# Annex 1 – Cover Letter

**To: European Investment Bank**

Attention:

|  |  |
| --- | --- |
| **Call for Expression of Interest No.:** |  |
| **Deadline for the submission of the Expression of Interest :** |  |
| **Expression of Interest for Financial Instrument:** |  |
| **Applicant submitting the Expression of Interest:** | **\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_**  **(company name, registration number / standard identification code, if applicable)** |

Madam/Sir,

Herewith we are submitting our Expression of Interest on behalf of [⏺name Applicant] in response to the Call for Expression of Interest No. [⏺] in the framework of the FoF implemented through the European Investment Bank (“EIB”) acting as agent of Kingdom of Spain (“KoS”) to implement a financial instrument. Capitalised expressions utilised herein shall have the meaning attributed to them in the above-mentioned Call for Expression of Interest.

The undersigned, duly authorised to represent the [⏺name of Applicant], by signing this form, certifies/certify and declare(s) that the information contained in this Expression of Interest and its annexes is complete and correct in all its elements, and that the Applicant has examined and accepts without any reservation or restriction the entire contents of the Call for Expression of Interest.

The undersigned duly authorised to represent [⏺name of Applicant], by signing this form certifies and declares to have read the EIB Anti-Fraud Policy and declares not to have made nor to make any offer of any type whatsoever from which an advantage can be derived under the Operational Agreement and not to have granted nor to grant, not to have sought nor to seek, not to have attempted nor to attempt to obtain, and not to have accepted nor to accept, any advantage, financial or in kind, to or from any party whatsoever, constituting an illegal practice or involving corruption, either directly or indirectly, as an incentive or reward relating to signing of the Operational Agreement. The Applicant acknowledges and agrees that, if selected, it shall accept the obligations listed in the Call for Expression of Interest.

The undersigned duly authorised to represent [⏺name of Applicant], by signing this form, certifies and declares that the Applicant shall comply with relevant standards and applicable legislation on the prevention of money laundering, the fight against terrorism and tax fraud and that is not established and shall not maintain business relations with entities incorporated in territories whose jurisdictions do not cooperate with the European Union in relation to the application of the internationally agreed tax standard.

The undersigned, duly authorised to represent [⏺name of Applicant], by signing this form, certifies and declares that [⏺name Applicant] does not perform illegal activities according to the applicable legislation in the countries of establishment.

Yours sincerely,

Signature(s): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Stamp of the Applicant (if applicable): \_\_\_\_\_\_\_\_\_\_

Name and position in capitals: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Applicant’s name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Place: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date (day/month/year): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Annexes to be submitted with the Expression of Interest:**

1. Expression of Interest (in the form set out in Annex 2a)
2. Deed of Undertaking (in the form set out in Annex 2b)
3. Declarations to be made by the Applicant (in the form set out in Annex 3 and Annex 4.
4. Business Plan (in line with the provisions set out in Section 7))

# Annex 2a – Expression of Interest

EXPRESSION OF INTEREST

\_

(name of Applicant)

\_

(place of signature)

\_

(date)

**1.** **Information about the Applicant**

**1.1. General information about the Applicant**

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Company Name**\* (Full legal name) | |  | | | | | | | |
| Address\* | |  | | | | | | | |
| Postal code & City\* | |  | | | | | | | |
| Country \* | |  | | | | | | | |
| Legal form of the Applicant\* | |  | | | | | | | |
| Date of registration (entry into the trade register)\* | |  | | | | | | | |
| Country of registration\* | |  | | | | | | | |
| Registration number \* (copy of registration certificate to be attached) | |  | | | | | | | |
| VAT registration number\* | |  | | | | | | | |
| SME | |  | yes | |  | no | | *Please tick the box as applicable* | |
| *SMEs are defined in Commission Recommendation 2003/361/EC as companies with fewer than 250 staff and a turnover not exceeding 50 million euros* | | | | | | | | | |
|  | | | | | | | | | |
| **Contact Person 1**\* |  | | | **Contact Person 2**\* | | | | |  |
| Work Title\* |  | | | Work Title\* | | | | |  |
|  | | | | | | | | | |
| E-mail address 1\* |  | | | E-mail address 1\* | | | | |  |
| E-mail address 2 |  | | | E-mail address 2 | | | | |  |
|  | | | | | | | | | |
| Telephone number 1\* |  | | | Telephone number 1\* | | | | |  |
| Telephone number 2 |  | | | Telephone number 2 | | | | |  |
|  | | | | | | | | | |
| I hereby certify the above information to be true. | | | NAME | | | |  | | |
|  | | | TITLE | | | |  | | |
|  | | | DATE | | | |  | | |
| Signature\* | | | | | | | | | |
| *NB: All mandatory fields (marked by an asterisk\*) must be filled in.*  *Legal Disclaimer: the Applicant is responsible for the above information. The EIB does not accept any responsibility or liability for the accuracy, content, completeness, legality, or reliability of the information received via this form* | | | | | | | | | |

# Annex 2b – Deed of Undertaking

**1. Organisation of the Applicant**

1.1 Please tick the box below, as applicable:

|  |  |  |  |
| --- | --- | --- | --- |
| 🞏 | 🞏 | 🞏 | 🞏 |
| Sole Applicant  with no declared subcontractor | Sole Applicant  with declared subcontractor(s) | Consortium  (joint offer by a group of economic operators)  with no declared subcontractor | Consortium  (joint offer by a group of economic operators)  with declared subcontractor(s) |

1.2 In case of a sole Applicant, please provide the information in the table below:

|  |  |  |  |
| --- | --- | --- | --- |
| Name of the Applicant | Legal form | Address in full | Name of the authorised representative |
|  |  |  |  |

1.3 In case of consortium, please provide the information in the tables below:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Information on the leader of the consortium[[1]](#footnote-1)** | | | | |
| Name of the consortium leader | Legal form | Address in full | Name of the authorised representative | Roles, activities and responsibilities within the consortium[[2]](#footnote-2) |
|  |  |  |  |  |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Information on the members of the consortium** | | | | |
| Name of the consortium member | Legal form | Address in full | Name of the authorised representative | Roles, activities and responsibilities within the consortium[[3]](#footnote-3) |
|  |  |  |  |  |
| *(please add as many lines to the table as necessary)* |  |  |  |  |

1.4 In case of subcontracting, please provide the information in the table below:

|  |  |  |  |
| --- | --- | --- | --- |
| Name of the subcontractors | Address in full | Reason for subcontracting and scope of subcontracting[[4]](#footnote-4) | Value of the subcontracted part of contract (in EUR **and** as a percentage of estimated total amount of contract) |
|  |  |  |  |
| *(please add as many lines to the table as necessary)* |  |  |  |

**Appendix 1 - Consortium member declaration**

To be completed and signed by **each** member of the consortium in the case that a consortium submits an offer/EoI.

I the undersigned, as an authorized representative of:

|  |  |
| --- | --- |
| Applicant Name |  |
| Address |  |

**hereby declare**

* the intention to collaborate with *[name of the consortium leader]* in the execution of the tasks related to the Call for Expression of Interest referenced below;
* that I have appointed *[name of the consortium leader]* as the leader of the consortium which (i) will represent the consortium and act as the single contact point for communication and (ii) shall also have full authority to legally bind the consortium and each of its members (including the entity represented by me), and (iii) shall be responsible for the administrative management of the Operational Agreement on behalf of all other consortium members (including the entity represented by me).
* that, if successful in the award of the tender referenced below, I undertake to provide *[name of the consortium leader]* with the necessary resources to perform the services which *[name of the consortium leader]*  intends to entrust to us under that contract;
* to have examined and accepted in full the content of the “Call for expression of Interest” and all their annexes:

|  |  |
| --- | --- |
| Call for Expression of Interest Number |  |
| Title |  |

**I also hereby acknowledge to have taken special note of and subsequently declare**

* that I, or the entity I represent, are not in any of the situations concerning exclusion and conflict of interest;
* that I have provided a duly signed Declaration on honour on exclusion criteria and selection criteria and on absence of conflict of interest (Annex 4);
* to have examined and accepted the provisions set out in the Call for Expression of Interest in their entirety without reservation or restriction.

|  |  |
| --- | --- |
| Name: |  |
| Signature: |  |
| Position: |  |
| Date: |  |

**Appendix 2: Subcontractor declaration**

To be completed and signed by **each** respective subcontractor in the case that tasks will be subcontracted.

