



ANNEX II – Climate and Infrastructure Instrument

Capitalised expressions utilised herein shall have the meaning attributed to them in the Call for Expression of Interest, unless otherwise defined below or the context requires otherwise. Unless the contrary intention appears, words in the singular include the plural and words in the plural include the singular.

This summary term sheet is for information purposes only. This document is an outline of the principal terms and conditions for the product described herein, which are subject to change and non-exhaustive.

Any reference to legal and regulatory framework, including State aid regime(s), shall be to the applicable version as amended, supplemented or replaced from time to time.

1. Rationale

The C&I Instrument's main objective is to support climate and infrastructure funds with a focus in Spain. The C&I Instrument will help in the development of certain key sustainability and green transformation sectors by investing into these Underlying Funds. Financing will be provided through the Underlying Funds mainly in the form of equity investments. Each Underlying Fund, and the Financial Intermediaries managing each Underlying Fund, will commit to make a minimum amount of investments in Final Beneficiaries established and/or operating in Spain.

This market emerged in response to the retrenchment of banks and other traditional lenders after the global financial crisis. Today it provides businesses flexible medium-long term financing for growth and development, alternative and complementary to the banking system; as well as offering investors an asset class that links institutional savings with real economic growth.

2. Terms of reference

Financial Instrument	Climate & Infrastructure (the “C&I Instrument”)
Type of financing	Equity
Underlying Fund duration	Typically, up to 15 + 1 + 1 years (with extensions being subject to the Fund’s investors or advisory committee prior approval)
Underlying Fund investment period	The period for the Financial Intermediaries to build up a portfolio of newly originated financing to Target Final Beneficiaries shall be specified in the Commitment Agreement. Typically, financial intermediaries have an investment period of 3-5 years (plus customary extensions being subject to the Fund’s investors or advisory committee prior approval).
Investment Strategy	The C&I Instrument’s main objective is to support climate and infrastructure funds with a focus in Spain. The C&I Instrument will help in the development of certain key sustainability and green transformation sectors by investing into these Underlying Funds. Financing will be provided through the Underlying Funds mainly in the form of equity investments. Each Underlying Fund, and the Financial Intermediaries managing each Underlying Fund, will commit to make a minimum amount of investments in Final Beneficiaries established and/or operating in Spain. Each Underlying Fund shall procure to invest an amount equal to at least the EIF’s commitment to such Underlying Fund financed by the C&I Instrument into Eligible Financings for the benefit of Target Final Beneficiaries. Underlying Funds shall not invest, finance, guarantee and/or otherwise provide financial and/or other support, directly or indirectly, to Final Beneficiaries that are not deemed economically viable according to internationally accepted standards. Final Beneficiaries shall not receive support from other European Union instruments or programmes to cover the same cost. For the avoidance of doubt, the C&I Instrument resources can be invested in an Underlying Fund in a complementary manner alongside other European Union funding, such as ESIF or InvestEU resources. The selection of the Final Beneficiaries shall be transparent, non-discriminatory and justified by the Fund Manager on objective grounds and that such selection shall not give rise to any conflict of interest that is not properly mitigated.
Eligible Financing	means any equity financing flowing, directly or indirectly, into Final Beneficiaries for any purpose other than the refinancing or the repayment of an existing indebtedness.
RRF Objectives Climate	The C&I Instrument shall invest in a portfolio of Underlying Funds that undertake to invest in the aggregate an amount equal to at least 50% of the EIF’s commitments financed by the C&I Instrument directly or indirectly into Final Beneficiary transactions

