



**GOVERNMENT  
OF MALTA**



# Investing in Skills Implementation and Guidance Notes

## **Aid Scheme part-financed by the European Union**

Operational Programme 'Fostering the socioeconomic wellbeing of society through the creation of opportunities for all and investment in human resources and skills' Cohesion Policy 2021-2027.

**Version 1.0**  
**Issue date 18/09/2023**

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## 1 Introduction

### 1.1 Scope of the Implementation and Guidance Notes

The scope of these Implementation and Guidance Notes, which are applicable as of 18<sup>th</sup> September 2023 is to assist applicants when applying for grants under the Investing in Skills (IIS) Scheme. Investing in Skills is a scheme co-financed by the European Social Fund+ (ESF+), the Maltese Government and the Employers and falls under Malta's Operational Programme 'Fostering the socioeconomic wellbeing of society through the creation of opportunities for all and investment in human resources and skills' for the 2021-2027 Programming Period. Through this scheme, funds are granted<sup>1</sup> to Employers<sup>2</sup> to upskill their workforce.

The European Social Fund + (ESF +) aims is to support the policy objective for "A more social Europe – Implementing the European Pillar of Social Rights" including employment.

All applicants must abide by the Implementation and Guidance Notes valid at the time of application and subsequent addenda, which can be found on the Jobsplus website [www.jobsplus.gov.mt](http://www.jobsplus.gov.mt)

### 1.2 Rational of the Scheme

Investing in Skills is intended to promote access to the training of persons actively participating in the Maltese labour market, with a view to increasing productivity and enhancing adaptability. It seeks to increase and/or improve the knowledge and skills of employed persons through funds granted by this scheme.

### 1.3 State Aid Rules

With regards to those entities that carry out an economic activity within the meaning of Article 107 TFEU, the Scheme will be implemented in line with *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 on the Functioning of the European Union (TFEU)*, as amended by *Commission Regulation (EU) 2017/1084 of 14 June 2017 amending Regulation (EU) No 651/2014 as regards aid for port and airport infrastructure, notification thresholds for aid for culture and heritage conservation and for aid for sport and multifunctional recreational infrastructures, and regional operating aid schemes for outermost regions and amending Regulation (EU) No 702/2014 as regards the calculation of eligible costs*, and by *Commission Regulation (EU) 2020/972 of 2 July 2020 amending Regulation (EU) No 1407/2013 as regards its prolongation and amending Regulation (EU) No 651/2014 as regards its prolongation and relevant adjustments*, by *Commission Regulation (EU) 2021/1237 of 23 July 2021 amending Regulation (EU) No 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty*<sup>3</sup>, as further amended by *Commission Regulation (EU) 2023/1315 of 23 June 2023 amending Regulation (EU) No 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty and Regulation (EU) 2022/2473 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty*<sup>4</sup>, and as may be subsequently amended (hereinafter referred to as the General Block Exemption Regulation/GBER).

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<sup>1</sup> Subject to certain terms and conditions

<sup>2</sup> Except for local councils, public entities, Government Departments and when the Government has majority (over 50%) shareholding in the applicant entity.

<sup>3</sup> [EUR-Lex - 02014R0651-20230525 - EN - EUR-Lex \(europa.eu\)](https://eur-lex.europa.eu/eli/reg/2021/1237/oj)

<sup>4</sup> [EUR-Lex - 32023R1315 - EN - EUR-Lex \(europa.eu\)](https://eur-lex.europa.eu/eli/reg/2023/1315/oj)

## 1.4 Available Budget and Duration of Scheme

The Scheme was launched on the 18<sup>th</sup> September 2023. All applications received from 18<sup>th</sup> September 2023 onwards, will qualify for the Standard Scale of Unit Costs<sup>5</sup> listed in Section 2 of these Guidance Notes

Funds available under the scheme are subject to a total budget of approximately **€4 million**. The scheme is demand driven and grants will be provided on a first-come first-served basis.

**Should funds still be available, the last date of submission of applications is the 31<sup>st</sup> of December 2026. Training must be completed by 30<sup>th</sup> June 2027.** In case the budget is fully committed, Jobsplus reserves the right to close the scheme before the deadline without any public notification.

## 1.5 Main Parties Involved with the Implementation of the IIS Scheme

### 1.5.1 Jobsplus

The overall responsibility for the management and implementation of Investing in Skills is that of Jobsplus, hereinafter referred to as the Intermediate Body (IB).

### 1.5.2 The Beneficiary

The beneficiary hereinafter is referred to as the Employer.