I the undersigned, as an authorized representative of:

|  |  |
| --- | --- |
| Subcontractor’s Name |  |
| Address |  |

**hereby declare**

* the intention to collaborate with *[name of the Applicant]* in the execution of the tasks related to the Call for Expression of Interest referenced below;
* hereby declareto have examined and accepted in full the Call for Expression of Interest referenced below:

|  |  |
| --- | --- |
| Call for Expression of Interest |  |
| Title |  |

**I also hereby acknowledge to have taken special note of and subsequently declare**

* that I, or the entity I represent, are not in any of the situations concerning exclusion and conflict of interest;
* that, I have provided a duly signed Declaration on honour on exclusion criteria and selection criteria and on absence of conflict of interest (**Annex 4**) ;
* to have examined and accepted the provisions set out in the Call for Expression of Interest without reservation or restriction;

|  |  |
| --- | --- |
| Name: |  |
| Signature: |  |
| Position: |  |
| Date: |  |

# Annex 3 – Declaration to be made by the Applicant

|  |  |  |
| --- | --- | --- |
| 1. | Name of the Applicant |  |
| 2. | Type of business |  |
| 3. | Represented by (name and position)  In case of the EoI being submitted by a consortium, a power of attorney or a cooperation agreement authorising the attorney to submit the EoI and the Business Plan and to represent the consortium at all stages of the selection procedure on behalf of the partners jointly applying for the contract should be submitted | |
| 4. ESMA Authorisation / Custodian Bank etc. where applicable. | | |
| Questions 5 to 11 should be answered on behalf of the Applicantand any proposed subcontractors / consortium members. These questions will be assessed on a pass/fail basis. Responses should be stated in the form of “Yes”/“No” or “Certified” with accompanying detail provided where requested, either in the space provided or on separate sheets which should be referenced by the applicant. | | |
| 5. | Are there any liens or charges outstanding against the organisation at a commercial court (or any other relevant authority)? | |
| 6. | Is the Applicant in receivership (or the subject of equivalent proceedings)?  If so:  (a) date of the receivership order:  (b) on what terms is the applicant authorised to carry on its activity? Specify in particular:  the name and address of the receiver(s):.  the date and period of validity of the authorisation given by the official receiver or the court to continue the business or activity: | |
| 7. | The Applicant certifies that neither the organisation nor any of the persons authorised to act on its behalf are in liquidation | |
| 8. | Has the Applicant been the subject of any sentence, disqualification or penalty regarding the proper pursuit of commercial or industrial occupations, or under the rules on prices and competition? | |
| 9. | Has the Applicant or any of the persons authorised to act on its behalf a conflict of interest that may affect the performance of the tasks referred to in this Call for Expression of Interest? | |
| 10. | The Applicant certifies that it has complied with its tax and social obligations | |
| 11. | The Applicant certifies that it is entitled to carry out to implement Financial Instruments under the laws and regulations of the EU and Spain | |
| 12. | The Applicant certifies that the information given above is correct | |

Done aI................................................ (dI) .................................................

STAMP NAME(S) SIGNATURE(S)

# Annex 4 – Declaration on Honour on Exclusion Criteria and absence of Conflict of Interest

|  |  |
| --- | --- |
|  | **Call for Expression of Interest to select financial intermediaries to implement a financial instrument**  **Declaration on Honour on Exclusion Criteria and absence of Conflict of Interest** |

The undersigned [*insert name of the signatory of this form*], representing:

|  |  |
| --- | --- |
| (*only for natural persons*) himself or herself | (*only for legal persons*) the following legal person: |
| ID or passport number:    (the ‘economic operator’) | Full official name:  Official legal form:  Statutory registration number**:**  Full official address:  VAT registration number:    (the ‘economic operator’) |

I – Situations of exclusion

|  |  |  |
| --- | --- | --- |
| declares that: | YES | NO |
| **A. Grounds relating to criminal convictions (Art. 57(1) of Directive 2014/24/EU)** |  | |
| **(a) Participation in a criminal organisation**  Has the economic operator itself or any person who is a member of its administrative, management or supervisory body or has powers of representation, decision or control therein been the subject of a conviction by final judgment for participation in a criminal organisation? As defined in Article 2 of Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime (OJ L 300, 11.11.2008, p. 42). |  |  |
| **(b) Corruption**  Has the economic operator itself or any person who is a member of its administrative, management or supervisory body or has powers of representation, decision or control therein been the subject of a conviction by final judgment for corruption? As defined in Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union, OJ C 195, 25.6.1997, p. 1, and in Article 2(1) of Council Framework Decision 2003/568/JHA of 22 July 2003 on combating corruption in the private sector (OJ L 192, 31.7.2003, p. 54). This exclusion ground also includes corruption as defined in the national law of the contracting authority (contracting entity) or the economic operator. |  |  |
| **(c) Fraud** |  |  |

|  |  |  |
| --- | --- | --- |
| Has the economic operator itself or any person who is a member of its administrative, management or supervisory body or has powers of representation, decision or control therein been the subject of a conviction by final judgment for fraud? Within the meaning of Article 1 of the Convention on the protection of the European Communities' financial interests (OJ C 316, 27.11.1995, p. 48). |  |  |
| **(d) Terrorist offences or offences linked to terrorist activities**  Has the economic operator itself or any person who is a member of its administrative, management or supervisory body or has powers of representation, decision or control therein been the subject of a conviction by final judgment for terrorist offences or offences linked to terrorist activities? As defined in Articles 1 and 3 of Council Framework Decision of 13 June 2002 on combating terrorism (OJ L 164, 22.6.2002, p. 3). This exclusion ground also includes inciting or aiding or abetting or attempting to commit an offence, as referred to in Article 4 of that Framework Decision. |  |  |
| **(e) Money laundering or terrorist financing**  Has the economic operator itself or any person who is a member of its administrative, management or supervisory body or has powers of representation, decision or control therein been the subject of a conviction by final judgment for money laundering or terrorist financing? As defined in Article 1 (3), (4) and (5) of Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (Text with EEA relevance) |  |  |
| **(f) Child labour and other forms of trafficking in human beings**  Has the economic operator itself or any person who is a member of its administrative, management or supervisory body or has powers of representation, decision or control therein been the subject of a conviction by final judgment for child labour and other forms of trafficking in human beings? As defined in Article 2 of Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA (OJ L 101, 15.4.2011, p. 1). |  |  |
| |  |  | | --- | --- | | **B. Grounds relating to the payment of taxes or social security contributions (Art. 57(2) of** | | | **Directive 2014/24/EU)** |  | | | |
| **(a) Payment of taxes**  Has the economic operator breached its obligations relating to the payment of taxes and has this breach been established by a judicial or administrative decision having final and binding effect in accordance with the legal provisions of the country in which it is established or with those of the Member State of the contracting authority? |  |  |
| **(b) Payment of social security**  Has the economic operator breached its obligations relating to the payment social security contributions and has this breach been established by a judicial or administrative decision having final and binding effect in accordance with the legal provisions of the country in which it is established or with those of the Member State of the contracting authority? |  |  |