	that contribute to the RRF Climate Objectives, as calculated in accordance with the methodology for climate tracking described in Annex VI to the RRF Regulation¹. Each Financial Intermediary will classify the underlying investments according to the methodology for climate tracking described in Annex VI to the RRF Regulation. The Financial Intermediary will justify the selection of the intervention field of each underlying investment and will report to the EIF the relevant climate change objectives contribution. Each Financial Intermediary may be requested a minimum contribution to the climate objectives. Such contribution will be defined during the negotiations of the Commitment Agreement.
Target Beneficiary	Final means a Final Beneficiary established and/or operating in the Kingdom of Spain that, at the moment of the Underlying Fund's initial investment in such Final Beneficiary, qualifies as an Infrastructure Project, an SME or a Small Mid-Cap.
Financial Intermediary or Fund Manager	A financial institution, fund management company or other legal entity selected by EIF to manage or advise the Fund responsible for providing the resources made available from the RRF to Final Beneficiaries in accordance with the relevant Commitment Agreement. The Fund Manager will be expected to be independent, i.e., to be in a position to take management and co-investment decisions independently, including background and other checks on its co-investors (so-called "whitelisting", see below), in particular without the influence of investors, sponsors or any other third party which is not integrated in the structure. The Fund Manager will be expected to be comprised of a team of experienced professionals, acting with the diligence of a professional manager and in good faith, operating according to best industry practices, complying with professional standards issued by the Invest Europe, ILPA or another equivalent organisation. The selected Fund Manager will be expected to draw on their networks of relevant industry and market contacts to aid the development of their Final Beneficiaries. For example, while not a pre-requisite, they may establish a formal or informal structure from which relevant industry experts could be engaged on an ad hoc basis by the Final Beneficiaries (the form, size, industry concentration, commitment and incentivisation scheme of the structure would remain at the full discretion of the Fund Manager).

¹ eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021R0241 (Pages 47-56)

Fund Manager's commitment	The Fund Manager shall contribute an adequate minimum percentage of the total size of the Fund (i.e., its total commitments) as a limited partner of the Fund. The required commitment size will be assessed against and aligned with the Fund economics and the broader financial position of the Fund Manager's team to provide a relevant alignment of financial interest with investors.
Management fee	Typically, calculated as a percentage of the Fund's total commitments during the investment period and as a percentage of the net invested capital (acquisition cost of the portfolio of the Fund reduced by the acquisition costs of the Fund's investments that have been sold, written-off or written-down) after the end of the investment period. Alternatively, other schemes could be considered. The proposed management fee shall be supported by the Fund Manager's budget and corresponding fund model.
Fund's establishment and operating expenses	The cap on establishment costs will be expected to include any fees, expenses and costs necessary to set up the Fund. The cap on management fees will be expected to cover any management fees payable until the end of the liquidation of the Fund. For the avoidance of doubt, the management company will be expected to pay its own operating expenses (such as office rental and employees), its own tax expenses as well as costs that are not attributable to the Fund in accordance with market standards.
Additional features of the Fund Manager	The Fund Manager will be expected to manage the Fund based on commercial principles, making investment decisions based on its due diligence and each investment's commercial merit and business plan, which should contain product description, turnover and profitability calculations and forecasts, previous assessment of project viability, as well as each investment's clear and real exit strategy and other necessary points (such as potential conflict of interest). EIF representative(s) shall be appointed on appropriate advisory committee structures to review, inter alia, conflicts of interest. In the management of the Fund, the Fund Manager will be expected to apply best practices, inter alia considering guidelines developed by Invest Europe and ILPA, and to perform controls as required by the public nature of the Fund's investment and further communicated to the Fund Manager.
Data Protection Statement	Means EIF's Data Protection Statement on the processing of personal data of Applicants and Fund Managers, as published on the EIF website and as amended from time to time: eif_data_protection_statement_financial_intermediaries_due_diligence_en.pdf
Addressing Climate Action and Environmental Sustainability	The contribution of the Fund Manager transactions to EIF's Climate Action and Environmental Sustainability ("CA&ES" or "green") objectives shall be determined, if applicable/relevant/indicated by the EIF, in accordance with the latest EIF Climate Action and Environmental Sustainability Guidelines ² published on EIF's website and applicable at the time of the Commitment Agreement. The contribution percentage will be reflected in the Commitment Agreement(s) as relevant.