- a) In the case of Investing in Skills, the Beneficiary is the body implementing an operation that is approved by the IB and has signed<sup>6</sup> a Grant Agreement with the latter.
- b) The Beneficiary is responsible for the implementation of the training activity in line with the terms and conditions of the Grant Agreement and of these Guidance Notes. The Beneficiary should always be guided by the principles of good governance, sound financial management, fairness, and transparency.
- c) The list of Beneficiaries benefiting from aid schemes funded through the European Social Fund+ will be published on the Jobsplus website [www.jobsplus.gov.mt](http://www.jobsplus.gov.mt)

### 1.5.3 The Line Ministry

The Ministry for Finance and Employment (MFE) as the Line Ministry reserves the right to conduct unannounced monitoring visits on a sample basis to ensure that training is ongoing as per application submitted and corresponding Grant Agreement.

## 2 Eligibility of Applications

### 2.1 Eligibility of the Application

Complete applications are evaluated by an Evaluation Committee, against the eligibility criteria listed in this Section. The criteria have been approved by the Monitoring Committee in line with Article 40(2) of Regulation 2021/1060 of the European Parliament and of the Council of 24th June 2021.

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<sup>5</sup> Such costs are in line with the simplified cost options as set out in Regulation No (EU) Article 88 2021/1060 of the European Parliament and of the Council.

<sup>6</sup> The Grant Agreement will be considered as signed if the Beneficiary agrees to the Grant Agreement content and grant amount via email.

## 2.2 Eligibility of the Beneficiary

The Applicant must meet all the eligibility criteria to benefit from this Scheme. Eligible applicants cover all employers irrespective of their legal form with the exception of Local Councils, Public Entities, Government Departments and when the Government has majority (over 50%) shareholding in the applicant entity.

With regards to the State Aid option of this Scheme applicable to entities that carry out an economic activity within the meaning of Article 107 TFEU, no assistance will be granted to those undertakings and/or sectors expressly excluded from receiving aid in line with Article 1 of the General Block Exemption Regulation.

## 2.3 Eligibility Criteria

Only applications meeting **all** the eligibility criteria for Employers will be approved for funding.

### All Applicants:

- a) **Complete documentation** - The Applicant must present an application form filled in with all relevant details and documentation.
- b) **Project implemented within / for the direct benefit of the eligible territory:** The Employer must be registered with the eligible territory (Malta and Gozo) whilst the project is to be implemented within the eligible territory or for its direct benefit.
- c) **Incentive Effect:** Aid shall be considered to have an incentive effect if the Beneficiary has submitted an application for the aid prior the start of the activity. Therefore, claim and proof of deliverables should be dated after the submission date of the IIS application.
- d) **Eligible Training Programme:** Aid shall not be granted for training which Employers carry out to comply with National Mandatory Standards on training (in other words, it cannot be training that is obligatory to meet a legal requirement). Furthermore, Information Sessions, Meetings, Conferences, Seminars and Team Building Events are not eligible under Investing in Skills. The Investing in Skills scheme will subsidise formal and non-formal learning<sup>7</sup>.
- e) **The trainee needs to be formally employed with the beneficiary during the training period**<sup>8</sup>;
- f) Applicant is not in an exclusion situation in accordance with Article 136(1) and Article 141(1) of 2018/1046 of the Financial Regulation and CPR Article 73(2)((i).
- g) Eligibility criteria for Selected Operation must be implemented in line with:
  - I) The Charter of Fundamental Rights of the European Union
  - II) B) The United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)

### Furthermore, in the case of employers having an economic activity irrespective of their legal form:

- h) **Falls within the definition of an undertaking**<sup>9</sup>
- i) **Aid cannot be granted to any Undertaking found to be in difficulty**<sup>10</sup>. Jobsplus will conduct checks to ensure that every applicant Undertaking is financially sound. In line with the amendments to the GBER introduced through Commission Regulation (EU) 2021/1237 of 23 July 2021 amending Regulation (EU) No 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, it is possible for aid to be granted to undertakings which were not in difficulty on 31 December 2019 but became undertakings in difficulty in the period from 1 January 2020 to 31 December 2021.

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<sup>7</sup> "formal learning" means learning that occurs in an organised and structured context and is explicitly designated as learning in terms of objectives, time or learning support. Formal learning is intentional from the learner's point of view and leads to a qualification. "non-formal learning" means learning embedded in a planned activity organised outside the formal educational system, which activity is not explicitly designed as learning but which contains an important learning component.

<sup>8</sup> Apprentices, Interns, or students engaged in vocational training with an apprenticeship or vocational training contract are not eligible. Refer to Section 5.7.

<sup>9</sup> Please refer to Annex I of these Implementation and Guidance Note for definitions.

<sup>10</sup> Please refer to Annex I of these Implementation and Guidance Note for definitions.