|  |  |  |
| --- | --- | --- |
| **C. Grounds relating to insolvency, conflicts of interests or professional misconduct (Art. 57(4) of Directive 2014/24/EU)** | | |
| **(a) Breaching of obligations in the fields of environmental, social and labour law** Has the economic operator breached its obligations in the fields of environmental, social or labour law? As referred to for the purposes of this procurement in the relevant notice or the procurement documents or in Article 18(2) of Directive 2014/24/EU. |  |  |
| **(b) Bankruptcy**  Is the economic operator bankrupt? |  |  |
| **(c) Insolvency**  Is the economic operator the subject of insolvency or winding-up proceedings? |  |  |
| **(d) Arrangement with creditors**  Is the economic operator in an arrangement with creditors? |  |  |
| **(e) Analogous situation to bankruptcy under national law**  Is the economic operator in any analogous situation to bankruptcy arising from a similar procedure under national laws and regulations? |  |  |
| **(f) Assets being administered by liquidator**  Are the assets of the economic operator being administered by a liquidator or by the court? |  |  |
| **(g) Business activities are suspended**  Are the business activities of the economic operator suspended? |  |  |
| **(h) Agreements with other economic operators aimed at distorting competition**  Has the economic operator entered into agreements with other economic operators aimed at distorting competition? |  |  |
| **(i) Guilty of grave professional misconduct**  Is the economic operator guilty of grave professional misconduct which renders its integrity questionable? Where applicable, see definitions in national law, the relevant notice or the procurement documents. |  |  |
| **(j) Early termination, damages or other comparable sanctions**  Has the economic operator shown significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract, a prior contract with a contracting entity or a prior concession contract, which led to early termination of that prior contract, damages or other comparable sanctions? |  |  |
| **(k) Serious misinterpretation**  Has the economic operator:   1. been guilty of serious misrepresentation in supplying the information required for the verification of the absence of grounds for exclusion or the fulfilment of the selection criteria, 2. withheld such information, or 3. is not able to submit the supporting documents required pursuant to section IV of this declaration? |  |  |
| **(l) Undue Influence**  Has the economic operator undertaken to unduly influence the decision-making process of the contracting authority, to obtain confidential information that may confer upon it undue advantages in the procurement procedure or to negligently provide misleading information that may have a material influence on decisions concerning exclusion, selection or award? |  |  |
| **D. Other Grounds** | | |
| **(a) EIB Exclusion Policy**  Is the economic operator the subject of a current Exclusion Decision issued by the EIB which makes them ineligible for the award of contracts by the EIB? If so, please provide brief description: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  |  |
| **(b) Sanctions**  Is the economic operator itself, or any person who is a member of its administrative, management or supervisory body or has powers of representation, decision or control therein, the target of a sanction or restrictive measure**[[5]](#footnote-5)** imposed or administered by: |  |  |
| i. the European Union**[[6]](#footnote-6)**; or |  |  |
| ii the United States of America; or |  |  |
| iii the United Kingdom |  |  |

II **– Conflict of Interest**

|  |  |  |
| --- | --- | --- |
|  | YES | NO |
| Is the economic operator aware of any **conflict of interest**\*, as indicated in national law, the relevant notice or the procurement documents due to its participation in the procurement procedure?  **If yes**, please provide details: |  |  |
| Has the economic operator or an undertaking related to it **advised** the contracting authority or contracting entity or otherwise been **involved in the preparation** of the procurement procedure?  **If yes**, please provide details: |  |  |

\**A conflict of interest could arise in particular as a result of direct or indirect economic, financial, political or national affinity, family, emotional life or any other shared interest.*

III – Remedial measures

If the economic operator declares one of the situations of exclusion listed in sections I or II above, it can provide evidence to the effect that measures taken by the economic operator are sufficient to demonstrate its reliability despite the existence of a relevant ground for exclusion. Such measures, which will be reviewed by the contracting authority in light of Article 57 of Directive 2014/24/EU, may include e.g. technical, organisational and personnel measures to prevent further occurrence, compensation of damage or payment of fines. The relevant documentary evidence which illustrates the remedial measures taken must be provided in an annex to this declaration.

The provision of remedial measures does not apply to:

* point I.D (Other Grounds), except where a natural person who is a member of the economic operator’s administrative, management or supervisory body or has powers of representation, decision or control therein is the target of a sanction or restrictive measure, in which the case the economic operator may propose as a remedial measure that the natural person(s) concerned shall not be involved in the proposed contract, or
* during a period of exclusion from participation in procurement or concession award procedures imposed by a final judgment in the Member States where the judgment is effective.

IV – Evidence upon request

Upon request and within the time limit set therein, the contracting authority will require the economic operator to submit the following means of proof as evidence for the absence of grounds for exclusion declared in sections I and II of this declaration:

* 1. as regards point I.A (grounds relating to criminal convictions), the production of an extract from the relevant register, such as judicial records or, failing that, of an equivalent document issued by a competent judicial or administrative authority in the Member State or country of origin or the country where the economic operator is established showing that those requirements have been met; and
  2. as regards point I.B (payment of taxes or social security contributions) and paragraphs (b) – (g) of point I.C (insolvency, conflicts of interests or professional misconduct), a certificate issued by the competent authority in the Member State or country concerned.

Where the Member State or country in question does not issue such documents or certificates, or where these do not cover all the cases specified in points I.A, I.B or in paragraphs (b) – (g) of point I.C, they may be replaced by a declaration on oath or, in Member States or countries where there is no provision for declarations on oath, by a solemn declaration made by the person concerned before a competent judicial or administrative authority, a notary or a competent professional or trade body, in the Member State or country of origin or in the Member State or country where the economic operator is established.

The economic operator is not required to submit the evidence if it has already been submitted for another procurement procedure with the same contracting authority. The documents must have been issued no more than one year before the date of their request by the contracting authority and must still be valid at that date. The signatory declares that the economic operator has already provided the documentary evidence for a previous procedure and confirms that there has been no change in its situation:

|  |  |
| --- | --- |
| **Document** | **Full reference to previous procedure** |
| *Insert as many lines as necessary.* |  |

V – Exclusion Effect

The contracting authority shall exclude the economic operator from participation in a procurement procedure if:

* + the contracting authority has established by verification, or is otherwise aware, that the economic operator is in one of the situations listed in **sections I to II of this Declaration**, and
  + in the case of sub-section ii of point I.D(b) (US Sanctions), (1) the proposed contract for which the economic operator is applying has a US Nexus,[[7]](#footnote-7) or (2) the sanction or restrictive measure in question is not in conflict with [EU Regulation (EC) 2271/96](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A31996R2271) (“Blocking Regulation”) as amended from time to time, and
  + if any remedial measures are proposed in accordance with section III of this Declaration, such measures are not, to the satisfaction of the contracting authority, sufficient to demonstrate the economic operator’s reliability.

VII – Evidence for selection

The signatory declares that the economic operator is able to provide the necessary supporting documents listed in the relevant sections of the tender specifications and which are not available electronically upon request and without delay.

The economic operator is not required to submit the evidence if it has already been submitted for another procurement procedure. The documents must have been issued no more than one year before the date of their request by the contracting authority and must still be valid at that date.