² [Guideline on the EIF's criteria for Climate Action and Environmental Sustainability \(CA&ES\)](#)

Compliance and KYC checks (“whitelisting”)	Each Applicant shall be subject to ex ante verification of pre-defined criteria, including background and reputation checks. Clear procedures for KYC/AML and integrity checks on the Applicant and management of potential conflicts of interest shall be implemented by the Applicant in line with requirements of national legislation, EU legislation and conditions set out by the RRF, the Spanish RRP and its legal framework, as applicable, as well as best practices. The Applicant shall acknowledge the EIB Group Anti-Fraud Policy³ which sets out the policy of EIF for preventing and deterring corruption, fraud, collusion, coercion, obstruction, money laundering and terrorist financing as amended from time to time, and shall take appropriate measures (as may be further specified in the relevant agreement) to (i) facilitate implementation of such policy as well as to (ii) undertake to support investigations performed by the EIF or the European Investment Bank, the European Public Prosecutor's Office (EPPO), or the European Anti-Fraud Office (OLAF), or the European Court of Auditors (ECA) in connection with actual or suspected prohibited conduct.
Independent Private Investors	has the meaning set out in point 3(8) of the NoA, as amended or replaced from time to time.
State aid	means state aid as described in Articles 107 and 108 of the Treaty on the Functioning of the European Union together with all other rules or regulations relating to the provision of state aid as adopted from time to time by the European Union or, as the case may be, communicated to the EIF by the MA.
Reporting	The Fund Manager shall provide EIF with quarterly information in a standardised form and scope as per Invest Europe guidelines for reporting to be specified in the Commitment Agreement. The Fund Manager will also be requested to regularly send information on the companies or persons that receive financing (ultimate beneficial owners' information) directly to the responsible authority(ies) within the Kingdom of Spain, notably in order to comply with the reporting requirements under the RRF Regulation as well as the Spanish RRP and the binding requirements for its implementation; details will be defined in the Fund documentation. Finally, it is important to note that RRF and State aid reporting rules may require the Fund Manager to provide data points which typically are not being tracked and a higher granularity of data. Furthermore, the Fund Manager should report any additional data that may be required under or derive from future changes to the RRF or State aid regulations. More detailed reporting requirements will be set out in the Fund documentation.
Monitoring and audit	The Fund Manager and the Final Beneficiaries shall agree to keep records and to allow and provide access to documents related to the Financial Instrument for the representatives of the European Commission (including the European Anti-Fraud Office

³ <https://www.eib.org/en/publications/anti-fraud-policy>

	(OLAF), the Court of Auditors of the European Communities, the EIF, the European Investment Bank (the “EIB”), the Kingdom of Spain and any other authorised bodies duly empowered by applicable law to carry out audit and/or control activities. The Fund Manager and the Final Beneficiaries shall provide all information that may be reasonably requested by these bodies and otherwise enable these bodies to discharge their duties with respect to monitoring, control and auditing of the correct use of the Investments. These controls may include on-the-spot controls of the Fund Manager and the Final Beneficiaries. To that effect, appropriate provisions shall be included in each Commitment Agreement. The Fund Manager shall ensure that compliance with eligibility requirements applicable to Final Beneficiaries is verified at the latest on the date of signature of any investment in the relevant Final Beneficiary. The Commitment Agreement(s) shall describe the monitoring, audit and control requirements that the Fund Manager shall implement.
Visibility	The Fund Manager, in line with applicable law and RRF rules, shall carry out adequate marketing and publicity campaigns aimed at making the public contribution known, as to be specified through the Commitment Agreement. To this respect, the Fund Manager shall: i. explicitly inform the portfolio companies that financing is made possible through the support of the Fund with the financial backing of the Government of the Kingdom of Spain under the RRF Regulation and the National Recovery and Resilience Plan (<i>Plan de Recuperación Transformación y Resiliencia</i>). Such information needs to be prominently included either in the contractual documentation and/or in an accompanying cover letter; ii. ensure the visibility of European Union funding, by informing Final Beneficiaries and the public of the support received from the RRF and by displaying in Commitment Agreement(s) and relevant publicity materials, if applicable, (brochures, website, banners, social media, billboards, posters etc.) the European Union flag and the statement ‘funded by the European Union – NextGenerationEU’, and other publicity obligations for publicity of the Spanish RRP, in accordance with a text to be included in the Commitment Agreement; iii. include in any press release or other marketing action that the Fund Manager may choose to make with regard to the operation that the Fund Manager has benefited from the support of the C&I Instrument under the RRF. More detailed visibility requirements may be set out in the Fund documentation.
Transfer	Under the Instrument Agreement, under certain circumstances EIF may be substituted in its role as the C&I Instrument manager. In the event of such substitution, the Kingdom of Spain, or the entity designated by the Kingdom of Spain as the new C&I Instrument manager, will assume the full discretion and responsibility to perform the tasks of the C&I Instrument and to implement the C&I Instrument operations in the Kingdom of Spain. The Commitment Agreement will provide for the possible substitution of EIF, in order to allow the transfer of the Commitment Agreement(s) to the successor entity.