### 2.3.1 Eligible Aid Intensity applicable to Employers carrying out an economic activity irrespective of their legal form

The proportion will vary according to the size of the undertaking (Large, Medium, Small or Micro) as indicated below. **The Co-financing rate will be applied on the total eligible cost.**

The size of an undertaking determines the level of assistance which is established by staff headcount and financial thresholds as explained below:

Classification of Undertakings and relative Aid Intensity of the eligible costs	
SME Definition <sup>11</sup>	Aid Intensity
<b>Large</b> No of employees exceeds 250	<b>50%</b>
<b>Medium</b> No of employees not exceeding 250 persons and Annual Turnover not exceeding €50m and / or Annual balance Sheet Total not exceeding €43m	<b>60%</b>
<b>Small</b> No of employees fewer than 50 persons and Annual Turnover and/or Annual balance sheet total not exceeding €10m	<b>70%</b>
<b>Micro</b> No of employees less than 10 persons and Annual Turnover and/or Annual balance sheet total not exceeding €2m	

The Applicant will indicate the size of the Undertaking on the IIS Application Form. It is also understood that the Applicant Undertaking is to have all accounts including Annual Reports and the last audited Financial Statements<sup>12</sup> updated with the relevant authorities, such as the Malta Business Registry (MBR).<sup>13</sup> The IB will conduct the necessary checks to confirm the composition and size of the applicant undertaking. Verifications are also carried out to determine if the applicant undertaking is in difficulty. This will be ascertained through the Jobsplus database, information obtained through the MBR company accounts records (if applicable) and other sources.

If the latest (the IB can only accept audited financial statements which have been submitted to MBR with a financial year up to three years from the date of application) updated records are not available, the IB will request such documents from the applicant undertaking. **Failure to present the relevant documents within a stipulated timeframe, may lead to the rejection of the application.**

In case of newly established enterprises which have commenced operations within the previous three years and whose accounts have not yet been submitted, the data to be applied is to be derived from a bona fide estimate made in the course of the financial year. These will be obtained from estimates/projections evidencing that they originated from the accountant of the company.

Other applicant entities, for example self-employed persons and partnerships, need to submit the latest Tax Return Form and Income Statement (Profit and Loss Account) as part of the application documentation. In cases where the entity has just started up (has commenced operations within the previous three years), estimates/projections submitted via email by the contact or delegated person are required.

<sup>11</sup> [http://ec.europa.eu/growth/smes/business-friendly-environment/sme-definition\\_en](http://ec.europa.eu/growth/smes/business-friendly-environment/sme-definition_en)

<sup>12</sup> Audited Financial Statements should be provided for all linked/partner organisations.

<sup>13</sup> If the audited statements are not yet available on the relevant entity platform a copy of the receipt confirming that the accounts were submitted.

Where variations are detected, the IB reserves the right to review the grant's aid intensity to that of a larger size.

### 2.3.2 Eligible Aid Intensity applicable to Employers that do not carry out an economic activity

In the case of employers that do not carry out an economic activity, the headcount of the applicant's employees **and the headcount of any linked/partner organisations' employees** will be taken into consideration.

Classification and relative Aid Intensity of the eligible costs	
Size Classification	Aid Intensity
<b>Large</b> - Number of employees exceeds 250	<b>50%</b>
<b>Medium</b> - Number of employees not exceeding 250	<b>60%</b>
<b>Small</b> - Number of employees fewer than 50  <b>Micro</b> - Number of employees less than 10	<b>70%</b>

## 2.4 Eligibility and Evaluation of Operations

Projects received will be evaluated by the Evaluation Committee, according to a set of eligibility criteria which are identified above in Section 2.3. These criteria have been approved by the Monitoring Committee in line with Article 40 of Council Regulation 2021/1060.

### 2.4.1 Eligible Costs

- a) Trainer/s personnel costs, for the hours during which the trainers participate in the training;
- b) Trainers' and trainees' operating costs directly related to the training project such as travel expenses; and
- c) Trainees' personnel costs for the hours during which the trainees participate in the training.

The applicable Co-financing rate will be applied on the total eligible cost.

Origin of funds: The employer shall be solely responsible to ensure that to the best of its knowledge, no funds invested in this Operation by such employer are of illicit origin, including products of money laundering or linked to the financing of terrorism.

Applicants that are subject to an outstanding recovery order following a previous Commission decision declaring an aid illegal and incompatible with the internal market, will not be eligible to apply for assistance under this scheme.



