precedents (if any) (to be set out in specific terms schedule to the PRS Loan Agreement).
 |
| **PRS Loan Effective Date** | In absence of any agreement to the contrary by the Parties, the date of signature of the PRS Loan by the Borrower and the Lender. |
| **Calculation Period** | Means the period commencing on the PRS Loan Effective Date and ending on the last day of the calendar quarter in which the PRS Loan Effective Date falls and thereafter each period starting on the first day of a calendar quarter and ending on the last day of such calendar quarter. |
| **Payment Date**  | Means: i) each Report Date immediately succeeding the Interest Period and ii) PRS Loan Maturity Date. |
| **Interest Period** | Means the period commencing on the date on which the first drawdown is paid to the Borrower and ending on the last day of the calendar quarter in which such date falls and thereafter each period starting on the first day of a calendar quarter and ending on the last day of such calendar quarter. |
| **PRS Loan Maturity Date** | Notwithstanding the provisions under the clause Acceleration below, the PRS Loan Maturity Date is:1. In the case of the Pass-through Repayment: the date falling on the earlier of i) the Payment Date immediately succeeding the date on which PRS Loan Outstanding Principal Amount is reduced to zero and ii) Payment Date following the Latest Underlying Transaction Maturity Date;
2. In the case of the Fixed Repayment Schedule: the date falling on the earlier of i) the Payment Date immediately succeeding the date on which PRS Loan Outstanding Principal Amount is reduced to zero and ii) the final Payment Date indicated in the repayment schedule of the PRS Loan.
 |
| **Latest Underlying Transaction Maturity Date** | Means the earlier of (**X**) the latest day on which an Underlying Transaction included in the Portfolio is scheduled to be repaid by the relevant Final Beneficiary in accordance with the scheduled repayment provisions of the documentation governing such Underlying Transaction (including as a result of any amendment to the terms of such Underlying Transaction) and (**Y**) the date which is the Maximum Underlying Transaction Maturity following the last Business Day of the Inclusion Period. |
| **Repayment of the PRS Loan Amount**  | Repayments of the PRS Loan Amount shall be made at each Payment Date starting from the Initial Principal Payment Date until the PRS Loan Maturity Date. The repayment may be made in the form of either: **(A) Pass-through Repayment** or **(B) Fixed Repayment Schedule**. 1. **Pass-through Repayment**

At each Payment Date beginning from Initial Principal Payment Date the Borrower shall repay to the Lender a portion of the PRS Loan in amount equal to **X = A – (B x C)**, where:**A**= PRS Loan Outstanding Principal Amount as at the end of the immediately preceding Calculation Period after application of any Covered Losses relating to such Calculation Period and**B**= the sum of: 1. the aggregate outstanding principal amount of the eligible Performing Underlying Transactions and
2. the aggregate of the undrawn commitments under eligible Performing Underlying Transactions included in the Portfolio ( the relevant amount for Revolving Credit Transactions being the unused (but not reduced) portion of the Credit Limit Amount), which remain undrawn by the relevant Financial Beneficiaries,

in each case, as determined at the end of immediately preceding Calculation Period. If such date falls on the Disbursement Long Stop Date or thereafter the point ii) above shall be excluded from the calculation of B. **C**= the Co-Financing Rate.1. **Fixed Repayment Schedule**
2. At the Initial Principal Payment Date the Borrower shall repay to the Lender an amount which is equal to the amount calculated pursuant to the A) Pass-Through Repayment modalities above.
3. At each Payment Date following the Initial Principal Payment Date, the Borrower shall repay to the Lender an amount which is equal to the product of:
	1. the relevant repayment percentage indicated in the repayment schedule and
	2. the PRS Loan Outstanding Principal Amount determined as at the end of immediately preceding Calculation Period

Any PRS Loan Outstanding Principal Amount, which remains unpaid at the PRS Loan Maturity Date shall be repaid to the Lender as at that date.  |
| **Initial Principal Payment Date** | Means the Payment Date when PRS Loan begins to amortise being the first Payment Date following the Inclusion Period End Date. |
| **Disbursement Long Stop Date** | 31 October 2016 |
| **Prepayment Option** | The Borrower shall have the option to prepay, free of charge, the following amounts at any Payment Date following the Disbursement Long Stop Date:1. in cases of Pass-through or Fixed Repayment schedules: the entire PRS Loan Outstanding Principal Amount, or
2. in the case of Fixed Repayment schedule: the portion of the PRS Loan Outstanding Principal Amount such that the PRS Loan Outstanding Principal Amount after such prepayment is not lower than the outstanding principal amount of performing Underlying Transactions as of the end of immediately preceding Calculation Period multiplied by the Co-Financing Rate.

 The prepayment is subject to a 30 Business Days’ notice period. |
| **Prepayment Obligation**(applicable only in the case of Fixed Repayment Schedule) | At any Payment Date following the Inclusion Period End Date the Borrower shall be required to repay the amount equal to the product of:1. aggregate of principal amounts of the Performing Underlying Transactions (or relevant portions thereof), which were excluded from the Portfolio in the immediately preceding Calculation Period, pursuant to the section Exclusion Process below and
2. the Co-financing rate