The signatory declares that the economic operator has already provided the documentary evidence for a previous procedure and confirms that there has been no change in its situation:

|  |  |
| --- | --- |
| **Document** | **Full reference to previous procedure** |
| *Insert as many lines as necessary.* |  |

***The economic operator may be subject to rejection from this procedure and to administrative sanctions (exclusion or financial penalty) if any of the declarations or information provided as a condition for participating in this procedure prove to be false.***

Full name Date Signature

# Annex 5 –Products to be offered by the Financial Intermediaries, Eligibility Criteria and Eligible Projects

*The summary term sheet provided to the Applicants in Annex 5 of the CEOI is an outline of the indicative principal terms and conditions for the Financial Instrument. The terms and conditions presented are intended to provide a basis for discussions with the Applicants, hence are subject to change and non-exhaustive.*

*This document is intended to provide a basis for discussions and does not constitute a recommendation, a solicitation, an offer or a binding commitment – either implicit or explicit – on the part of the European Investment Bank (“EIB”) and/or or any other person to enter into one or more transaction(s). Any finance commitment by EIB can only be made, inter alia, after appropriate approval, conclusion of legal due diligence and finalisation of the required legal documentation. EIB does not act as adviser to you or owe you any fiduciary duty. EIB does not make any representations or warranties (whether explicitly or implicitly) with respect to the information contained in this document.*

*The terms of this Annex 5 may be subject to change.*

# PRODUCTS MAIN TERMS

|  |  |
| --- | --- |
| **Main Terms** | **Description** |
| Type of financing | Financial Intermediaries can provide RRF-backed financing to Final Beneficiaries by mean of loans (including bullet/balloon loans financial leases and quasi-equity), equity, or a mix thereof (and financial instruments of a similar nature and purpose). |
| Allocation among products | The allocation between loan and equity products will be based on the Financial Intermediaries offers and market needs. The Financial Intermediaries will be requested, through the CEOI, to present a business plan with indication of the amounts to be financed through the different financial products. |
| Maximum financing to a single project | No more than 15% of the Committed Allocation Volume, as assigned to a Financial Intermediary selected by EIB, may be used in loans/ quasi-equity or equity investments (or a combination thereof) in favour of a single project or investment.  The maximum amount of financial support provided by the FoF cannot be in any case higher, for each single project or investment, than EUR 22 million.  In exceptional circumstances, financing to a single project higher than indicated in this cell may be provided, subject to specific approval of the IB.  Financial Intermediaries shall not acquire, directly or indirectly, majority capital contributions in any Final Beneficiary[[8]](#footnote-8). |
| Maximum maturity and grace period | * Maximum maturity. Loans and (when applicable) quasi-equity shall have the minimum maturity of 12 months (including the relevant grace period, if any) and a maximum maturity of 20 years, except for social and affordable housing which may have maturities up to 30 years. For equity and (when applicable) quasi-equity, the financial intermediaries will look for a well-timed divestiture trying not to be more than 15 years in the project. * Grace Period. The grace period will reflect the construction/implementation period of the project and the expected cash flow profile of the investment/project and be defined according to the Financial Intermediary’s procedures. |
| Co-financing | Each loan/ quasi-equity or equity investment offered with the support of the FoF may provide coverage for up to a maximum of 70% of the eligible costs[[9]](#footnote-9). |
| Indicative Expected leverage effect | Each Financial Intermediary, indicatively at portfolio level, is expected to mobilise at least 1.5 times the amount of RRF resources contributed. |
| State Aid | Financial Intermediaries must ensure that the financing provided to the Final Beneficiaries are on market terms (no State Aid) and in line with the *pari passu* principle[[10]](#footnote-10). Financial Intermediaries will be responsible for ensuring compliance with this provision, particularly with respect to defining appropriate interest rates, securities and investment mechanisms. Depending on the implementation of the instrument, it cannot be ruled out that the instrument could eventually operate under a State Aid Scheme, potentially the De Minimis Regulation or the General Block Exemption Regulation (e.g., Article 16 Regional Urban Development Aid). |
| Climate Tagging | Each Financial Intermediary will classify the financed investments according to the methodology in Annex VI of the RRF Regulation[[11]](#footnote-11). The Financial Intermediary will justify Climate Tagging and the selection of intervention field of each investment in a report or a specific section in a report.  Each Financial Intermediary may be requested a minimum contribution to the climate change objectives at portfolio level. Such amount will be defined during the negotiations of the Operational Agreement. For the CEOI purposes, Financial Intermediaries may assume a requirement of 50% in line with the CID[[12]](#footnote-12). |
| Do No Significant Harm | When assessing potential Final Beneficiaries, the Financial Intermediaries will comply with the ‘Do no significant harm’ (DNSH) principle as set out in the Commission’s Do No Significant Harm Technical Guidance (C/2023/11) as updated from time to time and the CID. The Financial Intermediary will justify that the Final Beneficiaries comply with the DNSH principle in a report or a specific section of a report. |
| Equity Investment Period | Means the period of time in which the Financial Intermediaries are allowed to disburse financial investments in the form of Equity. The period lasts from the signature of the Operational Agreement until (and including) 31 December 2030.  Such date may be extended in the future if allowed in the RRF Regulation and/or the CID and/or the NRRP and communicated by KoS and agreed between the EIB and KoS/IB.  For the potential reinvestment of the resources returned from the IF, the extension is subject to the agreement between EIB and KoS/IB. |
| Loan Investment Period | Means the period of time in which the Financial Intermediaries are allowed to disburse financial investments in the form of Loan. The period lasts from the signature of the Operational Agreement until (and including) 31 August 2026.  Such date may be extended in the future, for loans, financial leases and quasi-equity, or any of them independently, if allowed in the RRF Regulation and/or the CID and/or the NRRP and communicated by KoS and agreed between the EIB and KoS/IB. For the potential reinvestment of the resources returned from the FI, the extension is subject to the agreement between EIB and KoS/IB. |
| Geographical distributions of investments | The geographical scope of the FoF will be the whole national territory of Kingdom of Spain. EIB, in agreement with KoS or the Investment Board, reserves the right to amend the Investment Strategy including geographical limitations of investment per Autonomous Region. |
| Monitoring and audit and control framework | The Financial intermediary shall monitor the Final Beneficiaries according to their procedures and in line with the CID requirements. The Financial Intermediary shall also maintain adequate audit trail and ensure access to the documents to any competent authority in charge of audit and control. |

# ELIGIBILITY CRITERIA

## The Eligibility Criteria are composed of the (i) Eligibility Criteria for Final Beneficiaries (indicatively set out in Section 2.a of this Annex); and (ii) Eligibility Criteria for Final Beneficiary Transactions (indicatively set out in Section 2.b of this Annex)), as set out below and as may be further supplemented or otherwise modified in the Operational Agreement.

## Each Final Beneficiary Transaction included in the portfolio shall comply with the Eligibility Criteria for Final Beneficiaries and the Eligibility Criteria for Final Beneficiary Transactions.

Certain Eligibility Criteria shall always be met, while certain Eligibility Criteria shall only be met on the signing date or approval date of the relevant Final Beneficiary Transaction (or another date specifically indicated in the Operational Agreement).

A breach of any of the Eligibility Criteria shall render the relevant Final Beneficiary Transaction(s) non-eligible for financing through FoF resources.

It should be noted that the Eligibility Criteria might be adapted during the implementation of the FoF in order to cater for relevant market developments and legislative changes. In any case, any such change will not affect the eligibility of Final Beneficiary Transactions already included.