#### 2.4.2 Some Examples of Ineligible Costs

- a) Any training provided by a linked company (over 50% shareholding<sup>14</sup>).
- b) Internal training<sup>15</sup>.
- c) Training that is free of charge.
- d) Training that is delivered by entities where subcontracted trainees are deployed<sup>16</sup>.
- e) SEC / MATSEC courses.
- f) Time taken to undertake Exams/Tests including Assessments, Training Needs Analysis & Work Placements.
- g) Information Sessions, Meetings, Conferences, Seminars and Team Building Events.
- h) Training that is mandatory by Law.

#### 2.5 External Trainers Costs

External trainers' fees, for the hours during which the trainers participate in the training.

Only the direct hours, excluding breaks, during which the trainer/s actually participate in the training, may be taken into account.

The maximum number of hours that can be claimed in the form of training fees cannot exceed 8 hours per day and 40 hours per week.

Reimbursement will be calculated on the hours listed on attendance sheets (Refer to Section 5 for further details), when using the Standard Scale of Unit Cost<sup>17</sup> per trainee per hour.

**Under no circumstances can the IB reimburse more than 10 trainees for the same training under IIS, irrespective if these claims derive from separate and unrelated Beneficiaries.**

In cases where the training is exclusive to the beneficiary, the IB will reimburse up to a maximum of 10 trainees per group for each training programme. By this it is implied that if, for example, a beneficiary sends a group of 12 trainees for training, the IB will reimburse up to 10 trainees.

In cases where the training is not exclusive, and if two separate beneficiaries apply for the same training programme that is delivered by the same trainer with the same training schedule, the IB will still reimburse up to a maximum of 10 trainees per group. Therefore, for instance, should two separate beneficiaries send 7 trainees each to the same training, the IB will pro-rate the grants of both beneficiaries accordingly to a maximum reimbursement amount of 5 trainees per beneficiary.

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<sup>14</sup> Other criteria might be applied depending on relationships found.

<sup>15</sup> Internal Training is training delivered by employees to employees of the same entity, irrespective of their employment status.

<sup>16</sup> This will be supported by a declaration submitted by the applicant entity.

<sup>17</sup> This SSUC may be adjusted by applying the annual rate of inflation to the respective rates. From 2017, for a given year N, this can be done by applying the inflation rate for year N-1 as published by the Maltese National Statistics Office at: [https://nso.gov.mt/Home/SELECTED\\_INDICATORS/Pages/Sub-Selected-Indicators/Prices.aspx](https://nso.gov.mt/Home/SELECTED_INDICATORS/Pages/Sub-Selected-Indicators/Prices.aspx)

## 2.6 Types of Training that can be supported

Type of Training	Definition	Funding Possibility
<b>Classroom Style Training</b>	Training where there is direct physical contact with a trainer. Such training can be held in a group session, one-to-one session or on the job.	<b>Yes</b>
<b>E-Learning Online Training (Live Sessions)</b>	Training that is conducted during a live online session on platforms such as Zoom, Skype or similar.	<b>Yes</b> , subject to Jobsplus being given access* to the training sessions so as to be able to conduct monitoring visits.
<b>E-Learning Online Training (Self-Led)</b>	Training that is conducted via a pre-recorded session.	<b>Yes</b> , subject to Jobsplus being given access* to the training sessions so as to be able to conduct monitoring visits and training is accredited/recognised by the MFHEA, ITS, UOM or MCAST <sup>18</sup>
<b>Distance Learning</b>	Training that is conducted by correspondence, without the student needing to attend training centre.	<b>Yes</b> , subject to being accredited/recognised by the MFHEA, ITS, UOM or MCAST.

\* Such access must be made available *BEFORE* the commencement of training.

In cases where the training service provider is not local, a link to the training programme or the training service provider's website must be included.

For **Classroom Style Training** and **E-Learning Online Training (Live Sessions)**, the IB will reimburse the unit cost based on the **contact hours** attended by each trainee up to a maximum of 25 hours per trainee for non-accredited training. If training is accredited by the MFHEA (Malta Further and Higher Education Authority), ITS (Institute of Tourism Studies), UOM (University of Malta) and MCAST (Malta College of Arts, Science & Technology) the capping of 25 hours will not be applied in cases where the **contact hours** exceed 25 hours. Therefore, the IB will reimburse each trainee to the maximum of contact hours approved by the MFHEA, ITS, UOM or MCAST.

In the case of **E-Learning Online Training (Self-Led)** or **Distance Learning**, only training accredited/recognised by the MFHEA, ITS, UOM or MCAST will be accepted. Reimbursement will also be based on the maximum **contact hours** approved by the MFHEA, ITS, UOM or MCAST.

In the case of accredited training, **MQF/EQF Levels 1- 5** will be accepted under Investing in Skills.

<sup>18</sup> Evidence of Accreditation must be presented with the application documentation. Proof of Accreditation will be verified on the MFHEA website.