provided that the Claw-back provisions below do not apply to such Excluded Underlying Transactions. |
| **Right of Claw-back** | No later than on the Payment Date immediately following the date on which the Lender gives notice to the Borrower or the Borrower itself becoming aware of Clawback Amounts owed to the Lender, the Borrower shall repay to the Lender the following amounts (any such amounts, the “Clawback Amounts”): any amount of Losses or portion thereof, corresponding to each Defaulted Underlying Transaction which is or has become an Excluded Underlying Transaction provided that the PRS Loan Outstanding Principal has been reduced by such Losses as a result of the application of the Risk-Sharing mechanism, together with Deposit Interest, accruing as from the date of the relevant reduction of the PRS Loan Outstanding Amount until the relevant Payment Date. |
| **Events of Default under PRS Loan** | Shall mean with respect to the Borrower:- Non-payment on the due date of any amount payable pursuant to the PRS Loan Agreement unless failure to pay is caused by an administrative or technical error and the payment is made in the Cure Period;- Breach of any provision of the PRS Loan Agreement (including any Covenants or Undertakings) unless remedied within Cure Period, if curable;- Irregularity and Fraud of the Borrower with respect to the PRS Loan unless remedied within Cure period, if curable;- Additional standard events such as misrepresentation, repudiation, unlawfulness and invalidity, illegality, cross-default, bankruptcy, insolvency, expropriation, change of control, etc. (any such event, an “**Event of Default**”). Upon occurrence of an Event of Default the Lender shall be entitled to accelerate the PRS Loan (see **Acceleration** section below).  |
| **Cure Period** | [•] Business days in case of non-payment starting from the due date.[•] Business Days in other cases starting from the notification by the Lender or after Borrower becomes aware of the event, whichever is earlier. |
| **Acceleration**  | Upon the occurrence of an Event of Default of the Borrower, the Lender shall be entitled to: i) cancel any Undrawn PRS Loan Amount and ii) declare that the Risk-sharing of the Portfolio pursuant to the terms of the PRS Loan shall cease (subject however to any Losses which were incurred by the Borrower on eligible Defaulted Underlying Transactions from the end of immediately preceding Calculation Period to such date and iii) request that PRS Loan Principal Outstanding Amount shall be repaid to the Lender together with PRS Loan Interest accrued since the end of the immediately preceding Interest Period to such date. |
| **PRS Interest (Amount)** | The aggregate of the Portfolio Interest Amount and Deposit Interest Amount. PRS Interest accrued with respect to each Interest Period shall be payable to the Lender in arrears at the Payment Date immediately following the end of that Interest Period. |
| **Portfolio Interest (Amount/Rate)** | 0% p.a.Portfolio Interest Amount with respect to an Interest Period shall mean an interest amount equal to the sum of the products, for each Underlying Transaction, included in the Portfolio during each Interest Period:1. the Portfolio Interest Rate divided by 360;
2. the sum of the outstanding principal amount on each day an Underlying Transaction included in the Portfolio was a Performing Underlying Transaction during the Interest Period;
3. Co-Financing Rate.
 |
| **Deposit****Interest (Amount/Rate)** | The Borrower shall pay interest at a commercial deposit interest rate, as agreed with the Lender under the PRS Loan Agreement.Deposit Interest Amount shall equal to the product of:1. the Deposit Interest Rate;
2. the ratio of the number of days in the Interest Period and 360;
3. the PRS Net Corporate Exposure.
 |
| **PRS Net Corporate Exposure** | Means with respect to the relevant Interest Period, the difference between:1. the average of the PRS Loan Outstanding Principal Amount on each day during the Interest Period;
2. the average of the outstanding principal amounts of Underlying Transactions on each day during the Interest Period multiplied by the Co-Financing Rate.
 |
| **Default Interest**  | If the Borrower fails to make any amount payable by it under the PRS Loan Agreement on its due date, interest shall accrue on the overdue amount from the due date up to the date of actual payment at the **Default Interest Rate**. Default Interest Rate shall be equal to the applicable interest + 2% or to the extent permitted by applicable law, whichever is lower.Default Interest shall be immediately due and payable by the Borrower to the Lender. Any Unpaid Default Interest arising on the overdue amount will be compounded on each Payment Date but will remain due and payable.  |
| **Management fee** | Financial Intermediaries will receive a Management Fee of at least 1% in accordance with applicable rules[[2]](#footnote-3), but not exceeding 3% on an annual basis, for their origination and servicing of the portfolio.The Management Fee shall be calculated as a percentage of the pro rata share (i.e. on the co-funding contributed by the EIF acting through the JHF) on the average outstanding amount (i.e. disbursed and not repaid) of the portfolio of SME loans. |
| **Business Day** | Means a day (other than a Saturday or Sunday) on which the Lender is open for business and on which banks are open for general business in Luxembourg and the Slovak Republic. |
| **Covenants and Undertakings** | On the basis of the EIF’s assessment of the counterparty risk of the selected Financial Intermediary (as concluded during the evaluation/due diligence process), the EIF will request appropriate financial covenants and undertakings by the selected Financial Intermediary under the PRS Loan Agreement. The EIF may request collateral or risk mitigants to be provided by the selected Financial Intermediary under the PRS Loan Agreement, including, subject to local law requirements, financial covenants, rating triggers, assignment of rights, pledges or negative pledges. |