## Eligibility Criteria for Final Beneficiaries

|  |  |  |
| --- | --- | --- |
|  | **Eligibility Criteria for Final Beneficiaries** | **Application** |
| 1 | The Final Beneficiary shall be economically viable (as assessed by the Financial Intermediary in accordance with its internal procedures and properly documented) and is not "in difficulty" (within the meaning of the definition of undertakings in difficulty in article 2 (18) of Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty).  The Financial Intermediaries, applying their ordinary business practices, will provide financing only to Final Beneficiaries that have the necessary technical, financial and human resources for carrying out the supported investment. The decision by the Financial Intermediaries on each investment into a Final Beneficiary, taken in accordance with their internal financial and technical evaluation procedures and properly documented, is considered the proof of such assessment. | Signing date |
| 2 | The Final Beneficiaries, shall be one of the following:   * + An SME[[13]](#footnote-13); or   + A Small Mid-Cap38; or   + A Mid-Cap38; or   + An infrastructure project which shall be understood as a project requiring long term capital relating to the construction or development of physical assets. | Signing date |
| 3 | The Final Beneficiary shall be an undertaking as further explained in the Commission Notice on the notion of State Aid as referred to in Article 107(1) of the Treaty of the functioning of the European Union. | Signing date |
| 4 | The Final Beneficiary is not subject to collective insolvency proceedings (or any equivalent concept) nor fulfils the criteria under its domestic law for being placed in collective insolvency proceedings at the request of its creditors. | Signing date |
| 5 | The Final Beneficiary shall be legally present and carrying out economic activities in Spain. The compliance with such condition is evidenced, among others, by the presentation by the Final Beneficiary to the Financial Intermediary of a certificate proving its registration for the Economic Activities Tax (*Impuesto de Actividades Económicas*), which must in force and issued by the AEAT (*Agencia Estatal de Administración Tributaria*).  The Final Beneficiary shall be registered with the Spanish Tax Authority and therefore in compliance with the applicable accounting regulation. Such condition is evidenced, among others, by the presentation by the Final Beneficiary of the latest due tax statements in accordance with the applicable laws and regulations (for legal persons the “Impuesto de Sociedades Declaration”). | Signing date[[14]](#footnote-14). |
| 6 | The Final Beneficiary shall not have a substantial focus on one or more Excluded Activities listed in Annex 6 below (which determination shall be made by the Financial Intermediary in its discretion based, without limitation, on the proportionate importance of such sector on revenues, turnover or client base of the relevant Final Beneficiary). | Signing date |
| 7 | The Final Beneficiary shall provide to the Financial Intermediary a certificate confirming a regularised situation with the State Public Treasury and the Social Security. | Signing date[[15]](#footnote-15) |
| 8 | The Final Beneficiary shall not be in an exclusion situation[[16]](#footnote-16). | Signing date |
| 9 | The Final Beneficiaries shall comply with the relevant EU and national environmental legislation | Signing date |
| 10 | The Financial Intermediary will ensure that the capital structure of the Final Beneficiary resulting from the Final Beneficiary Transactions does not imply a consolidation of the Final Beneficiary in the Spanish national accounts. | Continuing |

Compliance with Final Beneficiary Criteria shall be addressed by the Financial Intermediaries based on representations given by the Final Beneficiary in the legal documentation concerning the relevant Final Beneficiary Transactions.

## Eligibility Criteria for Final Beneficiary Transactions

|  |  |  |
| --- | --- | --- |
|  | **Eligibility Criteria for Final Beneficiary Transactions** | **Application** |
| 1 | The Financial Intermediary will comply with the ‘Do no significant harm’ (DNSH) principle as set out in the Commission’s Do No Significant Harm Technical Guidance (C/2023/111) and the CID as updated from time to time and justify it in a report or a specific section of a report. In particular, but not necessarily limited to:   * In the case of loans and leases. The following list of activities shall be excluded:   + Activities and assets related to fossil fuels, including downstream use. 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 (C/2023/111) and (b) activities and assets under point (ii) for which the use of fossil fuels is temporary and technically unavoidable for the timely transition towards a fossil fuel free operation.   + Activities and assets under the EU Emission Trading System (ETS) achieving projected greenhouse gas emissions that are not lower than the relevant benchmarks (Including activities and assets under the EU Emission Trading System (ETS) achieving projected greenhouse gas emissions that are not lower than the relevant benchmarks. Where the activity supported achieves projected greenhouse gas emissions that are not significantly lower than the relevant benchmarks, an explanation of the reasons why this is not possible shall be provided. Benchmarks established for free allocation for activities falling within the scope of the Emissions Trading System, as set out in the Commission Implementing Regulation (EU) 2021/447.The implementation of the measure shall be completed by 31 August 2026).   + Activities and assets related to waste landfills, incinerators. This exclusion does not apply to actions under this measure in plants exclusively dedicated to treating non-recyclable hazardous waste, and 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 is provided at plant level.   + Mechanical biological treatment plants. This exclusion does 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. * In the case of equity and quasi-equity, the investment policy shall require companies to adopt green transition plans in line with the definition set out in Article 19a (2)(a)(iii) of Directive 2013/34/EU [[17]](#footnote-17) if more than 50% of their direct revenues during the preceding financial year is derived from the following list of activities and assets:   + Activities and assets related to fossil fuels, including downstream use. Except for (a) projects under this measure 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 (C/2023/111) and (b) activities and assets under point (ii) for which the use of fossil fuels is temporary and technically unavoidable for the timely transition towards a fossil fuel free operation, phasing out fossil fuels entirely over time.   + Activities and assets under the EU Emission Trading System (ETS) achieving projected greenhouse gas emissions that are not lower than the relevant benchmarks. Where the activity supported achieves projected greenhouse gas emissions that are not significantly lower than the relevant benchmarks an explanation of the reasons why this is not possible shall be provided. Benchmarks established for free allocation for activities falling within the scope of the Emissions Trading System, as set out in the Commission Implementing Regulation (EU) 2021/447.   + Activities and assets related to waste landfills, incinerators. This exclusion does not apply to actions under this measure in plants exclusively dedicated to treating non-recyclable hazardous waste, and 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 is provided at plant level.   + Mechanical biological treatment plants. This exclusion does 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 .   For additional details please refer to Annex 8 and Component 13, Investment 13 (C13.I13) (Regional Resilience Fund (FRA)) of the Annex to the Proposal for a COUNCIL IMPLEMENTING DECISION amending Implementing Decision (EU) (ST 10150 2021; ST 10150 2021 ADD 1 REV 1) of 13 July 2021 on the approval of the assessment of the recovery and resilience plan for Spain as updated from time to time[[18]](#footnote-18). | Signing date |
| 2 | The investments to be supported by the Final Beneficiary Transaction **shall not be physically completed or fully implemented** at the date of approval by the Financial Intermediary of the Final Beneficiary Transaction. | Signing date |
| 3 | Final Beneficiary Transactions shall support investments localised mainly in Spain and specifically:   1. In case of Final Beneficiary Transactions financing an investment, whose location can be determined without ambiguity: the place of investment must be in Spain; or 2. In case of Final Beneficiary Transactions financing an investment, whose location cannot be determined without ambiguity, the majority of the investments must be located in Spain.   EIB, in agreement with KoS or the Investment Board, reserves the right to amend the Investment Strategy including geographical limitations of investment per Autonomous Region. | Continuing |
| 4 | The Final Beneficiary Transactions shall not support any project which is outside the scope of eligibility of the NRRP and the CID. | Continuing |
| 5 | The Final Beneficiary Transactions shall not support any project / final beneficiary which includes the creation and development of financial products such as venture capital funds, loan-funds and guarantee-funds. | Continuing |
| 6 | The Final Beneficiary Transactions shall not support any project / final beneficiary that may break EU Rules. | Continuing |
| 7 | Currency of Final Beneficiary Transactions and any other exposure by the FoF: EUR. | Continuing |
| 8 | Final Beneficiary Transactions must finance a project, which is considered economically and financially viable (as assessed by the Financial Intermediary in accordance with its credit policy) | Signing Date |
| 9 | Final Beneficiary Transaction shall not restructure or refinance any outstanding loans. | Continuing |
| 10 | Final Beneficiary Transactions must not pre-finance a grant. | Continuing |
| 11 | Final Beneficiaries Financing must not be affected by Irregularity or fraud. | Continuing |
| 12 | The eligible expenses of the Final Beneficiaries presented in the application for financing will be those that do not have expense invoices (or other proof of expenses) issued before 1 February 2020. | Continuing |
| 13 | Final Beneficiaries shall not receive support from other Union programmes or instruments to cover the same cost[[19]](#footnote-19). | Continuing |
| 14 | Each Final Beneficiary Transaction will be classified according to the methodology in Annex VI of the RRF Regulation[[20]](#footnote-20). The Financial Intermediary will justify the climate tagging and the selection of intervention field of each Final Beneficiary Transaction in a report or a specific section of a report | Signing Date |
| 15 | The purchase of land shall not be eligible, except the purchase of land for an amount equal or below 10 % of the total eligible expenditure for the operation concerned; for derelict sites and for those formerly in industrial use which comprise buildings, that limit shall be increased to 15 %. Those percentages shall apply to the eligible expenditure of the operation financed with funds from the FoF. | Continuing |
| 16 | Value Added Tax shall be eligible for investment as further detailed in Article 64 of the Common Provisions Regulation (EU) No 1060/2021 of 24 June 2021. | Continuing |
| 17 | Combination of a Final Beneficiary Transaction with other public or European funds will be subject to cumulation rules and State Aid Rules[[21]](#footnote-21). In such cases, the Financial Intermediary must justify that the different sources of funding are compatible and that applicable limits are respected. | Continuing |

# Eligible projects

The FoF will be entitled to provide financing in the NPPR Priority Investment Areas such as: i) social and affordable housing and urban regeneration and ii) sustainable tourism.

