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The New €750 billion EU Recovery Instrument

December 2020

In May 2020, the European Commission (EC) presented a major Recovery Plan for Europe through the NextGenerationEU (NGEU), a recovery instrument that would raise funds to support financing in the EU 27 member states (MS).

In this client alert, we provide an overview of the new EU Recovery and Resilience Facility (RRF), the main feature of NGEU.

The RRF will support medium- to longer-term reforms and investments, notably in green and digital technologies ("twin transition") with a sustainable and lasting impact on the productivity and economic and social resilience of the applicant MS. If you have any questions about the impact or opportunities related to the RRF for your organisation, please do not hesitate to reach out to us.

The NextGenerationEU Instrument

The NGEU is a temporary recovery instrument embedded within the long-term EU budget that would allow the EC to raise funds to help repair the immediate economic and social damage brought about by the COVID-19 pandemic. The EC plans to raise €750 billion by borrowing the funds on the capital markets until the end of 2026.

The NGEU funds will be disbursed to MS via the EU's existing instruments and programmes, namely:

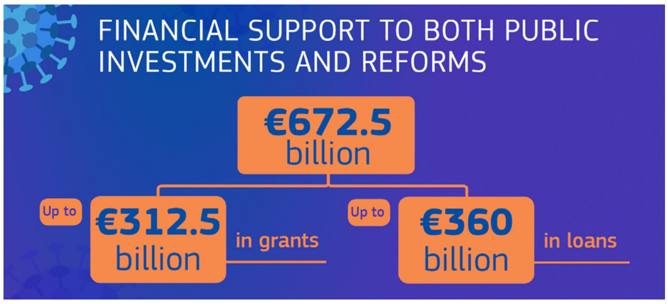
- The **Recovery and Resilience Facility**, which would include **€672.5 billion** (out of which **€312.5 billion will be grant-based** and **€360 billion loan-based**)
- The **Recovery Assistance for Cohesion and the Territories of Europe** (REACT-EU) with an additional **€47.5 billion**
- The **Just Transition Fund** with an additional **€10 billion**
- The **European Agricultural Fund for Rural Development** with an additional **€7.5 billion**
- The **InvestEU programme** with an additional **€5.6 billion**
- The **EU's Civil Protection Mechanism** (rescEU) with an additional **€1.9 billion**
- The EU's research and innovation programme, **Horizon Europe**, with an additional **€5 billion**

The Recovery and Resilience Facility

The Recovery and Resilience Facility is at the central pillar of the NGEU instrument. The RRF is a scheme of loans and grants designed to strengthen the resilience of national economies by supporting investments and reforms closely aligned with the EU's policy priorities to ensure a sustainable and inclusive recovery that promotes the green and digital transition.

The Regulation to establishing a Recovery and Resilience Facility (the Regulation) provides the legal basis and rules of eligibility under which MS can receive the funding.

The NGEU instrument will invest €672.5 billion to the Recovery and Resilience Facility, which will disburse the funds in loans (€360 billion) and grants (€312.5 billion) to support both reforms and investments undertaken by MS. By offering large-scale financial support for investments and reforms, the RRF will better prepare MS for a sustainable recovery. The aim is to mitigate the economic and social impact of the COVID-19 pandemic and make European economies and societies more sustainable, resilient and better prepared for the challenges and opportunities of the digital and green transition, as well as support the EU's 2030 climate targets.



Source: European Commission

The guiding principles for the implementation of the RRF are environmental sustainability, productivity, fairness and macroeconomic stability, as set out in the 2021 annual sustainable growth strategy published in September 2020. 70% of the RRF grants will be made available to MS based on an allocation key, which is, *inter alia*, determined by the population of the respective MS, its gross domestic product (GDP) per capita and the average unemployment rate between 2015 and 2019. For the remaining 30% of RRF grants, the criterion unemployment rate will be replaced by the loss in real GDP in 2020 and 2021.

Under the Regulation, an investment is defined as an expenditure on an activity, project or other action that is expected to bring beneficial results to society, within the scope of the RRF. The investment can be a public or (incentivised) private sector investment. Schemes to solicit such private sector investment need to comply with applicable state aid rules.

