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COMMUNICATION FROM THE COMMISSION

Guidance concerning the treatment of equity exposures incurred under legislative programmes according to Article 133(5) of Regulation (EU) No 575/2013

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The Commission has identified the promotion of competitiveness as a key priority, as outlined in the Competitiveness Compass. ⁽¹⁾ Fostering investments in the most innovative companies and in the most strategic sectors is crucial to ensure the future prosperity and security of the European Union.

In response to the global financial crisis, the European Union embarked on a wide-ranging reform of the prudential framework to ensure the resilience of its banking system in line with the international standards issued by the Basel Committee on Banking Supervision. As a result of these reforming efforts, the EU banking system is now among the most stable and well-capitalised in the world. Given its strengths and stability, the EU banking system can play an important role to support the financing of innovative companies and strategic sectors, amongst others.

Equity is often the only sustainable source of financing for a large number of the fastest growing EU companies as they often do not have the positive cash flows needed to service debt, they lack the assets to borrow via secured finance, or they are unable to get a rating, or lack the operational capacity to tap the public securities markets yet.

In its 19 March 2025 Communication on the Savings and Investments Union ⁽²⁾, the Commission has committed to make use of all available instruments in order to foster and develop the financing ecosystem, including by better leveraging on public schemes to help mobilise private investments for fast-growing companies and address barriers that restrict the amount of European capital available to finance European innovation.

Building on the positive experience of member jurisdictions and acknowledging the critical role played in advancing key public welfare objectives by public-private investments and the advantageous risk-return profile thereof, the standards of the Basel Committee on Banking Supervision foresee that equity exposures incurred under legislative programmes can be assigned a risk weight more favourable than that assigned to other equity exposures.

⁽¹⁾ Communication from the Commission to the European Parliament, the European Council, the Council, the European Central Bank, the European Economic and Social Committee and the Committee of the Regions, A Competitiveness Compass for the EU, COM (2025) 30 final.

⁽²⁾ Communication from the Commission to the European Parliament, the European Council, the Council, the European Central Bank, the European Economic and Social Committee and the Committee of the Regions, Savings and Investments Union - A Strategy to Foster Citizens' Wealth and Economic Competitiveness in the EU, COM(2025) 124 final.

Consistently with the standards of the Basel Committee on Banking Supervision, since 1 January 2025, Article 133(5) of Regulation (EU) No 575/2013 (CRR) ⁽³⁾ allows institutions to apply a favourable treatment for equity exposures incurred under legislative programmes to stimulate specific sectors of the economy. To be eligible, such legislative programmes must provide significant subsidies or guarantees for the investment of the institutions, involve some form of government oversight, and contain restrictions on the equity investment. Subject to the prior permission of competent authorities, institutions can apply the favourable treatment to equity exposures incurred under legislative programmes up to the part of such equity exposures that in aggregate does not exceed 10 % of the institutions' own funds.

A consistent application of this provision will ensure that the EU banking sector is not unduly hindered from contributing to the EU's strategic priorities and the growth of the EU economy and that the stability and the level playing field of the single market is preserved. Furthermore, a common and transparent understanding of this provision will encourage cross-border investment and competition, thereby making it easier for companies to raise equity financing from investors throughout the EU. This integration strengthens the single market by connecting capital markets and promoting economic growth and innovation in line with the objectives of the Savings and Investments Union.

In order to achieve these objectives, the Commission provides guidance on the use of the favourable prudential treatment for equity exposures incurred under EU, national, and regional legislative programmes in the Appendix to this Communication.

The guidance is without prejudice to the rules and procedures applicable under the State aid framework. Legislative programmes which do not constitute State aid could still support the investing institution and thus be considered significant subsidies and guarantees for the purposes of Article 133(5) provided that they meet the conditions thereof as clarified by this Communication.