**GENERAL TERMS APPLICABLE TO UNDERLYING TRANSACTIONS**

|  |  |
| --- | --- |
| **Final Beneficiaries** | Micro, small and medium enterprises as defined in the Commission Recommendation 2003/361/EC, excluding “firms in difficulty” within the meaning of Art. 45 of Reg. 1828/2006 and within the meaning of Article 2.1 of the Community guidelines on State aid for rescuing and restructuring firms in difficulty (OJ C 244, 1.10.2004, p. 2). |
| **Underlying Transactions** | Loans, provided by the Borrower to Final Beneficiaries co-financed under the PRS Loan.  |
| **Revolving Credit Transaction** | Means an Underlying Transaction taking the form of a loan instrument pursuant to which a Final Beneficiary is entitled to use, on a revolving basis, financing made available to it by the Financial Intermediary for a specified period through one or more drawdowns and repayments (including by settling obligations arising from letter of credit) up to the Credit Limit Amount. |
| **Credit Limit Amount**  | Means, in respect of a Revolving Credit Transaction, the maximum principal amount committed by the Intermediary under the Revolving Credit Transaction in the absence of any repayments by the Final Beneficiary. |
| **Rollover of the Revolving Credit Transactions**  | In the case of Revolving Credit Transactions included in the Portfolio, any entry into a new agreement with a new maturity for a Revolving Credit Transaction with the same Final Beneficiary as a replacement of an existing Revolving Credit Transaction, having the same Credit Limit Amount, but without repayment in full by the Final Beneficiary of amounts outstanding under the existing Revolving Credit Transaction, shall be treated as an extension of the maturity of the existing Revolving Credit Transaction and not as the entry into a separate Revolving Credit Transaction with the relevant Final Beneficiary. For avoidance of doubt, such extended maturity must not exceed **Maximum Revolving Credit Transaction Maturity**, where the relevant term shall be calculated starting from the day the existing Revolving Credit Transaction was entered into. |
| **Conversion of Revolving Credit Transactions**  | If a Revolving Credit Transaction included in the Portfolio is converted to an Underlying Transaction which is not a Revolving Credit Transaction, as a result of entry into a new contractual agreement or the execution of a contractual amendment, the resulting loan transaction shall continue to be included in the Portfolio and remain co-financed and covered by the PRS Loan (and shall not be treated as a separate Underlying Transaction entered into with the relevant Final Beneficiary) provided that such conversion constituted Permitted Underlying Transaction Amendment. |
| **Permitted Purpose of Underlying Transactions** | Means unless otherwise specified in the specific terms schedule to the PRS Loan Agreement, financing for:1. investments in tangible and in intangible assets; or
2. working capital related to development or expansion activities that are ancillary (and linked) to activities referred to in (a) above (which ancillary nature shall be evidenced, inter alia, by the business plan of the Final Beneficiary and the amount of the financing); and/or
3. working capital (such as purchase of raw materials, stocks and other manufacturing inputs, labour, inventories and overheads, funding to finance trade receivables, non-consumer sales receivables) related to the establishment, strengthening or expansion of new or existing business activity of an SME on the basis of one of the two following options whichever is applicable to each case: i) a plan for the creation or expansion of an enterprise or, ii) loan application and/or credit documentation, in each case including a description of the SME’s working capital needs;

but in each case excluding pure financial activities or real estate development when undertaken as a financial investment activity or the provision of consumer finance.  |
| **Availability Period** | A period starting within [•] months from the PRS Loan Effective Date up to the earlier of (i) the Scheduled Availability Period End Date and (ii) the Extraordinary Inclusion Period End Date, during which eligible Underlying Transactions may be approved by the Borrower, entered into and included (for their whole principal amount but not in part) in the Portfolio. If an eligible Underlying Transaction was approved in the Availability Period but contractual documentation was not signed with Final Beneficiary, such eligible Underlying Transaction may be included in the Portfolio provided it is entered into by the Inclusion Period End Date. |
| **Inclusion Period** | The period commencing on the PRS Loan Effective Date and ending on the Inclusion Period End Date.  |
| **Inclusion Process** | Inclusion of eligible Underlying Transactions shall occur automatically upon receipt by the Lender of inclusion notices submitted by the Borrower on a quarterly basis by the Report Date immediately succeeding the date such eligible Underlying Transactions have been entered into (signed) with Final Beneficiaries. For the avoidance of doubt the eligible Underlying Transactions so included shall be subject to the co-financing and risk sharing from the date of the signature of such eligible Underlying Transactions. |
| **Exclusion Process** | 1. At any time, the Lender may (but shall not be obliged to) verify whether an Underlying Transaction included in the Portfolio is an eligible Underlying Transaction and whether its inclusion in the Portfolio is in compliance with the terms of the PRS Loan Agreement. At any time upon becoming aware of the same, the Lender may notify the Financial Intermediary by sending an Exclusion Notice identifying such non-eligible Underlying Transaction.
2. If a Financial Intermediary becomes aware of the same the Financial Intermediary shall include such information in the immediately following Report delivered to the Lender.