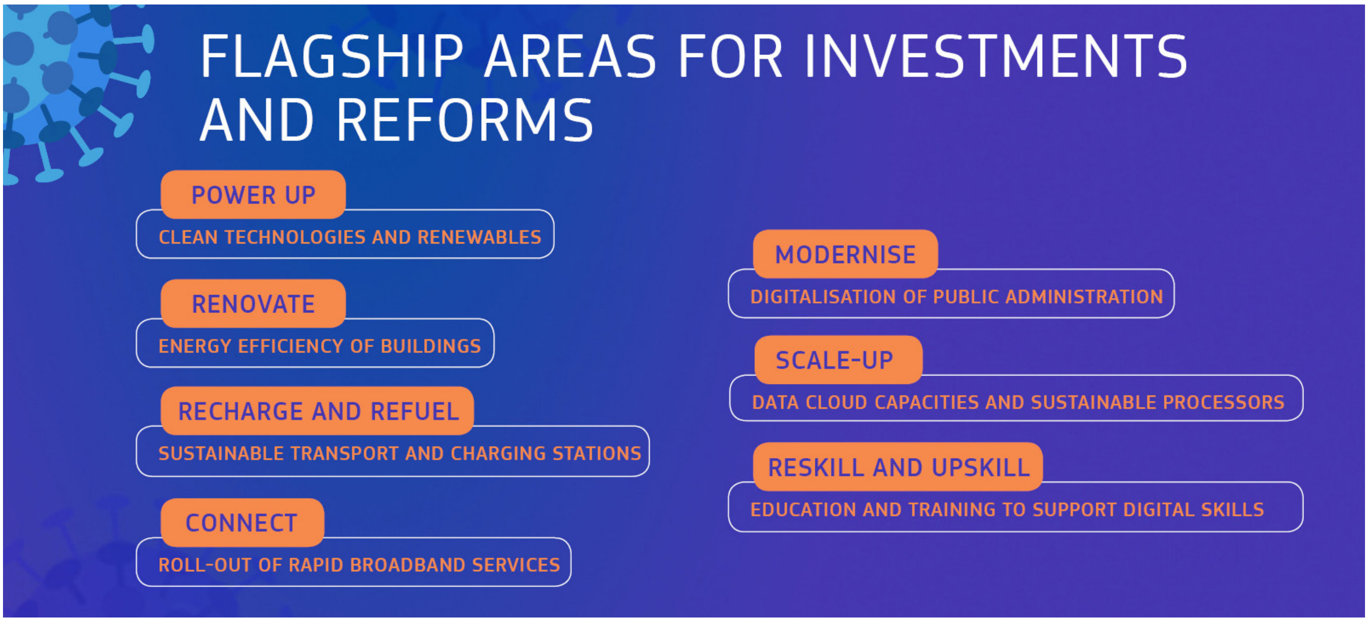
A reform, on the other hand, is interpreted as the action or process of making changes and improvements with significant impact and long-lasting effects on the function of a market, structure of an institution, the administration or relevant policies, such as the twin transition.

MS would be required to prepare national recovery and resilience plans setting out a coherent package of measures to implement reforms and public investment projects addressing the challenges and priorities towards their green and digital transitions.

The support provided by the RRF is voluntary. Thus, it will be up to MS discretion to decide if further funding to align with the green and digital transition would be necessary, based on the possibilities available at the national, regional or local levels.

In order to coordinate the implementation of the RRF, the EC created a specialised Recovery and Resilience Task Force (RECOVER) within the EC's Secretariat-General. RECOVER is responsible for steering the implementation of the RRF and for coordinating the European Semester of economic policy coordination (European Semester underpinned by The 2021 Annual Sustainable Growth Strategy), in close cooperation with the EC's Directorate-General for Economic and Financial Affairs (DG ECFIN).

Comment: It will therefore be vital for industry to first discuss at the national level, with the competent authorities, the industry needs that will determine the projects and initiatives to be included in the national recovery and resilience plans in the context of the RRF. Subsequently, the discussion needs to be continued at the EU level.



Source: European Commission

National Recovery and Resilience Plans

MS will be required to prepare three-year recovery and resilience plans (2021 to 2023) that set out a coherent package of reforms and public investment projects in line with the RRF criteria laid out in the Regulation.

The RRF is closely aligned with the European Semester, which, in essence, sets out the strategic guidance for the implementation of the RRF. As such, the recovery and resilience plans should be aligned and adapted to the country-specific recommendations (CSR) published in the context of the European Semester. Next to that, the plans should explain how the proposed reforms and investments would strengthen the growth potential, the economic and social resilience and the contribution to enhance cohesion. The plans should also provide milestones and targets, as well as an indicative timetable for the implementation of the reforms and investments, which should be implemented by the end of August 2026 at the latest.