## 2.7 Trainees’ Personnel Costs

Trainees’ Personnel Costs for the hours during which the trainees participate in the training.

This Standard Scale of Unit Cost will be equivalent to the hourly rate based on the national minimum wage of the year when the training was carried out<sup>19</sup>. In the case of **Classroom Style Training** and **E-Learning Online Training (Live Sessions)**, attendance sheets will also determine the final amount of personnel costs to be reimbursed. Personnel Costs will **NOT** be eligible for **E-Learning Online Training (Self-Led)** or **Distance Learning**.

**The maximum number of hours that can be claimed as personnel costs cannot exceed 8 hours per day and 40 hours per week.**

## 2.8 Trainer and Trainee Flight Expenses

If the training provider resides abroad, travel costs pertaining to air travel can be claimed by the Beneficiary . This also applies should trainees require to attend training abroad. Travel costs will be based on the Erasmus Plus Grant Support for the mobility of staff. Beneficiaries are to calculate the distance through the following link: <https://erasmus-plus.ec.europa.eu/resources-and-tools/distance-calculator> (for Malta please type *Luqa, Malta*).

Applicable Rates according to Distance per Round Trip per Participant	
100 – 499 km	€ 180
500 – 1,999 km	€ 275
2,000 – 2,999 km	€ 360
3,000 – 3, 999 km	€ 530
4,000 – 7, 999 km	€ 820
8,000 km or more	€1,500

Reimbursement of air travel expenses will be given upon presentation of **copies of boarding passes**<sup>20</sup>. Boarding passes need to be provided for **each connecting flight** (if applicable). Mobile screenshots that indicate ALL flight details are accepted too.

<sup>19</sup> This will be announced on Jobsplus website. The SSUC may be adjusted by applying the annual COLA to the respective rates.

<sup>20</sup> If boarding passes have been lost, you can ask the airline to issue a Virtual Coupon Record (VCR). Only those VCRs that have the status marked as **USED** will be accepted instead of the boarding passes.

## 3 Application and Evaluation Process

### 3.1 Application Process

Investing in Skills applications will be processed on a first come first served basis. Preferably complete applications must be received by the Investing in Skills Unit at least twenty-one calendar days before the start date of training **but not later than seven (7) calendar days before the start of the training**. Applications submitted in less than **seven (7) calendar days** before the start of the training will not be approved.

In line with Article 6 of Regulation (EU) 651/2014 training can be considered eligible only if it starts **after** an application has been submitted to Jobsplus and an acknowledgement is issued.

Employers can initiate the training **at their own risk** prior to formal approval by Jobsplus. Jobsplus will not be held responsible for any losses sustained by the applicant should the application be found ineligible.

- a) Only the latest application form submitted through [www.jobsplus.gov.mt](http://www.jobsplus.gov.mt) will be acknowledged;
- b) **Complete applications, together with all supporting documentation must be submitted in full.**
- c) Delegated persons will be able to liaise with the Investing in Skills Unit with any queries or clarifications pertaining to the application.

### 3.2 Documents to be submitted at application stage

The Investing in Skills Application Form MUST be filled in **electronically**. The applications must indicate the Legal Name<sup>21</sup> of the potential Beneficiary. **Only one training programme per application can be applied for, hence the duration of training should be the same for all trainees.**

Applicants should submit a complete Investing in Skills Application Form together with the supporting documents indicated in the Implementation and Guidance Notes and listed hereunder electronically through the Jobsplus website [www.jobsplus.gov.mt](http://www.jobsplus.gov.mt).

- a) Complete Application Form. Applicant entities must indicate if they have an economic activity or not;
- b) Training Schedule Template duly filled in. In the case of **E-Learning Online Training (Live Sessions) and E-Learning Online Training (Self-Led)** it is the responsibility of the Applicant to provide the IB with the link to the training sessions. It is also the responsibility of the Applicant to ensure consent of the trainers and participants;
- a) In the case of Accredited Training, evidence of Accreditation/Recognition from MFHEA, ITS, UOM or MCAST must be presented;
- b) Training Programme Template with detailed course content which is to be filled in by the training service provider; and
- c) In cases where the training service provider is not local, a link to the training programme or the training service provider's website must be included.
- d) Financial estimates/latest Tax Return Form and Income Statement (Profit and Loss Account) (where applicable). Please refer to Section 2.3.1.