Targeted Activities under the EIB Group NCJ Policy	Means (i) criminal activities such as money laundering, financing of terrorism, tax crimes (i.e., tax fraud and tax evasion) and (ii) tax avoidance practices (i.e., wholly artificial arrangements aimed at tax avoidance).
NoA	means the Commission Notice on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union (C/2016/2946, OJ C 262, 19.7.2016), as amended or replaced from time to time and as clarified by the European Commission in the practical guidance on the Market Economy Operator Test for Risk Finance Measures, issued on 26 January 2024.
Non-Compliant Jurisdictions (NCJ)	Means a jurisdiction: a) listed in Annex I of the Council conclusions on the revised EU list of non-cooperative jurisdictions for tax purposes; b) included in the OECD/G20 list of jurisdictions that have not satisfactorily implemented the tax transparency standards; c) listed in the Annex of the Commission Delegated Regulation (EU) 2016/1675 of 14 July 2016 supplementing Directive (EU) 2015/849 of the European Parliament and of the Council by identifying high-risk third countries with strategic deficiencies; d) rated as “partially compliant” or “non-compliant”, including corresponding provisional ratings, by the Organisation for Economic Cooperation and Development and its Global Forum on Transparency and Exchange of Information for Tax Purposes against the international standard on exchange of information on request; e) included in the Financial Action Task Force statement “High risk Jurisdictions subject to a Call for Action”); and/or f) included in the Financial Action Task Force statement “Jurisdictions under Increased Monitoring”, in each case as such statement, list, directive or annex may be amended and/or supplemented from time to time. Please refer to the EIB’s website⁴ for an FAQ containing the most updated reference lists of NCJs or enquire with the EIF for confirmation of NCJ status. The Fund Manager shall not be established in an NCJ, unless the operation is physically implemented in the relevant NCJ and does not present any indication that it supports actions that contribute to Targeted Activities under the EIB Group NCJ Policy.

⁴ <https://www.eib.org/en/about/compliance/tax-good-governance/faq>

Polluting Vehicles	means any vehicle that is not supported under the EIB Group Paris Alignment Framework ⁵ , as amended from time to time.
Restrictive Measures	Means, without limitation, restrictive measures adopted pursuant to the Treaty on European Union (TEU) or to the Treaty on the Functioning of the European Union (TFEU).
Other requirements	The Fund Manager shall ensure compliance with applicable law, including but without limitation rules covering the RRF and all relevant national law and regulations, State aid and money laundering, the fight against terrorism and tax fraud, as applicable. The Fund Manager, may, in line with its internal rules and procedures and particularly in the cases where fraudulent behaviour is suspected, be required to perform monitoring checks at the level of the Final Beneficiaries. The Fund documentation may also include provisions in terms of the Fund's cash flow management, as deemed necessary. The Fund shall not be established in a NCJ unless the operation is physically implemented in the relevant NCJ and does not present any indication that it supports actions that contribute to Targeted Activities under the EIB Group NCJ Policy. The Commitment Agreement(s) will include provisions, the objective of which will be to provide appropriate remedies for protecting EIF's and C&I instrument's interest in Fund in case an investment does not comply or no longer complies with the agreed eligibility criteria. The Fund Manager and the Final Beneficiaries: • shall not be established in a NCJ unless the operation is physically implemented in the relevant NCJ and does not present any indication that it supports actions that contribute to Targeted Activities under the EIB Group NCJ Policy, • shall undertake to comply with all applicable laws and regulations and the relevant applicable international and European Union standards and legislation on the prevention of money laundering, the fight against terrorism, tax fraud, tax evasion and artificial arrangements aimed at tax avoidance; and, therefore, not support actions that contribute to tax evasion or finance artificial arrangements aimed at tax avoidance, • shall acknowledge the EIB Group Anti-Fraud Policy which sets out the policy of EIF for preventing and deterring corruption, fraud, collusion, coercion, obstruction, money laundering and terrorist financing as amended from time to time, and shall take appropriate measures (as may be further specified in the relevant agreement) to (i) facilitate implementation of such policy as well as to (ii) undertake to support investigations performed by the EIF or the European