As the application of the prudential treatment of Article 133(5) CRR can only be approved in presence of legislative programmes, the Communication clarifies their expected characteristics. Thus, legislative programmes are schemes governed by a common arrangement to stimulate specific sectors and based on acts of general application such as national statutes, EU regulations, and EU decisions, notably those related to the implementation of the EU budget. On the contrary, measures providing subsidies or guarantees to individual beneficiaries, labour benefits, and the statutes of national promotional banks and institutions do not meet the definition of legislative programme.

In line with its prudential focus, the present Communication remains sector-neutral, acknowledging that the decision of which sectors should be targeted by legislative programmes pertains to EU, national and regional authorities. This allows for covering programmes that support financing strategic EU priorities, including the digital, green and social transitions, and the strengthening of EU defence and security. It could also include legislative programmes developed and financed by the EU and Member States which aim at fostering strategic investments in third countries. Legislative programmes developed and financed by third-country authorities are outside the scope of this Communication.

⁽³⁾ Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1, ELI: <http://data.europa.eu/eli/reg/2013/575/2025-01-01>).

Institutions can be granted the approval to apply the favourable treatment set forth in Article 133(5) of the CRR not only on equity exposures incurred under legislative programmes developed and financed by the EU or the Member State in which they are authorised, but also for those developed and financed by other Member States.

Since legislative programmes must provide subsidies and guarantees, the present Communication clarifies that the requirement in Article 133(5) of the CRR would be met when the public sector provides equity financing, debt financing, grants, and/or guarantees resulting in minimum levels of co-investment and/or a minimum reduction of the exposure value of the co-investing institutions at the inception of each legislative programme. Institutions can apply the favourable prudential treatment to equity exposures incurred under legislative programmes which subsequently achieve lower levels of co-investment and exposure value reduction if the dilution of the participation of the public sector is due to their success in attracting private capital.

As legislative programmes must involve government oversight implying executive powers, such schemes will be eligible to the extent that legislative programmes contain non-discriminatory and transparent screening procedures as well as arrangements to monitor that the public financial support is used according to the objectives thereof. In light of the differences between legal and institutional settings across the EU, the Communication does not envisage any specific arrangements to achieve such objectives.

As the CRR requires that the legislative programmes must contain restrictions on equity investments, the Communication provides a non-exhaustive list of examples of restrictions.

In light of the nature of their mandate, financing and funding arrangements, and robust governance, legislative programmes developed and supported by the EIB, the EIF, and/or financed and/or guaranteed by the EU budget are considered compliant with the present Communication.

To enhance the transparency for market participants across the single market and help competent authorities to take timely decisions pursuant to Article 133(5) of the CRR, the Commission will maintain a register of the legislative programmes notified by Member States. The register will also list the legislative programmes financed and/or guaranteed by the EU budget, EIB, and/or the EIF which aim at fostering equity financing in EU companies. The final decision on whether individual institutions can apply the favourable treatment of Article 133(5) of the CRR rests with the competent authorities which have to consider the specific prudential situation of those institutions.

Member States (for both national and regional legislative programmes, including those financed by their respective national promotional banks and institutions) should notify the Commission the title and legal basis of each legislative programme for which they seek the inclusion in the register, outline its main conditions, and include an explanation demonstrating how it complies with the requirements set forth in Article 133(5), as further elaborated in this Communication. The Commission will provide a standardised template for the notification.

The interpretation of the criteria of Article 133(5) CRR set out in the present Communication should apply *mutatis mutandis* to insurance and reinsurance undertakings

for the purposes of Article 173(1) of Commission Delegated Regulation (EU) 2015/35 as amended. ⁽⁴⁾

This Guidance is intended to assist Member States, competent authorities and institutions in the application of Article 133(5) CRR. Only the Court of Justice of the European Union is competent to authoritatively interpret Union law.

APPENDIX

1. SCOPE

1. Article 133(5) CRR covers “*equity exposures incurred under legislative programmes to stimulate specified sectors of the economy*”.

Legislative programmes are schemes providing public financial support in the form of subsidies and guarantees to undertakings operating in specific sectors on the basis of an act of general and abstract application, such as national statutes, EU regulations, and EU decisions, notably those related to the implementation of the budget.