In each of the cases (i) and (ii) the Underlying Transaction shall be excluded from the Portfolio (and shall not be co-financed nor covered by the PRS Loan) (**“Excluded Underlying Transaction”**) as of the date on which it became a non-eligible Underlying Transaction ( any such date, an **”Exclusion Date”**).However if an eligible Underlying Transaction becomes a non-eligible Underlying Transaction as a result of any event or circumstance beyond the control of the Borrower after Losses amounts relating to such non-eligible Underlying Transaction were reported by the Borrower, such Underlying Transaction shall remain included in the Portfolio and covered under the PRS Loan and for the purpose of repayment of the PRS Loan shall be deemed to be an eligible Underlying Transaction.Similarly if an eligible Underlying Transaction becomes a non-eligible Underlying Transaction as a result of any event or circumstance beyond the control of the Borrower prior Losses amounts relating to such non-eligible Underlying Transaction were reported by the Borrower, such Underlying Transaction shall remain included in the Portfolio and covered under the PRS Loan and for the purpose of repayment of the PRS Loan shall be deemed to be an eligible Underlying Transaction if the Borrower accelerated payment of all amounts owed to it under such Underlying Transaction no later than on the Report Date immediately following the date on which it became aware of the same. However if the Borrower does not proceed to the acceleration of such Underlying Transaction within the timeframe specified above then this Underlying Transaction shall be excluded from the Portfolio. |
| **Scheduled Availability Period End Date** | 31/10/2016 |
| **Inclusion Period End Date** | Means the earlier of (i) the Extraordinary Inclusion Period End Date and (ii) the Scheduled Inclusion Period End Date. |
| **Scheduled Inclusion Period End Date** | Means the Disbursement Long Stop Date. |
| **Extraordinary Inclusion Period End Date** | Unless stipulated otherwise in the PRS Loan Agreement, the earlier of:1. the date on which the Lender is effectively notified by the Borrower with the request to terminate the Inclusion Period;
2. the date on which Event of Default or potential Event of Default has occurred;
3. the date on which the Trigger Event occurred;
4. other triggers, as defined in the specific terms schedule to the PRS Loan Agreement.
 |
| **Trigger Event(s)** | A trigger event shall occur if, on one or more specified date(s) defined in the PRS Loan Agreement:1. Losses exceed a predetermined percentage, calculated as the ratio of principal amount of all Underlying Transactions which became Defaulted Underlying Transactions and the aggregate initial principal committed amount of Underlying Transactions (for Revolving Credit Transactions the relevant amount being the Credit Limit Amount) included in the Portfolio, such percentage(s) defined in the specific terms schedule to the PRS Loan Agreement; or
2. The aggregate committed principal amount of Underlying Transactions (for Revolving Credit Transactions the relevant amount being the Credit Limit Amount) included in the Portfolio does not exceed a percentage of the Reference Portfolio Amount, such percentage defined in the specific terms schedule to the PRS Loan Agreement.
 |
| **Underlying Transaction Currency** | Underlying Transactions shall be denominated in the PRS Loan Currency. |
| **Eligibility Criteria** | Meansjointly Eligibility Criteria for Underlying Transactions, Eligibility Criteria for Final Beneficiaries and Portfolio Eligibility Criteria. |
| **Ineligible Expenditure**  | Means the expenditure deemed to be ineligible pursuant to article 7 of EC Regulation No. 1080/2006 and any additional items, if any, as set-out in the PRS Loan Agreement. |
| **Eligibility Criteria for Underlying Transactions** | The following Eligibility Criteria shall be met at all times by Underlying Transactions included in the Portfolio, unless otherwise specified in the PRS Loan Agreement:1. Underlying Transactions shall be newly originated i.e. entered into during the Inclusion Period, in accordance with the CCP of the Borrower;
2. The principal amount of an Underlying Transaction included in the Portfolio (which can be included for their full principal amount and not for portion thereof) shall not be greater than the lower of i) EUR 1,000,000 and ii) amount that would cause the GGE with respect to the Final Beneficiary to exceed EUR 200,000 for a period of three consecutive years, in accordance with State Aid rules **(Maximum Underlying Transaction Amount**);
3. Underlying Transactions shall provide financing:
	1. for one or more of the Permitted Purposes;
	2. in PRS Loan Currency;
	3. for purpose which shall exclude refinancing and/or restructuring of existing loan;
	4. for activities which would not be excluded from the scope of the De Minimis Regulation pursuant to articles 1 and 3(2) of theDe Minimis Regulation;
4. Underlying Transactions shall not be in the form of mezzanine loans, subordinated debt or quasi equity;
5. Underlying Transactions shall have a fixed repayment schedule or be a Revolving Credit Transaction (which for avoidance of doubt shall include an overdraft line of credit and exclude any credit or loan: i) resulting from utilisation of credit card limits or ii) in the form of purchase of receivables, whether on a recourse or non-recourse basis );
6. Underlying Transactions shall not finance Ineligible Expenditure;
7. Underlying Transactions shall have the minimum maturity of 12 months including the relevant grace period, if any (**Minimum Underlying Transaction Maturity**);
8. Other than as a result of Permitted Underlying Transactions Amendment, the maturity of an Underlying Transaction which is not Revolving Credit Transaction shall not exceed 120 months (or such shorter period as specified in the PRS Loan Agreement) including the relevant grace period if any (**Maximum Underlying Transaction Maturity**);
9. The maturity of an Underlying Transaction which is a Revolving Credit Transaction shall not exceed **Maximum Revolving Credit Transaction Maturity;**
10. Contractual documentation of an Underlying Transaction which is not a Revolving Underlying Transaction must provide that an availability period for drawdown of the funds by the relevant Final Beneficiary (i.e. disbursement) shall end not later than on the **Disbursement Long Stop Date**;
11. The interest rate applicable to the relevant eligible Underlying Transaction included in the Portfolio shall be reduced by the level of the Financial Benefit;
12. Underlying Transactions shall (X) not receive any assistance under any operational programme (as defined in the Council Regulation) other than the Operational Programme and (Y) be the only assistance received from a financial instrument financed by the European Union;
13. If the relevant Underlying Transaction finances an investment in an asset pursuant to point a) of the definition of Permitted Purpose Activities and any related working capital pursuant to point b) of the definition of Permitted Purpose Activities, the relevant asset must be located within the following 7 (NUTS 3 level) regions: Trnava Region, Trenčín Region, Nitra Region, Žilina Region, Banská Bystrica Region, Prešov Region, Košice Region;
14. If the relevant Underlying Transaction provides financing pursuant to the point c) of the definition of Permitted Purpose Activities, the location of the relevant Final Beneficiary permanent establishment which benefits from the Underlying Transaction shall be within the following 7 (NUTS 3 level) regions: Trnava Region, Trenčín Region, Nitra Region, Žilina Region, Banská Bystrica Region, Prešov Region, Košice Region;
15. Other criteria as may be prescribed in the specific terms of the PRS Loan Agreement.
 |
| **Eligibility Criteria for Final Beneficiaries** | The following Eligibility Criteria shall be met at the date of the signature of the Underlying Transaction, unless otherwise specified in the PRS Loan Agreement: 1. must meet the definition of the Final Beneficiary;
2. shall not have a substantial focus on any of the Restricted Sectors (whether a Final Beneficiary has a "substantial focus" on a Restricted Sector will be assessed (i) by the Borrower (ii) in its discretion based without limitation on the proportionate importance of such sector on revenues, turnover or client base);
3. is not active in any of the Excluded Sectors;
4. not be ‘in difficulty’ (within the meaning of Article 2.1. of the Union guidelines on State Aid for rescuing and restructuring firms in difficulty (OJ C 244, 1.10.2004, p. 2.), as amended, restated, supplemented and/or substituted from time to time or falling in the case of article 4 (3) (a) of the De Minimis Regulation);
5. is assigned an acceptable internal rating category in accordance with the Borrower’s CCP;
6. shall not be delinquent or in default in respect of any other loan or lease either granted by the Borrower or by another financial institution pursuant to checks made in accordance with the Borrowers internal guidelines and CCP;
7. shall be established and operating in the Jeremie Jurisdiction.
 |
| **Portfolio Eligibility Criteria**  | Unless defined otherwise in the PRS Loan Agreement the following concentration limits shall apply:1. **Maximum Obligor Concentration**: The aggregate of:
2. for Underlying Transactions which are not Revolving Credit Transactions: the sum of the outstanding principal amounts of such Underlying Transactions included in the Portfolio
3. for Underlying Transactions which are Revolving Credit Transactions: the sum of the Credit Limit Amounts of such Underlying Transactions included in the Portfolio