⁵ [Paris Alignment Framework – Low carbon Version 1.1 \(eib.org\)](https://www.eib.org/parisalignmentframework)

	Investment Bank, the European Public Prosecutor's Office (EPPO), or the European Anti-Fraud Office (OLAF), or the European Court of Auditors (ECA) in connection with actual or suspected prohibited conduct, • shall ensure via contractual provisions that no funds or economic resources are made available directly or indirectly to, or for the benefit of, persons or entities designated by Restrictive Measures⁶.
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3. State aid framework

Investments in Final Beneficiaries by the Underlying Funds shall be made in accordance with the NoA and applicable State Aid requirements, as amended or replaced from time to time.

The C&I Instrument is expected to meet the market economy operator test (MEOT), as described in recitals 86 and 87 of the NoA based on the presence of Independent Private Investors under pari passu conditions (as outlined below).

At the moment of the EIF's investment into an Underlying Fund, the Financial Intermediary shall undertake that the EIF's investment into the Underlying Fund will rank pari passu with Independent Private Investors investing in such Underlying Fund. An EIF's investment shall be considered to rank pari passu with Independent Private Investors when:

- a) it is made under the same terms and conditions (i.e., they share the same risks and rewards and have the same level of subordination in the same risk class) as the Independent Private Investors' investment;
- b) the EIF and Independent Private Investors intervene simultaneously; and
- c) the Independent Private Investors' intervention is of real economic significance.

The Independent Private Investors' intervention will be considered of real economic significance if at least 30% of the total commitments of the Underlying Fund at any closing are made by Independent Private Investors.

By investing in Underlying Funds with a commercial investment strategy established by the relevant Financial Intermediary for the purpose of, inter alia, obtaining profits, the starting position of the EIF and the Independent Private Investors shall be considered fully comparable with regard to the fulfilment of the criterion of recital 87(d) of the NoA

⁶ As part of its due diligence process, EIF will analyse and exclude any applicant if it or any of its key persons, including ultimate beneficial owners, are subject to EU/UN/US/UK restrictive measures (sanctions), including but not limited to sanctions related to the invasion of Ukraine by the Russian Federation.

4. Application of “Do No Significant Harm” Principle

1. EIF Policy on Exclusions and Restrictions

The Financial Intermediaries and/or the Underlying Funds shall undertake not to invest in Final Beneficiaries restricted or excluded under the EIF Policy on Exclusions and Restrictions⁷ in force as at the date on which the EIF’s investment in the relevant Underlying Fund is signed by the EIF.

2. Polluting Vehicles

The Financial Intermediaries and/or the Underlying Funds shall undertake not to invest in Final Beneficiaries with a substantial focus on the production, rental or sale of Polluting Vehicles, unless such Final Beneficiaries have adopted and published green transition plans in line with Article 19a (2)(a)(iii) of Directive 2013/34/EU prior to the Underlying Fund’s initial investment in the relevant Final Beneficiary.

For the purpose of this Section **Error! Reference source not found.**, a Final Beneficiary shall be considered to have a substantial focus on the production, rental or sale of Polluting Vehicles if such Final Beneficiary derived more than 50% of its revenues during the preceding financial year from the production, rental or sale of Polluting Vehicles.

The production, rental or sale of Polluting Vehicles shall include any activity that concerns:

- (a) the manufacture of combustion engine vehicles (sub-activity of NACE 29.10);
- (b) the wholesale and retail trade of polluting vehicles (sub-activities of NACE codes 45.11 and 45.19); and/or
- (c) rental and leasing of polluting vehicles (sub-activities of NACE 77.11 and 77.12).