Eligible cost will consist of investments in both tangible and intangible assets, as well as working capital that is linked to those eligible projects. The following is a non-exhaustive illustrative list of possible actions eligible for funding of the FoF within each Priority Investment Area (the related NRRP component is indicated in brackets):

* Social and affordable housing and urban regeneration (component 2): construction and rehabilitation of social and/or affordable housing; rehabilitation of public buildings; urban development and regeneration of the urban environment, through actions such as bringing new land or disused spaces into use, as well as the construction and/or refurbishment (as appropriate) of buildings or infrastructure and equipment for commercial, educational, cultural, tourist or sport purposes, among others.
* Sustainable tourism (component 14): transformative actions in the tourism sector involving green transition, digital transition and tourism competitiveness; boosting the digitalisation of tourism companies; investments in the maintenance and rehabilitation of historical heritage for tourism use and in the improvement of commercial areas with an impact on tourism activity.

More concretely, the Instrument will target the following interventions (non-exhaustive list):

**Social and affordable housing and urban regeneration [[22]](#footnote-22)**

* Interventions dedicated to the recovery/construction/rehabilitation of social and/or affordable housing [[23]](#footnote-23) for renting purposes. This measure shall also cover co-living, co-housing etc. For the avoidance of doubt, general housing interventions that are not social and/or affordable housing are not eligible[[24]](#footnote-24).
* Recovery/construction/rehabilitation of infrastructures with impact on urban socio-economic development, new development of land or spaces in disuse for commercial, business, touristic, educational and cultural purposes, among others. Renewal, regeneration, and valorisation of under-used or unused urban areas (brownfield and greenfield).
* Interventions targeting deteriorated and unconnected areas within the city, that promote sustainable urban spaces, as well as reverse the processes of urban and residential degradation, including projects that promote Port-City integration[[25]](#footnote-25).
* Actions that support for energy efficiency, smart energy management digitalization, district heating, co-generation, energy storage, heat pumps, biomass, the use of renewable energy in existing public and private buildings, infrastructures (including industrial buildings located in urban areas), etc.
* Urban mobility[[26]](#footnote-26): Promotion of sustainable mobility infrastructure including multimodal urban mobility metro, trams and others, and promotion of clean urban and collective transport, and renewal of service fleets including electric charging infrastructure, car sharing or other vehicle sharing. Investment connected mobility for tourism (i.e., tourism mobility and accessibility to sites).
* Construction, improvement, rehabilitation and modernisation of waste management infrastructures [[27]](#footnote-27) (clean points, waste transfer stations, treatment plants and landfills, etc.). Such infrastructure may be located outside an urban area but must serve one or several urban areas.
* Construction, improvement, rehabilitation and modernisation of water supply and sanitation infrastructures[[28]](#footnote-28) (increased efficiency, hydraulic and energy savings, service safety) and urban wastewater treatment. Such infrastructures may be located outside an urban area but must serve one or several urban areas.
* Construction, improvement, rehabilitation and modernisation of public or private health and social infrastructure (hospitals, medical centres, specialised treatment centres, clinics etc) that contribute to national or regional or local development and/or the reduction of health inequalities. This measure shall include the refurbishment of existing infrastructure as well as the construction of new infrastructure. Such infrastructure may be located outside an urban area but must serve one or several urban areas.
* Construction, improvement and modernisation of public or private education and educational infrastructure including schools, residences, universities, campus etc. This measure shall include the refurbishment of existing infrastructure as well as the construction of new infrastructure. Such infrastructure may be located outside an urban area but must serve one or several urban areas.
* Investments (including equipment) for alignment with cutting-edge health and safety measures (for example in relation to earthquakes, health emergencies, weather events, forest fires, etc).

**Sustainable tourism [[29]](#footnote-29)**

* Investments in sustainable tourism.
* Creation, renovation (revamp/refurbishment), modernization and upgrading of accommodation premises/facilities, including for example hotels, restaurants, Bed & Breakfast, farmhouses, wellness centres, campsites and vacation centres.
* Creation, renovation, modernisation and upgrading of tourism infrastructure[[30]](#footnote-30);, including i.e. public and private cultural and hospitality heritage sites, parks, gardens, leisure parks, sport facilities, mountain tourism facilities (ski lifts, artificial snow and water storage basins, etc.) and mountain sport facilities
* Investments to support local activities, arts, crafts and industries (such as fashion, luxury, gastronomy), investments to promote "conscious and sustainable" tourism, investments aimed at making emerging tourist destinations more attractive;
* Investment in digitalisation projects and/or processes and related staff training / upskilling / reskilling (e.g., investments related to optical fibre, investments for the digitalization of products / services etc). Actions that promote the provision of digital services and improve their efficiency through smart development models.

Due to the horizontal nature of the potential interventions under the Instrument, several eligible projects may also be eligible in other Priority Investment Areas, notably:

* Sustainable transport (components 1 and 6).
* Care Economy (component 22 and component 18).
* Water management (component 5).
* Waste management (component 12).
* Energy transition (component 7-10).

The Instrument is not subject to sectorial or regional concentration rules.

For investments in rehabilitation, revamp, refurbishment, modernization, renovation of fixed assets including infrastructure, premises, facilities etc. implying the renovation of buildings, it is required that the energy rating of the building is improved in at least one letter.

# Annex 6 - List of Excluded Activities

* Activities and assets related to fossil fuels, including downstream use[[31]](#footnote-31).
* Activities and assets under the EU Emission Trading System (ETS) achieving projected greenhouse gas emissions that are not lower than the relevant benchmarks[[32]](#footnote-32).
* Activities and assets related to waste landfills, incinerators[[33]](#footnote-33) and mechanical biological treatment plants[[34]](#footnote-34).
* Activities and assets where the long-term disposal of waste may cause harm to the environment.
* Production or activities involving harmful or exploitative forms of forced labour[[35]](#footnote-35)/harmful child labour[[36]](#footnote-36).
* Production or trade in any product or activity deemed illegal under host country laws or regulations or international conventions and agreements.
* Any business relating to pornography or prostitution.
* Production or trade in wildlife or wildlife products regulated under the Convention on International Trade in Endangered Species or Wild Fauna and Flora (CITES).
* Production or use of or trade in hazardous materials such as radioactive materials, unbounded asbestos fibres and products containing PCBs.
* Cross-border trade in waste and waste products unless compliant with the Basel Convention and the underlying national and EU regulations but for the avoidance of doubt, use of waste as a fuel in district heating is not excluded.
* Unsustainable fishing methods (i.e. drift net fishing in the marine environment using nets in excess of 2.5 km in length and blast fishing).
* Production or trade in pharmaceuticals, pesticides/herbicides, chemicals, ozone depleting substances[[37]](#footnote-37) and other hazardous substances subject to international phase-outs or bans.
* Destruction of Critical Habitats[[38]](#footnote-38).
* Production and distribution of racist, anti-democratic and/or neo-Nazi media.
* Tobacco, if it forms a substantial part of a Project's primary financed business activities[[39]](#footnote-39).
* Live animals for scientific and experimental purposes, including the breeding of these animals.
* Ammunition and weapons, military/police equipment, infrastructure or correctional facilities, prisons.[[40]](#footnote-40)
* Gambling, casinos and equivalent enterprises or hotels hosting such facilities.
* Commercial concessions over, and logging on, tropical natural forest; conversion of natural forest into a plantation.
* Purchase of logging equipment for use in tropical natural forests or high nature value forest in all regions; and activities that lead to clear cutting and/or degradation of tropical natural forests or high nature value forest.
* New palm oil plantations.
* Any business with a political or religious content.