2. The following measures do not meet the definition of legislative programmes: ad hoc public interventions designed for individual situations or individual beneficiaries, such as for instance the investment by national promotional banks in large listed enterprises; the statutes of national promotional banks and institutions; programmes targeting the whole economy such as labour benefits; purely private initiatives without any direct public intervention such as venture capital schemes set up by banks.
3. The Commission considers that programmes which – besides meeting the requirements of Article 133(5)(a-c) CRR – support one or more specific economic sectors such as those listed in the Competitiveness Compass or in the ReArm Europe Plan/Readiness 2030 plan fall within the notion of legislative programmes for the purposes of Article 133(5) CRR.
4. It is possible that other sectors might be deemed eligible for legislative programmes at the initiative of the EU or national authorities.

2. ELIGIBILITY CONDITIONS OF LEGISLATIVE PROGRAMMES FOR THE PURPOSES OF ARTICLE 133(5) CRR

5. For the purposes of Article 133(5) CRR, legislative programmes must contain financial and legal arrangements mitigating the credit risk of the investing institutions. In particular, legislative programmes should provide significant subsidies or

⁽⁴⁾ Commission Delegated Regulation (EU) 2015/35 of 10 October 2014 supplementing Directive 2009/138/EC of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) OJ L 12, 17.1.2015, p. 1, ELI: http://data.europa.eu/eli/reg_del/2015/35/oj.

guarantees for the investment to the institution; involve government oversight; and contain restrictions on equity investment.

6. Programmes developed and supported by the EIB, the EIF, and/or financed and/or guaranteed by the EU budget which aim at fostering equity financing are considered compliant with the conditions set by Article 133(5) CRR as specified by the present Communication. This presumption does not exclude the eligibility of programmes administered by other EU bodies, or national promotional banks or institutions which carry out financial activities on a professional basis and which have been given mandate by a Member State or a Member State's entity at central, regional or local level to carry out development or promotional activities, where these meet the criteria set out in this Communication.

2.1. Significant subsidies and guarantees for the investment to the institution

7. Article 133(5)(a) CRR states that legislative programmes should provide “*significant subsidies or guarantees, including by multilateral development banks, public development credit institutions as defined in Article 429a(2) or international organisations, for the investment to the institution*”.
8. The term “subsidies” means funded public interventions such as grants, equity, and debt financing, whereas the term “guarantees” means unfunded public measures. For the purposes of art 133(5) CRR, neither subsidies nor guarantees need to meet the requirements set by Part Three, Title II, Chapter 4 of the CRR to be considered eligible.
9. Subsidies and guarantees can be considered significant for the purposes of Article 133(5) CRR under different conditions: a) if the legislative programme involves the co-investment into funds investing in equity, where the public participation is at least 10% of the total amount of the fund; or b) if the co-investment by the public sector is at least 10% of the capital of an entity eligible under the respective legislative programme; and/or c) if the public intervention achieves a reduction of the exposure value of institutions by at least 20%. The compliance with such conditions should be assessed at the first round of funding of each legislative programme. During the subsequent stages of each legislative programme, the levels of co-investment by the public sector and/or the reduction of the exposure value of the institutions can vary if they reflect the positive performance of the investment or an enlarged pool of investors.
10. If provided under legislative programmes within the meaning of the present Communication, subsidies and guarantees compatible with the State aid framework should be automatically considered eligible under Article 133(5)(a) CRR.
11. Eligible providers of subsidies and guarantees are the entities listed in Article 133(5)(a) CRR and other EU public sector entities such as EU bodies and institutions, central and regional governments of Member States, and EU and national promotional banks and institutions.
12. Where applicable, national promotional banks and institutions subject to the CRR can apply the 100% risk weight to the equity exposures they incur under the legislative programmes for which they have provided subsidies and/or guarantees, provided that all the requirements set by Article 133(5) as specified by the present Communication are met and the prior approval by the respective competent authorities is granted.