The EC will assess the plans submitted by MS through the criteria set out in the Regulation. Notably, the EC will assess:

- Whether the recovery and resilience plan is expected to contribute to effectively address **challenges identified in the relevant CSR**.
- Whether the plan contains measures that effectively **contribute to the green and digital transition** or to addressing the challenges resulting from it.
- Whether the plan is expected to **have a lasting impact** on the MS concerned.
- Whether the plan **contributes to strengthening the growth potential, job creation and economic and social resilience of the MS**, mitigates the economic and social impact of the crisis, and contributes to enhance economic, social and territorial cohesion while ensuring that no planned measure significantly harms environmental objectives (**"do no significant harm" principle**).

To facilitate the development of national recovery and resilience plans, the EC has identified a number of areas, which strongly encourages MS to put forward investment, and reform plans to reinforce the commitment to the twin green and digital transition.

The EC will assess the national plans against the following targets:

- **37% for green investments and reforms** – Each recovery and resilience plan will have to include a minimum of 37% of expenditure related to climate and sustainable investment, as defined under the Taxonomy Regulation. Progress towards other environmental objectives is also important, in line with the European Green Deal.
- **20% for digital investments and reforms** – Each recovery and resilience plan will have to include a minimum of 20% of expenditure to foster the digital transition. The EC is developing a methodology to ensure investment is channeled to both infrastructure and digital capacities.

- The remaining investments would be attributed to reducing social and territorial inequality, boosting economic cohesion, improving preparedness in future crisis and in education.

Assuming an MS plan fulfils the above-listed criteria, the financial contribution or loan allocated to the MS will be detailed through an implementing act. MS receiving funding in the context of the RRF would need to report on the progress made on their reform commitments on a quarterly basis in the European Semester.

MS can request a loan at the same time of the submission of a request for a grant until the end of August 2023. The loan facility will be capped at 6.8% of the gross national income of the applicant MS.

Requesting a loan may provide an MS with additional financing for additional reforms and investments beyond those financed from grants. The loans will benefit from the long maturities and the favourable interest rates as enjoyed by the EC.

It is worth noting that in accordance to reforms and investment projects may receive support from other EU programmes and instruments if such support does not cover the same costs.

Proposed Areas of Investment and Reform

The EC has produced a range of guidance documents for MS, highlighting which type of investments it considers as coherent with the European flagship strategies, and to fulfil the green and digital "tagging" of planned measures.

Example of Component of Reforms and Investments – Digital Connectivity

When explaining to what extent the proposed measure contributes to the digital transition, MS are invited to take as a reference, wherever possible, the Digital Economy and Society Index (DESI).

In the area of digital reforms, these include a range of reforms or investments in digital connectivity:

1. **Connectivity** – Notably 5G coverage, including large-scale deployment of 5G corridors along transport pathways, ubiquitous access to ultrafast connectivity in urban and rural areas and affordable to all households and businesses, and connecting all socioeconomic drivers to very high-capacity broadband networks.
2. **Digital-related investment in R&D** – Publicly funded ICT R&D in all sectors and the rate of progression.
3. **Human capital** – Developing digital capacity for resilient and efficient education and training systems, enhancing digital competences for the digital transformation and building a trusted European digital education ecosystem of content, tools, services and platforms.
4. **E-government** – Modernising public administration using key digital enablers, mobility of citizens and businesses through cross-border interoperability, accelerating administrative processes and facilitating digital interaction between administrations and citizens and businesses.
5. **Digitalisation of businesses** – Policy objectives defined in the New Industrial Strategy for Europe, the SMEs Strategy for a sustainable and digital Europe, in particular via Digital Innovation Hubs.
6. **Investment in digital capacities and deployment of advanced technologies** – Such as data spaces, supercomputers, cybersecurity, artificial intelligence and quantum-computing infrastructures.

Example of Component of Reforms and Investments – Public Administration

The effect of an efficient and effective public administration at the national level has a very strong impact on the resilience of national economies, in particular in times of crises.

This is why the EC has also set out ideas for reforms and investments with regard to the public administration to aim for:

1. Better policymaking and implementation, enhanced transparency, trust and integrity in the public sector.
2. Digital transformation of public sectors and enhanced service delivery for citizens and businesses.
3. An attractive and dynamic civil service delivering for tomorrow.