# Annex 7 - Privacy statement

# During a CEOI the EIB may get access to certain personal data (information related to an identified or identifiable natural person). The purpose of this Privacy Statement is to provide information about the collection and use of personal data at EIB. By applying to this call for expression of interest, the Applicant hereby provides consent to have the personal data processed in accordance with this Section.

# What is the purpose of the collection of personal data?

Upon reception of your EoI, your personal data is collected and further processed for the purpose of a call procedure (e.g. the selection of experts and financial intermediaries, verifying the representation right, contact details etc., and the evaluation) and the management of the resulting contracts. Personal data collected and further processed concerns the staff employed by the Applicant, including consortium partners and subcontractors participating in call procedures and entering into a contractual relation with the EIB.

# What is the legal basis for processing personal data?

Personal data are processed by the EIB in accordance with Regulation (EU) 2018/1725 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC. The legal basis for processing of personal data in the course of the implementation of financial instruments, is Article 38 (4)(b)(i) of the CPR of Commission Regulation 1303/2013.

Personal data are *inter alia*

* Personal details (e.g. name, address, ID number, passport number, e-mail address, phone/fax numbers, date of birth);
* Professional details (e.g. function, company department, e-mail address, phone/fax numbers);
* Education and training details (CV’s or short descriptions (pen portraits) of team members);
* Information required in relation to the evaluation of the exclusion criteria such as certificates for social security contributions and taxes paid, extracts from judicial records, etc.;
* VAT registration number;
* Bank details.

# Who has access to your personal data and to whom is it disclosed?

* EIB’s Staff of the Procurement and Purchasing Division;
* EIB’s Staff of the Operations Directorate;
* EIB’s Staff of the Legal Directorate;
* Relevant senior management of the requesting EIB Department and contract managers;
* External legal advisers;
* Investment Board;
* Only in special situations to:
  + EIB’s Office of the Chief Compliance Officer;
  + EIB Internal Audit;
  + EIB legal services;
  + EIB’s Inspectorate General;
  + European Court of Auditors;
  + European Data Protection Supervisor.
  + Or other authorities EIB is obliged to provide such personal data under applicable legal frameworks.

# Actors in the data collection

* Controller: EIB Operations Directorate
* Processor: EIB Operations Resource Management Division

# How does the EIB process personal data?

The data collected is processed either manually or electronically.

* Manual processing: hard copies of the submitted offers (which may contain personal data, as specified above) are stored unopened until the opening session. Then, they are made available to the duly appointed members of the opening committee. Upon termination of the evaluation process, the “hard” originals of the tenders together with electronic copies in the form of CDs/USB sticks are stored in EIB Central Archives.
* Electronic processing: the Investment Board always receives electronic versions of the expressions of interest through a dedicated, restricted area in EIB’s electronic document management system (Livelink) where they are also stored after the assessment process.

# How do we protect and safeguard your information?

Data is stored

* Electronically in specific areas of EIB electronic document management system (Livelink) with restricted access rights;
* Paper files are stored in archives, locked and only accessible to EIB’s Central Archiving team.

In both cases, access and control rights to the files are limited and granted only on a need-to-know basis.

# How long is your personal data kept?

The data of the Selected Applicant shall be retained for the duration of the Operational Agreement between the EIB and the Selected Applicant, plus two years in the central archives, unless these are needed in the context of litigation or claims extending beyond this duration. The data of unsuccessful Applicants shall be retained for four years, unless these are needed in the context of litigation or claims extending beyond this duration. After the periods mentioned above have elapsed, the files are destroyed.

# What are your rights and how can you exercise them?

You as a Data Subject shall have the right of access to your personal data and the right to request to rectify or to erase any such data that is inaccurate or incomplete. You also have the right to object to processing and the right to request a restriction of the processing. You can exercise these rights by contacting the processor (acting on behalf of the controller) OPS/-/ORM/ division (eib-cpcm-procurement@eib.org) or EIB’s Data Protection Officer ([p.donos@eib.org](mailto:p.donos@eib.org) or dataprotectionofficer@eib.org). In addition, you also have the right to have recourse at any time to the European Data Protection Supervisor [edps@edps.europa.eu](mailto:edps@edps.europa.eu)

1. Please include declaration contained in **Appendix 1** (Consortium member declaration) signed by each consortium member appointing the legal entity indicated above as the leader of the consortium which will represent the consortium and act as the single contact point for communication. This entity shall also have full authority to bind the consortium and each of its members for the purposes of the Operational Agreement. [↑](#footnote-ref-1)
2. If necessary, please include reference to other documents which form part of your offer and which describe the roles, activities and responsibilities of the consortium members more in detail. [↑](#footnote-ref-2)
3. If necessary, please include reference to other documents which form part of your offer and which describe the roles, activities and responsibilities of the consortium members [↑](#footnote-ref-3)
4. Please include the declaration contained in **Appendix 2** (Subcontractor Declaration) from each subcontractor, stating their intention to collaborate with the Applicant, if the Applicant is awarded an Operational Agreement. [↑](#footnote-ref-4)
5. Being “**the target of a sanction or restrictive measure**” means the economic operator (i) being listed on a sanctions list, or (ii) being (directly or indirectly) 50% or more (individually or on aggregate basis) owned or controlled by, or acting on behalf of or at the direction of, a person or entity listed on, any sanctions lists, or (iii) being located or resident in, or organised or incorporated under the laws of a Sanctioned Country, or owned or controlled by, or acting on behalf or at the direction of such a person or entity. A

   “**Sanctioned Country**” shall mean a country or territory that is, or whose government is, at any time, the target of comprehensive country or territory-wide sanction or restrictive measure imposed or administered by the competent authorities described in this subsection (b). [↑](#footnote-ref-5)
6. Pursuant to Chapter 2 of Title V of the Treaty on European Union or Article 215 of the Treaty on the Functioning of the European Union, either autonomously or pursuant to the sanctions decided by the United Nations Security Council on the basis of Article 41 of the UN Charter.

   [↑](#footnote-ref-6)
7. “**US Nexus**” means where there is any US involvement or connection, including (without limitation): (i) any US dollar denominated transaction; (ii) any payment in any currency that is cleared through the US financial system, including foreign branches of US banks, and US branches, agency or representative offices or US accounts of non US financial institutions; and (iii) any US Person, including US financial institutions, foreign branches of US banks, and US branches, agency or representative offices or US accounts of non-US financial institutions.