granted to a single Final Beneficiary shall not at any time Maximum Underlying Transaction Amount.1. **Maximum Industry Concentration:** The aggregate of:
2. for Underlying Transactions which are not Revolving Credit Transactions: the sum of the outstanding principal amounts of such Underlying Transactions included in the Portfolio
3. for Underlying Transactions which are Revolving Credit Transactions: the sum of the Credit Limit Amounts of such Underlying Transactions included in the Portfolio

forming part of a single industry sector (expressed by NACE code – Rev.2. Division) shall not account for more than 30% of the Reference Portfolio Amount;1. Other criteria as may be prescribed in the specific terms of the PRS Loan Agreement.

Consequences of the breach of the Portfolio Eligibility Criteria shall be as follows:If one or more Portfolio Eligibility criteria are not (or no longer) complied with the Lender may at any time, by notice to the Borrower, exclude at its discretion all or part of any Underlying Transactions from the Portfolio such that, as a result of such exclusion, the Portfolio Eligibility Criteria shall be satisfied. Such transactions are deemed to be Excluded Transactions in the meaning described in the section Exclusion Process above. |
| **Maximum Revolving Credit Transaction Maturity** | Means a period of time starting from the first day of entry into a Revolving Credit Transaction and ending on 31 October 2019benef.  |
| **Permitted Underlying Transaction Amendment** | Means any amendment consisting in an increase of an Underlying Transaction maturity, which purpose is to improve the collectability of the claims under an Underlying Transaction and which is made in accordance with the Financial Intermediary’s CCP, provided that the aggregate period of such amendment(s) for a specific Underlying Transaction may not exceed a maximum period specified in the PRS Loan Agreement. |
| **Jeremie Jurisdiction**  | Slovak Republic  |
| **Financial Benefit**  | The Financial Benefit means the level of reduction of the interest rate charged by the Financial Intermediary under Underlying Transactions included in the Portfolio.The Financial Benefit shall be proposed by Financial Intermediary applying for a PRS Loan reflecting the favourable funding and risk sharing conditions of the PRS Loan. This will be, inter alia, one of the evaluation criteria of the Financial Intermediary’s selection.The Financial Benefit proposed by the Financial Intermediary shall be assessed and confirmed by EIF following analysis and due diligence and shall deemed to be an eligibility criterion for an Underlying Transactions to be included in the Portfolio.The Financial Benefit made possible due to the PRS Loan should be identified at the time of signature of the Underlying Transaction contractual documentation. The Financial Intermediary shall maintain records evidencing the Financial Benefit for each Underlying Transaction included in the Portfolio. |
| **Restricted Sectors** | The binding list of Restricted Sectors shall be set as of the date of the PRS Loan Agreement. Typically the Restricted Sectors will comprise:a. Illegal Economic ActivitiesAny production, trade or other activity, which is illegal under the laws or regulations of the home jurisdiction for such production, trade or activity.Human cloning for reproduction purposes is considered an Illegal Economic Activity in the context of these Restricted Sectors guidelines.b. Tobacco and Distilled Alcoholic BeveragesThe production of and trade in tobacco and distilled alcoholic beverages and related products.c. Production of and Trade in Weapons and AmmunitionThe financing of the production of and trade in weapons and ammunition of any kind. This restriction does not apply to the extent such activities are part of or accessory to explicit European Union policies.d. CasinosCasinos and equivalent enterprises.e. IT Sector RestrictionsResearch, development or technical applications relating to electronic data programs or solutions, which (i) aim specifically at: (a) supporting any activity included in the EIF Restricted Sectors referred to under a to d above; (b) internet gambling and online casinos; or (c) pornography, or which (ii) are intended to enable to illegally (a) enter into electronic data networks; or (b) download electronic data.f. Life Science Sector RestrictionsWhen providing support to the financing of the research, development or technical applications relating to (i) human cloning for research or therapeutic purposes; or (ii) Genetically Modified Organisms (“GMOs”), EIF will require from the EIF counterpart appropriate specific assurance on the control of legal, regulatory and ethical issues linked to such human cloning for research or therapeutic purposes and/or GMOs. |
| **Excluded Sectors** | Any of the excluded sectors presented in Article 1 of the De Minimis Regulation and in the State Aid Scheme. |
| **Fraud** | Shall have the meaning as set out in Article 1 in the Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on the protection of the European Communities’ financial interests (OJ C 316, 27.11.1995, p.49)[[3]](#footnote-4) |
| **Irregularity** | Shall have the meaning as set out in Article 1.2 in Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p.1)[[4]](#footnote-5) |