Example of Component of Reforms and Investments – Renovation Wave

This EC guidance document for MS focuses on the "renovation wave" policy objective and is aimed at enhancing energy and resource efficiency in the European housing, building and construction sectors.

In terms of specific examples for MS to follow, the EC lists:

For reforms:

1. "One-stop shops" at NUTS-3 level (or the relevant functional area) facilitating energy renovation projects across their lifetime.
2. **National plan for energy and resource efficiency skills development**, and a certification scheme for professionals.
3. **Transferrable on-bill recovery scheme**, linking the loan for renovation to the property meter (not the owner or occupant) and allowing repayment via electricity or heating bills.
4. **Supportive legislative package** for energy and resource efficiency in buildings.

For investments:

1. **Energy and resource efficiency scheme for public buildings**, health and social infrastructures based on comprehensive energy performance contracts.
2. **Home renovation support scheme** to increase the energy and resource efficiency of residential buildings and social housing.
3. **Reuse and recycling infrastructure** investments.

Example of Component of Reforms and Investments – Clean, Smart and Fair Urban Mobility

The EC guidance document for MS highlights how projects related to urban mobility and transport may get RRF support. The objective of the EC here is to solicit efforts to make urban mobility cleaner, smarter, safer and fairer.

The EC provides the following examples for **reforms**:

1. Create the framework for cities/agglomerations to adopt and implement individual **Sustainable Urban Mobility Plans (SUMP)**.
2. Progressively **phase out the most polluting vehicles** in most polluted urban areas. The legal framework will complement other national and local efforts to reduce transport-related GHG emissions, congestion and pollution.
3. Support the deployment of **sustainable shared mobility services**. This framework will facilitate local efforts to enhance the offer of sustainable shared mobility services, including transport on demand, to complement public transport, and to reach sustainability objectives.
4. Simplify and harmonise permitting **procedures for alternative fuels infrastructure**. This measure will accelerate investment in recharging stations in particular, as well as facilitate interactions between the electricity grid operators and recharging infrastructure operators.

In terms of **investments**, the EC proposes:

1. Create a **subsidy scheme to allow cities/ agglomerations to procure smart, safe and clean public transport fleets**, and their related infrastructure, as well as publicly accessible recharging/refuelling points for private and commercial zero and low emissions vehicles. Funding will be limited to investments included in SUMPs and conditional on complying with strictly specified public procurement rules.
2. Introduce a **scrapping scheme for the most polluting vehicles**. The scheme will provide incentives to give up older and "dirtier" vehicles, in exchange of mobility services, such as collective transport passes, allowances to purchase bicycles or zero or low emission vehicles.

How to maximize opportunities under the RRF while respecting State Aid rules?

To help companies maximize their opportunities under the RRF, some useful questions to consider are:

- Think of RRF flagship areas and whether your investments can fit in.
- Verify available aid in all Member States in which you are active.
- Plan ahead and make contact with national authorities to identify projects that should be in the Member State's recovery and resilience plan.
- Check RRF eligibility criteria for private investment incentives.
- Conduct a gap analysis against the eligibility criteria and bridge the gaps if possible. For example, in Italy, check your Legality Ranking through the AGCM portal. Having a high Legality ranking score is likely to be one of the pre-requisites to receive funding.
- Ensure that the Member State is not handing out more than it should or that the allocation does not distort competition and the level playing field by seeking State aid legal advice.

Timeline

The EU27 Heads of State and Government endorsed on 10 December 2020 a €1.8 trillion EU Budget and Recovery Fund, following a deal reached on the contentious conditionality mechanism linked to the rule of law. The European Parliament and the Council have subsequently provided their consent.