13. The subsidies and guarantees can be provided to the investing institutions or the investees including via co-investment structures or intermediary vehicles established in the EU under EU or national legislative programmes.

2.2. Government oversight

14. Article 133(5)(b) CRR requires that legislative programmes must involve “*some form of government oversight*”.
15. For the purposes of Article 133(5), government means public authorities with some form of executive powers, including central and regional governments of Member States, the European Commission, European and national public financial institutions, agencies and bodies.
16. The governmental authorities or agencies tasked with the oversight may not necessarily be the providers of the subsidies and the guarantees under a legislative programme.
17. Legislative programmes should contain robust and transparent criteria and screening procedures to select the beneficiaries.
18. The government oversight should also take place after the screening process to confirm the positive selection of the investments on an on-going basis, including via the periodical monitoring of their performance or of their continuing compliance with the criteria of the legislative programme concerned.

2.3. Restrictions on the equity investment

19. Article 133(5)(c) CRR states that legislative programmes must contain “*restrictions on the equity investment, such as limitations on the size and types of businesses in which the institution is investing, on allowable amounts of ownership interests, on the geographical location and on other relevant factors that limit the potential risk of the investment for the investing institution*”.
20. For example, legislative programmes can contain one or more of the following restrictions to comply with Article 133(5)(c) CRR:
 - (1) absolute and relative caps to size of the investment;
 - (2) focusing the investment on EU-based companies;
 - (3) focusing the investment to undertakings meeting the definition of SME, small mid-cap, start-up or scale-up;
 - (4) targeting a diversified portfolio of undertakings under the equity investment, in terms of the number of undertakings, geographic distribution and/or year of investment.
 - (5) non-*pari passu* arrangements.

3. MONITORING AND ENFORCEMENT

21. Article 133(5) CRR tasks competent authorities with granting institutions the prior permission to assign a risk weight of 100% to equity exposures incurred under eligible legislative programmes.
22. Institutions should seek the permission of the competent authority when they intend to apply the 100% risk-weight to the equity exposures incurred under each individual legislative programme for the first time. Without prejudice to the competences and the powers of competent authorities, the prior approval should not be needed for subsequent variations of the size and/or composition of the equity exposures incurred under a legislative programme for which the prior approval had been granted.
23. Article 133(5) includes the safeguard that the equity exposures benefitting from the 100% risk-weight for eligible programmes must not exceed 10% of the institutions' own funds. In line with the definition of the CRR, the requirement should be calculated as follows: the denominator consist of the own funds, to be understood as the sum of Tier 1 capital and Tier 2 capital of the institution; the numerator of such a requirement consist of all the equity exposures incurred under legislative programmes that meet the requirements of Article 133(5) CRR. Institutions should be able to demonstrate the compliance with this requirement when they seek the prior permission and every time the competent authorities demand to do so in the course of the exercise of their supervisory mandate.
24. The equity exposures incurred under legislative programmes beyond the 10% own funds threshold should be risk-weighted as normal.
25. To provide transparency to competent authorities and market participants, the Commission will maintain a public register of legislative programmes. This is without prejudice to the assessment by competent authorities of the individual requests of each institution and of their prudential situation. The objective of the register is also to enable competent authorities to take decisions in a short timeframe.
26. Member States (also on behalf of their respective national promotional banks and institutions), should notify the legislative programmes for which they seek the inclusion in the above-mentioned register to the Commission. The Commission will provide the template for the notification, having regard to the need to keep the process simple. The notification should contain the title of the legislative programme, its main conditions and an explanation of why it meets the requirements set by Article 133(5) as specified by the present Communication.
27. For completeness and transparency, the above-mentioned register should also list programmes developed and supported by the EIB or the EIF or financed and/or guaranteed by the EU budget which aim at fostering equity financing.
28. The Commission will review the present Communication within four years after its publication, particularly taking into account feedback from the supervisory experience of competent authorities.