**MISCELLANEOUS**

|  |  |
| --- | --- |
| **Reporting** | With respect to each Calculation Period a Borrower shall provide to the Lender a quarterly report including inter alia information on Final Beneficiaries and details of all Underlying Transactions added to the Portfolio, Losses incurred by the Borrower (loan by loan reporting) as well as the status of the covenants.Each report shall be provided not later than by the **Report Date** (being 30 days following each Calculation Period and 30 days following the Inclusion Period End Date, if it is not a Report Date). The Borrower shall provide to the Lender financial statements on a regular basis (further details provided in the PRS Loan Agreement).Further to the quarterly reporting obligations, a monthly KPI report (e.g. approvals, disbursements, etc.) may be also requested from the Borrower.Other information as reasonably requested by the Lender relating to the financial standing of the Borrower or performance of the Portfolio. |

|  |  |
| --- | --- |
| **De Minimis requirements** | As the financial instrument is implemented within the scope of the Commission Regulation (EC) No 1407/2013[[5]](#footnote-6), the Borrower shall be responsible for ensuring compliance of the underlying loans with the provisions of such regulation (taking into consideration National rules and procedures). In this context, they shall be responsible for the calculation of the Gross Grant Equivalent (“GGE”)[[6]](#footnote-7) and also for following the appropriate monitoring procedure as this is stipulated in article 6 of the De Minimis Regulation.. |
| **Representations and Warrants** | The Lender will request in the PRS Loan Agreement appropriate Representations and Warrants from the Borrower. |
| **Confidentiality** | The Lender and the Borrower (“the Parties”) shall agree to keep all Confidential Information, as defined in the PRS Loan Agreement, confidential and not to disclose it to anyone, save to the extent permitted by the PRS Loan Agreement.In the PRS Loan Agreement it is envisaged that each Party is entitled to disclose Confidential Information: * + 1. with the prior written consent of the other Party;
		2. if required to do so by a governmental, banking, taxation or other regulatory authority or required under any law or regulation or in order to comply with a valid order of a court of competent jurisdiction, provided that where it is reasonably practicable and it is not legally prohibited from doing so, the disclosing Party shall consult with the other Party in good faith as to the manner and timing of such disclosures and shall in all circumstances, unless legally prohibited from doing so, notify the other Party of such disclosure;
		3. to its auditors and other professional advisers, provided that the disclosing Party ensures that its auditors and other professional advisers acknowledge and comply with the confidentiality provisions of this clause;
		4. to the National Authorities, the Commission and its Agents, the ECA, the European Investment Bank, and any other entity the Lender is subject to;
		5. in accordance with the provisions of the PRS Loan Agreement, including, without limitation, the reporting and monitoring obligations to be complied with by the Borrower.
 |
| **Monitoring and Audit** | The Borrower and the relevant SMEs (final beneficiaries) shall agree to allow and to provide access to their premises and to documents related to the relevant Financial Instrument for the representatives of the Slovak Republic (including the Managing Authority), the European Commission (including the European Anti-Fraud Office (OLAF)), the Court of Auditors of the European Communities, the EIF and any other authorised bodies duly empowered by applicable law to carry out audit and/or control activities. To that effect, the Financial Intermediaries shall also include appropriate provisions in each agreement with the SMEs. |
| **Publicity** | Financial Intermediaries, in line with applicable law and Structural Funds publicity provisions, shall carry out adequate marketing and publicity campaigns aimed at making the JEREMIE initiative and in particular this Financial Instrument known to the SMEs in Slovakia.In particular, the selected Financial Intermediaries will be contractually required to:* Product labelling: The name of the product should clearly point to JEREMIE (e.g. “JEREMIE funded financial instrument for SMEs”);
* Promote JEREMIE and the Financial Instrument through its website;
* Ensure that the documentation applicable to each Underlying Transaction (or in a separate cover letter accompanying such documentation) include the following wording (or the relevant translation set out in the specific terms): “The financing provided hereunder benefits from support from an operational programme co-financed by the European Union Structural Funds pursuant to the “Joint European Resources for Micro to Medium Enterprises” initiative (JEREMIE);”
* Comply with the provisions of Art. 8.4 and Art. 9 of the Commission Regulation (EC) No. 1828/2006 and to require that each SME having complies with such provisions. Appropriate text and logos is envisaged to be provided to the selected Financial Intermediary during the phase of contractual negotiations;
* Comply with any other visibility and promotion requirements set out in the specific terms.
 |
| **Data protection** | The Borrower acknowledges that it must comply with all applicable laws implementing the Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995, as amended, on the protection of individuals with regard to the processing of personal data and on the free movement of such data or, in case of non-implementation of Directive 95/46/EC, equivalent principles as those set out in Article 22 of Regulation (EC) No 45/2001 of the European Parliament and of the Council, dated 18 December 2000, as amended, relating to the protection of individuals with regard to the processing of personal data by the European Community institutions and bodies and of the free movement of such personal data (**the Data Protection Regulation**), as well as with any applicable law dealing with the protection of individuals with regard to the processing of personal data.With reference to the Data Protection Regulation, the Borrower undertakes to ensure that Final Beneficiaries benefiting from financing on the basis of the PRS Loan Agreement are informed in writing, without limitation, of the following:(a) that pursuant to Article 5(a) of the Data Protection Regulation, the name, address and purpose of these persons and other personal data information in connection with the relevant financing will be communicated to the Lender and/or the European Commission;(b) that any personal data communicated to the Lender, the EIB and/or the European Commission may be stored and published;(c) that requests by such persons to verify, correct, delete or otherwise modify personal data communicated to the Lender and/or the European Commission should be addressed to the Lender and/or the European Commission at the following address:* in respect of the Lender: the address of the Lender set out in the PRS Loan Agreement and to the attention of the EIF Data Protection Officer;
* in respect of the European Commission, the European Data Protection Supervisor.
* in respect of the European Investment Bank, the EIB data Protection Officer.