   “**US Person**” means: (i) any US citizen, US permanent resident alien or green card holder, wherever they are located or employed; (ii) any entity organised under the laws of the US or any jurisdiction within the US, including foreign branches of such an entity; and (iii) any individual or entity located in the US. [↑](#footnote-ref-7)
8. The Financial Intermediary will ensure that the capital structure of the Final Beneficiary resulting from the Final Beneficiary Transactions does not imply a consolidation of the Final Beneficiary in the Spanish National Accounts. [↑](#footnote-ref-8)
9. For the avoidance of doubt, at least 30% of eligible project costs are expected to be financed by third party cofinancing. [↑](#footnote-ref-9)
10. See Section 4.2.3 of the Commission Notice on the notion of State Aid as referred to in Article 107(1) of the Treaty of the Functioning of the European Union, and published in the following link: [Commission Notice on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European UnionTABLE OF CONTENTS (europa.eu)](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016XC0719%2805%29)

    Additional guidance regarding State Aid, market terms and *pari passu* principles can be found in the State Aid Guide

    [20240126\_practical\_guidance\_for\_member\_states\_the\_market\_economy\_operator\_test\_for\_risk\_finance\_measures.pdf (europa.eu)](https://competition-policy.ec.europa.eu/system/files/2024-01/20240126_practical_guidance_for_member_states_the_market_economy_operator_test_for_risk_finance_measures.pdf) [↑](#footnote-ref-10)
11. Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility. [↑](#footnote-ref-11)
12. See [link](https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=COM%3A2023%3A576%3AFIN) [↑](#footnote-ref-12)
13. As defined in Regulation (EU) 2015/1017 of the European Parliament and the Council of 25 June 2015 on the European Fund for Strategic Investments, the European Investment Advisory Hub and the European Investment Project Portal and amending Regulations (EU) No 1291/2013 and (EU) No 1316/2013 – the European Fund for Strategic Investments (OJ L 169, 1.7.2015, p. 1); [↑](#footnote-ref-13)
14. In case Final Beneficiaries that have not yet submitted tax statements to the tax authority at the time of signature and/or which have not yet registered into the State Public Treasury and the Social Security (e.g. newly created Special Purpose Vehicles created specifically for a project), the Financial Intermediary must ensure that such declaration is received as soon as possible. [↑](#footnote-ref-14)
15. In case Final Beneficiaries that have not yet submitted tax statements to the tax authority at the time of signature and/or have not yet registered into the State Public Treasury and the Social Security. (e.g. newly created Special Purpose Vehicles created specifically for a project), the Financial Intermediary must ensure that such declaration is received as soon as possible.. . [↑](#footnote-ref-15)
16. E.g. the Final Beneficiary shall not be in delinquent or in default in respect of any other loan or financial lease granted either by the Financial Intermediary or by another financial institution pursuant to checks made in accordance with the Financial Intermediary’s internal guidelines and standard credit or financing policy. [↑](#footnote-ref-16)
17. Directive 2013/34/EU is amended by Directive (EU) 2022/2464 on Corporate Sustainability Reporting Directive. [↑](#footnote-ref-17)
18. See [link](https://commission.europa.eu/publications/commission-proposal-council-implementing-decision-amending-council-implementing-decision-13-july_en) [↑](#footnote-ref-18)
19. For the avoidance of doubt: a project can be financed by various Union programmes and instruments as long as the same cost is covered only once. [↑](#footnote-ref-19)
20. Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility. [↑](#footnote-ref-20)
21. See Section 4.2.3 of the Commission Notice on the notion of State Aid as referred to in Article 107(1) of the Treaty of the Functioning of the European Union, and published in the following link: [Commission Notice on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European UnionTABLE OF CONTENTS (europa.eu)](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016XC0719%2805%29)

    Additional guidance regarding State Aid, market terms and *pari passu* principles can be found in the State Aid Guide

    [20240126\_practical\_guidance\_for\_member\_states\_the\_market\_economy\_operator\_test\_for\_risk\_finance\_measures.pdf (europa.eu)](https://competition-policy.ec.europa.eu/system/files/2024-01/20240126_practical_guidance_for_member_states_the_market_economy_operator_test_for_risk_finance_measures.pdf) [↑](#footnote-ref-21)
22. Unless provided otherwise, investments under Social and affordable housing and urban regeneration must take place in urban areas. The urbanization of land shall only be eligible for the development of eligible projects. [↑](#footnote-ref-22)
23. As defined and/or regulated in applicable national or local legislation. [↑](#footnote-ref-23)
24. Investments in the construction of new long-term residences for the elderly will not be eligible. Investments in temporary housing solutions shall be eligible. [↑](#footnote-ref-24)
25. For the avoidance of doubt, investments in ports of general interest (Puertos de Interés General) shall be limited to Port-City integration. [↑](#footnote-ref-25)
26. Investments in ports of general interest (Puertos de Interés General), except Port-City integration, Airports and roads shall not be generally eligible. [↑](#footnote-ref-26)
27. In case such infrastructure treats urban and not urban waste (e.g., agriculture), at least 51% of the treated waste shall have as origin an urban area. [↑](#footnote-ref-27)
28. In case such infrastructure treats urban and not urban waste (e.g., agriculture), at least 51% of the treated waste shall have as origin an urban area. [↑](#footnote-ref-28)
29. Investments under Sustainable tourism do not need to take place in an urban area. [↑](#footnote-ref-29)
30. Investments in Ports of general interest (Puertos de Interés General), exept Port-City integration, Airports and roads shall not be generally eligible. [↑](#footnote-ref-30)
31. Except for (a) projects under this measure 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 (C/2023/111) and (b) activities and assets under point (ii) for which the use of fossil fuels is temporary and technically unavoidable for the timely transition towards a fossil fuel free operation, phasing out fossil fuels entirely over time. [↑](#footnote-ref-31)
32. Where the activity supported achieves projected greenhouse gas emissions that are not significantly lower than the relevant benchmarks an explanation of the reasons why this is not possible should be provided. Benchmarks established for free allocation for activities falling within the scope of the Emissions Trading System, as set out in the Commission Implementing Regulation (EU) 2021/447. [↑](#footnote-ref-32)
33. This exclusion does not apply to actions under this measure in plants exclusively dedicated to treating non-recyclable hazardous waste, and 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 is provided at plant level. [↑](#footnote-ref-33)
34. This exclusion does 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. [↑](#footnote-ref-34)
35. Forced labour means all work or service, not voluntarily performed, that is extracted from an individual under threat of force or penalty [↑](#footnote-ref-35)
36. Harmful child labour means the employment of children that is economically exploitive, or is likely to be hazardous to, or to interfere with, the child's education, or to be harmful to the child's health, or physical, mental, moral or social development. In addition any labour that is performed by a person which has not yet reached the age of 15 is considered to be harmful, unless the local legislation specifies compulsory school attendance or the minimum age for working to be higher; in such cases, the higher age will be applied for defining harmful child labour. [↑](#footnote-ref-36)
37. Ozone Depleting Substances: Chemical compounds, which react with and delete stratospheric ozone, resulting in "holes in the ozone layer". The Montreal Protocol lists ODs and their target reduction and phase-out dates. [↑](#footnote-ref-37)
38. Critical habitat is a subset of both natural and modified habitat that deserves particular attention. Critical habitat includes areas with high biodiversity value that meet the criteria of the World Conservation Union ("IUCN") classification, including habitat required for the survival of critically endangered or endangered species as defined by the IUCN Red List of Threatened Species or as defined in any national legislation; areas having special significance for endemic or restricted-range species; sites that are critical for the survival of migratory species; areas supporting globally significant concentrations or numbers of individuals of congregatory species; areas with unique assemblages of species or which are associated with key evolutionary processes or provide key ecosystem services; and areas having biodiversity of significant social, economic or cultural importance to local communities. Primary Forest or forests of High Conservation Value shall be considered Critical Habitats. For the purpose of this Agreement, the environment and social requirements attached hereto are understood and agreed to provide reasonable and satisfactory assurance of the avoidance of destruction of critical habitat. [↑](#footnote-ref-38)
39. A benchmark for substantial is 5-10% of the balance sheet or the financed volume or sales revenues of the final beneficiary. [↑](#footnote-ref-39)
40. Such activities are fully excluded from EIB financing in all countries other than EU member states. In the EU, excluded activities relating to defence, public order and safety are limited to production (or construction) of, distribution (or processing) of, and trade in weapons, ammunition, explosives, equipment or infrastructures specifically designed for military use, and equipment or infrastructure which result in limiting people’s individual rights and freedom (i.e. prisons, detention centres of any form) or in violation of human rights. [↑](#footnote-ref-40)