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<sup>21</sup> The 'Legal Name of Beneficiary':

- a) The legal name of the applicant Employer as registered under the law applicable to its establishment. E.g. Applicant undertakings registrable under the Companies Act – **CAP 387** of the Laws of Malta, should provide the name as registered with the Malta Business Registry.
- b) Employers who are not vested with a legal personality acquired through the law applicable to their establishment, e.g. Associations, are to include the name as registered under the Second Schedule of the Civil Code (**CAP. 16 Laws of Malta**).
- c) Self-employed/Sole Traders should include the name of the self-employed person.
- d) NGOs must apply under the name as registered with the Commissioner for Voluntary Organisations or as registered under the Second Schedule of the Civil Code (**CAP. 16 Laws of Malta**).
- e) Social Partners must apply under the name registered with the DIER or as otherwise recognised by any other public body/public law.

- e) NGOs must submit the 'Compliance Email' issued by the Office of the Commissioner for Voluntary Organisations and the list of all administrators forming part of the voluntary organisation<sup>22</sup>.
- f) Social Partners must be registered with the Department of Industrial and Employment Relations (DIER) and submit supporting documentation from the DIER confirming that they are currently registered with them.

Other documentation may be requested at any time for additional verification purposes.

### 3.3 Evaluation Process

The potential Beneficiary must meet all the eligibility criteria listed in Section 2.3 above, to benefit from this scheme. The Evaluation Committee will assess the application by applying such criteria<sup>23</sup>.

**Funding for ineligible costs claimed will be deducted from the grant.**

**Beneficiaries are to ensure that both the chosen training provider/trainers are compliant with Part V of CAP 594 – Employment and Training Services Act – Employment Records.<sup>24</sup>**

**Any trainers that are not compliant will be deducted from the reimbursement and Jobsplus reserves the right to refer such instances to its Compliance Unit for further investigation.**

If the eligibility criteria are not all met, a non-acceptance letter will be issued and the request for funding will not be approved. An application could be partially accepted<sup>25</sup>, in this case a partial acceptance letter will be issued.

The ineligible or partially eligible applicant has the right to submit an appeal to the Aid Schemes Appeals Board within **ten working days from the date of the non/partially acceptance notification**. The appeal should include a detailed motivated explanation as to why the applicant is disputing this decision. The Aid Schemes Appeals Board will take into consideration the issues raised during the evaluation process and if the case is upheld, the application process will proceed. Late appeals will not be considered. The decision of the Aid Schemes Appeals Board will be final.

### 3.4 Basic Terms and Conditions

European Union (EU) funds will be offered on terms and conditions as stipulated in the Grant Agreement and the Investing in Skills Implementation and Guidance Notes. In accepting the offer of EU funds, the applicant will take the responsibility for compliance with these terms and conditions.

The Grant Agreement will be issued with separate cost components. At Reimbursement Stage the public eligible per cost component will be capped on each amount cost as per Grant Agreement.

No amendments or variations to the terms of the Grant Agreement or operation and especially the training schedule will be effective unless agreed to in writing by the IB. If a monitoring visit is conducted and training is not ongoing and the IB was not informed prior, a financial correction will take place. The postponed session will not be reimbursed. The grant will be rejected if this is repeated. Change requests are to be accompanied by a justification note stating the reason for the change. Changes could require the submission of a Change Request Form<sup>26</sup>. Notwithstanding this provision, should the reason for the delay or change be unacceptable, the IB reserves the right to refuse payment of the grant amount to the Beneficiary.

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<sup>22</sup> This can be the same form which has been submitted to the Office of the Commissioner for Voluntary Organisations

<sup>23</sup> The Incentive Effect could be checked at application and reimbursement stage whilst the trainee eligibility will be checked at reimbursement stage.

<sup>24</sup> <https://legislation.mt/eli/cap/594/mlt/pdf>

<sup>25</sup> For example, parts of the training programme are considered as ineligible.

<sup>26</sup> Refer to Change Request Form for the applicable scenarios.

**Requests for changes in external training providers or training programmes will not be entertained. In such cases, new applications that abide by the conditions in Section 3 of these Guidance Notes should be submitted.**

## 4 Compliance with Community Policies and General Principles

A Beneficiary should ensure coherence with Community Policies namely, state aid requirements, National Law as well as equal opportunities.

EU funds will be offered on terms and conditions, which will be stipulated in the Grant Agreement. In accepting the offer of EU funds, the Beneficiary will take on responsibility for compliance with these terms and conditions.

The implementation is subject to audits by both National and European Bodies. Officials from the Managing Authority<sup>27</sup>, the Intermediate Body<sup>28</sup> and other horizontal stakeholders will also have the right of access to all information related to the activity funded. This will include (but will not be limited to) the performance of documentary and physical on-the-spot checks to monitor compliance with the Grant Agreement, with the horizontal priorities of publicity, state aid, equal opportunities, the environment and sustainable development, evaluation and with the prevailing EU Regulations for Structural Funds.