any such requests shall be treated as described in Articles 13 to 19 of the Regulation in its Section 5: “Rights of the Data Subject”; and(d) that pursuant to Article 32, paragraph (2) of the Data Protection Regulation such persons may lodge a complaint with the European Data Protection Supervisor if he or she considers that his or her rights under Article 16 of the Treaty on the functioning of the European Union have been infringed as a result of the processing of personal data by the Lender and/or the European Commission. |
| **Additional Structural Fund requirements** | This Financial Instrument is funded by EU structural funds and it is therefore subject to structural funds regulation and requirements, some of which have already being presented in this Annex, here above (e.g. Monitoring and Audit, Publicity, Reporting etc, as well as national rules on eligibility of expenditure). It should be noted however that more detailed information on actions necessary to ensure compliance of operations linked to this Financial Instrument with all structural funds requirements (e.g. retention of documents for a period of 10 fiscal years from the date on which de minimis aid was granted with respect to documents demonstrating that the conditions of De Minimis Regulation have been complied with, environmental protection, equality and non-discrimination) will be provided to and discussed with the selected Financial Intermediaries during the contractual negotiations process. |
| **Tax gross up** | Applicable |
| **No Set-off** | All payments to be made by the Borrower shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim. |
| **Transfer** | The Borrower shall not assign any of its rights or transfer any of its rights or obligations under the PRS Loan Agreement without the consent of the Lender.The Lender may assign any of its rights or transfer by novation any of its rights and obligations under the PRS Loan Agreement to any entity designated by the Slovak Republic.  |

**Part II: Selection Criteria for the JEREMIE funded financial instrument**

|  |  |
| --- | --- |
| 1. **ELIGIBILITY CRITERIA**
 | **System of appraisal** |
| **Yes/ No** |
|  | Credit institution authorised to carry out business in Slovakia under the applicable regulatory framework. To be noted that joint ventures can express their interest as long as (i) each of the joint venture members is a credit institution authorised to carry out business in Slovakia under the applicable regulatory framework, (ii) they indicate/nominate one coordinating entity as a contractual counterpart for the JHF for the entire term of the PRS Loan Agreement (in case of selection) , and (iii) all members of the joint venture assume joint and several liability for all applicable obligations. Such Applicants are required to submit one, joint Expression of Interest. Note: Applicants for which, at any stage, the process for recalling or cancelling their authorisation to carry out business in Slovakia has started, or is about to start, are not eligible. |  |
|  | The Expression of Interest is prepared in accordance with Annex 1 to the Call for Expression of Interest. All necessary supporting documents are provided (in the form requested if specified). |  |
|  | The Expression of Interest is duly signed. |  |
|  | The Expression of Interest is completed and submitted in English.  |  |
|  | The Expression of Interest is submitted both by registered mail and e-mail. |  |
|  | The Expression of Interest is submitted within the Deadline. |  |
|  | The Expression of Interest addresses all the items of the Financial Instrument, including any special conditions set out in the relevant parts of the Financial Instrument description (Part I of this Annex).  |  |
|  | Ability to deliver a broad geographical coverage in Slovakia outside Bratislava Region.  |  |

|  |  |  |
| --- | --- | --- |
| **2.** | **QUALITY ASSESSMENT CRITERIA** | **Max score** |
|  |  |  |
|  | Quality of key financial ratios (a preliminary assessment of the financial standing and credit ability of the Financial Intermediaries will be performed on the basis of key financial ratios calculated from the audited financial statements submitted). In case of externally rated Financial Intermediaries, actual external ratings will be also considered. | **20** |
|  | Absorption capacity based on the project proposal and implementation strategy and track record in SME lending, including lending under EU programmes. | **50** |
|  | Pricing policy and collateral requirements of the Financial Intermediary, to be charged under the Financial Instrument, as submitted under the Expression of Interest (collateral and interest rates, for the avoidance of doubt including applicable base rate, will be compared) – table 1 presented in Appendix 2 section 1. | **30** |
|  | Detailed assessment of the Financial Intermediary’s financial standing with regard to capital adequacy, provisions, liquidity, other financial ratios, its capacity to service outstanding loan portfolio, the quality of its existing SME loan portfolio and the rate of its non-performing loans, etc. Also assessment of the Financial Intermediary’s organisational structure and corporate governance. | **Qualify/Not Qualify****Qualify/Not Qualify** |
|  | Detailed assessment of the Financial Intermediary’s credit worthiness and risk management with regard to credit policy (internal procedures and guidelines), origination, risk assessment (rating/scoring), loan approval procedures, collateral requirement, recovery procedures, risk management and monitoring etc.Assessment of the administrative capacity of the Financial Intermediary: Quality of IT systems, reporting mechanisms, monitoring procedures and controls and assessment of overall ability of the Financial Intermediary’s to comply with the Financial Instrument’s reporting and monitoring requirements. |

**Explanatory notes relating to evaluation of the Quality Assessment Criteria**

**Note 1 – Method of evaluation:**

First stage:

Items 2.1-2.3 will be evaluated first. Applicants who score lower than 35 points will be automatically rejected. The Applicants who score 35 points and higher, will qualify to the second evaluation stage (in a descending order based on the score received, i.e. the Applicants with highest score first), subject to submission of the additional information requested as per Appendix 2 within the deadline determined by the EIF in a formal request. EIF reserves the right to adjust the number of Applicants based on the available budget under the instrument. The remaining ones will form part of a reserve list (valid till 31/01/2016) and will be informed accordingly.