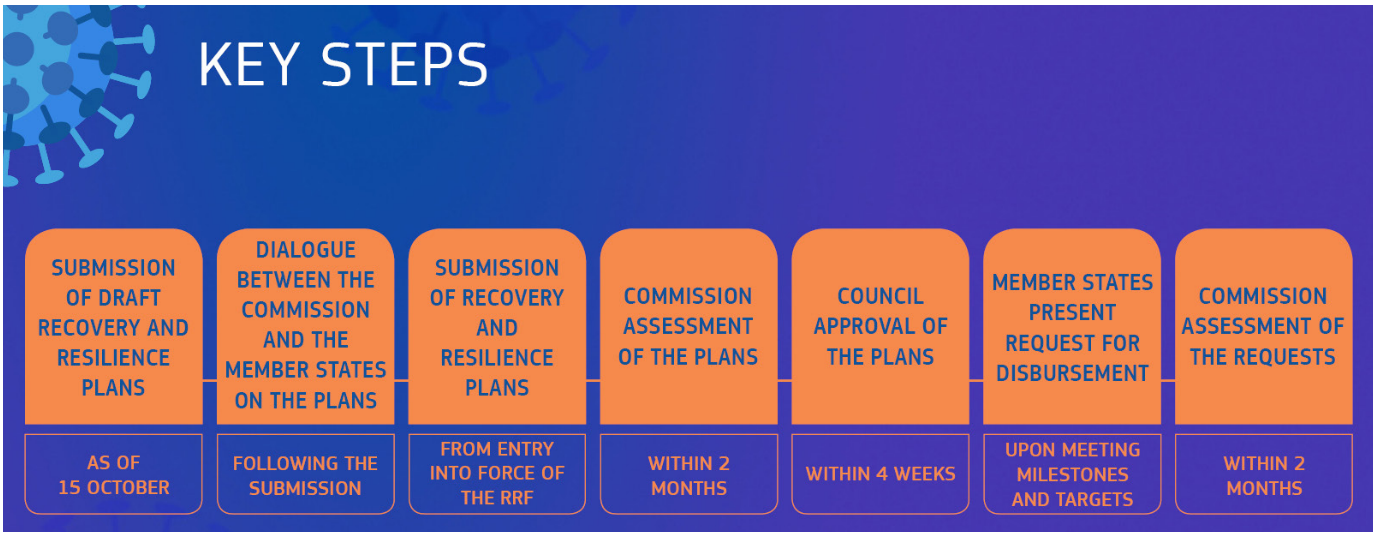
Nevertheless, the NGEU instrument which would financially support the RRF, still needs to enter into force so that the sectoral acts linked to the Instrument (RRF, REACT-EU etc.) can become operational. Importantly, MS need to ratify the Own Resources Decision endorsed by the Council on 14 December 2020, to authorize the borrowing activity from capital markets by the EC, aiming to disburse the funds through the NGEU sectoral acts.

The RRF Regulation determines the legal basis and rules underpinning the distribution of grants and loans to MS. While the co-legislators have provisionally agreed on the principles of the Regulation, technical discussions will continue, with the aim to formally adopt the Regulation in January 2021. This would be a necessary step for the Regulation to become operational, alongside MS national Recovery and Resilience Plans, which can be presented once the RRF is legally in force. According to the co-legislators agreement, the European Parliament would be entitled to deliver an opinion on MS Recovery and Resilience Plans for the consideration of the EC. Additionally, MS would be able to apply for a pre-financing of up to 13% of their respective financial contribution with the first payout disbursed in the summer of 2021.

Considering the intrinsic link between the European Semester and the RRF, MS are encouraged to submit their national reform programmes and their recovery and resilience plans in a single integrated document, which will provide an overview of the reforms and investments that the MS plan to undertake in the coming years, in line with the objectives of the RRF.

MS are encouraged to submit their draft plans to the RECOVER Task Force and DG ECFIN as early as possible to enable a preliminary discussion between the MS and the EC. The deadline for submissions of the plans is 30 April 2021.

Plans can be amended/updated in 2022, as necessary, to take into account the final amount of financial support available to each MS.



Source: European Commission

How We Can Help

The new Recovery and Resilience Facility will provide an unprecedented amount of funding opportunities to MS, in order for them to drive forward reforms and investments (private and public) in furtherance of their economies. The aim of the EC is to swiftly provide financial relief to European economies that have suffered strongly under the still ongoing COVID-19 pandemic and related economic and social consequences. The new RRF scheme can be overwhelming at first sight in terms of complexity, opportunities and sheer size.

With us as your trusted advisors on your side, you will be able to spot and understand the risks and opportunities for your organisation from the new RRF scheme, and we will support you in devising and executing successful strategies to shape and benefit from the new RRF funding opportunities.

Now is the right moment to start a discussion with us on how we can best help you at the EU and/or national levels.

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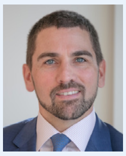
Contacts



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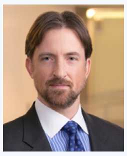

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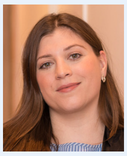

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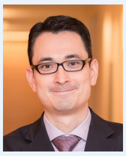

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