3. Activities and Assets Related to Fossil Fuels

The Financial Intermediaries and/or the Underlying Funds shall undertake not to invest in Final Beneficiaries which main activity falls under the EIF’s restrictions stemming from the EIB Group Paris alignment framework in relation to fossil fuel-based energy production and related activities, as follows:

- (a) coal mining, processing, transport and storage;

⁷ “EIF Policy on Exclusions and Restrictions” means the EIF’s Policy on Exclusions and Restrictions published on the EIF’s website, as amended from time to time.

- (b) oil exploration & production, refining, transport, distribution and storage;
- (c) natural gas exploration, production, liquefaction, regasification, transport, distribution and storage; and
- (d) electric power generation, exceeding the Emissions Performance Standard of 250 grams of CO₂e per kWh of electricity, applicable to fossil fuel-fired power and cogeneration plants, geothermal and hydropower plants with large reservoirs, provided that this restriction does not apply to biomass power plants.

4. Downstream Use of Fossil Fuels

The Financial Intermediaries and/or the Underlying Funds shall undertake not to provide financing to Final Beneficiaries in the form of loans, project bonds or equivalent instruments to finance activities and assets related to the downstream use of fossil fuels except for (a) assets and activities in power and/or heat generation, as well as related transmission and distribution infrastructure, using natural gas, that are compliant with the conditions set out in Annex III of the ‘Do no significant harm’ Technical Guidance (2021/C58/01) and (b) activities and assets for which the use of fossil fuels is temporary and technically unavoidable for the timely transition towards a fossil fuel free operation.

5. EU Emission Trading System

The Financial Intermediaries and/or the Underlying Funds shall undertake not to invest in Final Beneficiary Transactions in the form of loans, project bonds or equivalent instruments to finance activities and assets under the EU Emission Trading System (ETS) achieving projected greenhouse gas emissions that are not lower than the relevant benchmarks set out in the Commission Implementing Regulation (EU) 2021/447.

6. Waste Disposal

The Financial Intermediaries and/or the Underlying Funds shall undertake not to invest in Final Beneficiary Transactions in the form of loans, project bonds or equivalent instruments to finance activities and assets related to:

- (a) waste landfills and incinerators, provided that this restriction shall not apply to existing plants, where the actions under this measure are for the purpose of increasing energy efficiency, capturing exhaust gases for storage or use or recovering materials from incineration ashes, provided such actions under this measure do not result in an increase of the plants’ waste processing capacity or in an extension of the lifetime of the plants, for which evidence shall be provided at plant level; and/or
- (b) mechanical biological treatment plants, provided that this restriction shall not apply to actions under this measure in existing mechanical biological treatment plants, where the actions under this measure are for the purpose of increasing energy efficiency or retrofitting to recycling operations of separated waste to compost bio-waste and anaerobic digestion of bio-waste, provided such actions under this measure do not result in an increase of the plants’ waste processing capacity or in an extension of the lifetime of the plants, for which evidence is provided at plant level.

7. Green Transition Plans

Notwithstanding the foregoing, the Financial Intermediaries and/or the Underlying Funds shall be entitled to invest in equity, quasi equity, corporate bonds or equivalent instruments (but, for the avoidance of doubt, not in loans, project bonds or equivalent instruments) issued by a Final Beneficiary engaging in any of the activities referred to in Sections **Error! Reference source not found.**, 4, **Error! Reference source not found.** and **Error! Reference source not found.** above, provided that if any Final Beneficiary derived more than 50% of its revenues during the preceding financial year from the activities referred to in Sections **Error! Reference source not found.**, 4, **Error! Reference source not found.** and **Error! Reference source not found.** above, the relevant Financial Intermediary shall cause such Final Beneficiary to adopt and publish green transition plans in line with Article 19a (2)(a)(iii) of Directive 2013/34/EU.

8. Environmental Legislation

The Financial Intermediaries and the Underlying Funds shall commit under the relevant Commitment Agreement to comply, and to cause any Final Beneficiary receiving financial support from them to comply, with the EU and national environmental and climate laws and regulations to which they are subject.