Note: In the case where two or more Applicants score equally, priority will be given to the Applicant(s), which has the highest score on item 2.2.

Second stage:

Items 2.4 and 2.5 will be subsequently evaluated in line with the EIF’s standard rules and procedures (i.e. “**due diligence**”).

The Applicants qualifying from EIF’s due diligence shall be accordingly selected for contractual negotiations of PRS Loan Agreement.

The EIF reserves the right to decide on the allocation of funding available for this Financial Instrument, on the basis of the results of the evaluation procedure. This will consider, in particular, the willingness and ability to absorb the funding available (or the respective funding portion allocated) and will also consider, without limitation, assessment elements like the origination capacity in building up a new SME portfolio.

In case all the initial capital is not allocated to the Applicants qualified from EIF’s due diligence or if, for any reason, an PRS Loan Agreement is not signed with the Applicants initially selected, the next Applicants or Applicants placed in the reserve list will be evaluated under the second stage procedure, subject to the timely submission of the additional information requested as per Appendix 2.

In case more funding becomes available under the Financial Instrument until 31/01/2016, the EIF has the discretion to consider either:

* + - 1. additional capital allocations to the Applicant(s) already selected for contractual negotiations or having signed an PRS Loan Agreement with the EIF under the Financial Instrument or
			2. proceeding to the second evaluation stage with the next Applicant included in the reserve list taking into consideration the results of the evaluation procedure and the ranking formed.

To be noted that under point (i), the EIF will take into consideration specific funds utilisation milestones that will be set in the PRS Loan Agreements with the selected Applicant(s) as well as the overall contribution/amount requested by the Financial Intermediaries under their Expression of Interest.

**Note 2 – Scoring of items 2.1-2.2**

Score for items 2.1-2.2 will be awarded on the basis of the qualitative analysis performed by the EIF.

**Note 3 – Scoring of item 2.3**

Step 1: The offer with the lowest pricing will be compared to each individual offer (i.e. Lowest offer of all Applicants/Offer of Applicant being measured), resulting to the best offer (i.e. lowest pricing) achieving a ratio of 1. Inferior offers will hence score proportionately lower than 1.

The Applicants will be ranked in descending order – the one with the highest ratio ranking first.

Step 2: The results will define the score awarded for this Quality Assessment Criterion, in accordance with the following principle:

Rank 1: Awarded full points;

Rank 2: Awarded 85% of the points;

Rank 3: Awarded 70% of the points;

Rank 4: Awarded 55% of the points.

Subsequent rankings will apply the same logic with 15% marks being deducted for each lower ranking accordingly.

The assessment of the pricing reduction will take into account the Applicant’s collateral policy.

1. Subject to the review and consent by the EIF [↑](#footnote-ref-2)
2. In particular Article 43, para. 4, of the Commission Regulation (EC) No. 1828/2006 of 8 December 2006 setting out rules for the implementation of Council Regulation (EC) No 1083/2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and of Regulation (EC) No 1080/2006 of the European Parliament and of the Council on the European Regional Development Fund (Official Journal of the European Union L371 of 27.12.2006) as amended from time to time, including by Commission Regulation (EC) No 846/2009 of 1 September 2009 amending Regulation (EC) No 1828/2006 setting out rules for the implementation of Council Regulation (EC) No 1083/2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and of Regulation (EC) No 1080/2006 of the European Parliament and of the Council on the European Regional Development Fund (Official Journal of the European Union L250 of 23.09.2009). [↑](#footnote-ref-3)
3. Fraud affecting the EU’s financial interests shall consist of:

(a) in respect of expenditure, any intentional act or omission relating to:

- the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the general budget of the European Union or budgets managed by, or on behalf of, the European Union,

- non-disclosure of information in violation of a specific obligation, with the same effect,

- the misapplication of such funds for purposes other than those for which they were originally granted;

(b) in respect of revenue, any intentional act or omission relating to:

- the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the illegal diminution of the resources of the general budget of the European Union or budgets managed by, or on behalf of, the European Union,

- non-disclosure of information in violation of a specific obligation, with the same effect,

- misapplication of a legally obtained benefit, with the same effect. [↑](#footnote-ref-4)
4. Any infringement of a provision of EU Law resulting from an act or omission by a an economic operator which has, or would have, the effect of prejudicing the general budget of the EU or budgets managed by them either by reducing or losing revenue accruing from own resources collected directly on behalf of the Communities, or by an unjustified item of expenditure. [↑](#footnote-ref-5)
5. Commission Regulation (EC) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid (OJ L352, 24.12.2013, p.1), as amended, supplemented or substituted from time to time, (the “**De Minimis Regulation**”). [↑](#footnote-ref-6)
6. The Borrower will be contractually obliged to state in the individual loan agreement with each Final Beneficiary the exact amount of De Minimis aid received through this loan in the form of GGE. [↑](#footnote-ref-7)