It is important to note that European Structural and Investment Funds are public funds. In this regard, if the training project is eligible for funding, the Beneficiary will be bound by the principles of good governance, sound financial management and the relevant national regulations pertaining to public funds.

### 4.1 State Aid Requirements for Entities carrying out an economic activity

EU State Aid rules apply in the case of Investing in Skills as it involves direct financial support from the public sector to commercial enterprises or organisations carrying out an economic activity. It is important to note that if an aid recipient (i.e., the Beneficiary) is found to be in breach of state aid requirements, the funds will be recovered from the Beneficiary including possible interests and fines.

### 4.2 Equal Opportunities, Non-Discrimination and Equality between Men and Women

It is important to note that every Beneficiary is required to take a pro-active approach to Equal Opportunities. The Beneficiary must ensure that Equal Opportunities are taken into consideration at all stages of the Investing in Skills operation. Equal Opportunities should be understood to encompass not just gender discrimination but also discrimination based on racial or ethnic origin, religion or belief, disability, age or sexual orientation.

Therefore, the beneficiary must have in place the necessary safeguards to prevent any form of discrimination based on sex, racial and ethnic origin, religion or belief, age, disability or sexual orientation as referred in terms of CAP 452 and CAP 456 of the Laws of Malta.

## 5 Investing in Skills Reimbursement Process

### 5.1 Payment and Reimbursement Procedures

As part of the Payment and Reimbursement Procedures, the Investing in Skills Unit will be responsible to ensure that the:

- a) Claims for reimbursement by the Beneficiary are correct.
- b) Services have been delivered in accordance with the Grant Agreement.
- c) Incentive Effect conditions have been respected.
- d) Eligibility check of the trainees has been conducted.

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<sup>27</sup> The Planning and Priorities Co-ordination Division (PPCD) within the Ministry responsible for European Funds.

<sup>28</sup> Jobsplus

## 5.2 Documentation to be presented at Reimbursement Stage

The Beneficiary must pay from own funds the total expenditure incurred<sup>29</sup>. Once the operation has been successfully completed, the Beneficiary is to provide the following documentation which will be retained by the Investing in Skills Unit, in order to process the Claim for Reimbursement in line with the established co-financing rate and maximum subsidy payable in the Grant Agreement:

- a) Request for Reimbursement
- b) Compete, duly filled in and signed Financial Identification Form
- c) Attendance Sheets for classroom training to fill in template A and for online training to fill in Template B. In the case of online learning, screen shots of the ongoing training session/s where trainees, dates and timings are clearly identifiable are to be presented together with declaration/endorsement of legal representative and trainer including grant number, title of training, date, times and participants details<sup>30</sup>
- d) Certificates and/or result slips<sup>31</sup>
- e) Copies of Boarding Passes in the case of Air Travel
- f) Participants Report signed by the trainee/s
- g) Common Immediate Result Indicator Report/s signed by the trainee/s
- h) Photo/s of the IIS Publicity Poster, which was provided by the IB, affixed at a location readily visible to the public, such as the entrance area of a building.

All necessary documents can be found and downloaded from the Jobsplus website: <https://jobsplus.gov.mt/iis>

## 5.3 Financial Identification Form

The Financial Identification Form (FIF) is downloadable from the Jobsplus website. It is important that the details entered in this form match the company name and address as registered with the VAT Department and/or MBR.

## 5.4 Proof of Successful Completion and Attendance

The Beneficiary is to submit a copy of the Certificate/s (Achievement/Attendance), or result/s issued by the training provider/awarding body.

Proof of attendance of the training programme will be derived from attendance sheets covering the training period, including date/s, time/s of training and break time. Investing in Skills attendance sheets need to be signed by the trainee/s, and the trainer/s for training programmes. In the case of online learning, screen shots of the ongoing training session/s where trainees, dates and timings are clearly identifiable are to be presented together with declaration/endorsement of legal representative and trainer including grant number, title of training, date, times participants details. These Investing in Skills attendance sheet templates are downloadable from the Jobsplus website.

## 5.5 Payment of External Trainers' Costs and Air Travel Costs

- a) Reimbursement will be calculated on the applicable calculations (indicated in these Implementation and Guidance Notes) when using the Standard Scale of Unit Cost for external trainer's costs<sup>32</sup> per trainee per hour to a maximum of 10 trainees per group. The capping of approved contact hours and trainees as stipulated in Section 2.5 will also apply; and
- b) Electronic copies of Trainers' and Trainees' Flight Expenses boarding passes or Virtual Coupon Records marked 'USED' for all relevant flights being claimed. Mobile screenshots that indicate ALL flight details are accepted too. The capping of 10 per group does not apply to air travel.

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<sup>29</sup> This will be verified during monitoring visits or other means.

<sup>30</sup> Also refer to section 6.2 of these Guidance Notes

<sup>31</sup> Certificates should ideally include the start and end date of training.

<sup>32</sup> This will be announced on Jobsplus website. The SSUC may be adjusted by applying the annual rate of inflation to the respective rates. From 2017, for a given year N, this can be done by applying the inflation rate for year N-1 as published by the Maltese National Statistics Office at:

[https://nso.gov.mt/en/nso/Selected\\_Indicators/Retail\\_Price\\_Index/Pages/Index-of-Inflation.aspx](https://nso.gov.mt/en/nso/Selected_Indicators/Retail_Price_Index/Pages/Index-of-Inflation.aspx)



## 5.6 Invoice Payment Process

Reasonable care shall be taken by the Investing in Skills Unit to ensure that the payment process is not unduly delayed. The Investing in Skills Unit shall not be held responsible for delay or loss due to reasons beyond its control. It is the responsibility of the Beneficiary to ensure that claims for reimbursement together with relevant documentation are sent duly completed and correctly (i.e., first-time round) by **not later than five weeks from the end date of training** for projects that require a **Certificate of Attendance**.

Where a **Certificate of Achievement** is required, the claim for reimbursement must be submitted by **not later than eight weeks from the end date of training**.

**Notwithstanding the above, all claims for reimbursement together with complete supporting documentation must be submitted by not later than 31<sup>st</sup> August 2027.**

**Claims for reimbursement that are not submitted by the time frames could be de-committed.**

Training that goes beyond the eligibility period (30<sup>th</sup> June 2027) cannot be considered for funding.

Once the Investing in Skills Unit is satisfied that reimbursement of expenses incurred is in accordance with the approval and also in line with other conditions that may have been subsequently agreed with the Beneficiary, a request for payment will be forwarded to the Strategy and Implementation Division, EU Payments Unit within the Ministry responsible for European Funds. Jobsplus will not be held liable for delays in the approval process or for any overturning of Jobsplus' s approval of payment.

## 5.7 Double Financing or Funding

To avoid double-financing of expenditure with other Community or National schemes and with other programming periods, Jobsplus reserves the right to share information with other public entities/public authorities in order to ensure that no other public funds are made available to the Beneficiary in respect of the same activity.

Funding/reimbursement of eligible cost for the same training programme, for the same employees, from any other sources or even from IIS<sup>33</sup> is strictly prohibited. Accordingly, should the Beneficiary, in any way, gain financially from any National scheme or EU funded Aid scheme **for the same cost component**, funding for such cost **will be ineligible**.

With regards to assistance granted to undertakings that carry out an economic activity within the meaning of Article 107 TFEU, the rules on cumulation as outlined in Article 8 of the GBER will be respected.

## 5.8 Beneficiaries Subject to Recovery of Community and National Funds

The Beneficiary should notify Jobsplus if it is subject to any recovery of funds in Malta and in any other member state. Any outstanding recovery orders still in place would exclude the Employer from receiving aid.

# 6 Monitoring and Evaluation

## 6.1 Monitoring by the Beneficiary

The Beneficiary has the responsibility of ensuring effective monitoring of the project through its project leader/contact person or delegated person/s. The responsibility of the Beneficiary extends beyond the achievement of results but also entails the monitoring of physical implementation on the ground. The attendance sheets submitted by the Beneficiary will be considered for all intents and purposes as an official declaration by both the trainer/s and the trainee/s that the training was delivered as stated in the attendance sheets. This means that the IB will issue payment (where applicable) according to the details provided. It is up

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<sup>33</sup> Exceptions may be approved however, where applicable, the maximum aid intensities will always be respected.



to the Beneficiary to choose the most appropriate tool to ensure effective and timely monitoring of the project (training programme). The Beneficiary must keep continuous track of the activities related to the project. Such activities may take the form of reports on coursework done, reports by trainers, checks on attendance sheets (these must be endorsed by both the trainer and trainee/s, and legal representative where applicable); online attendance report; screenshot of session where trainees, dates and timings are clearly identifiable. It is being recommended that the Beneficiary keeps photos of the training session.

## 6.2 Monitoring Visits (On the Spot Checks) by the IB

The IB's Monitoring Officers will conduct unannounced monitoring visits on a sample basis to ensure that training is ongoing as per application submitted. Each monitoring visit will be supported by a monitoring report and photos. Monitoring could be performed through telephone recorded monitoring checks to have the necessary assurance that the training depicted in the respective Application Form has been affected in relation to the Grant Agreement Each monitoring visit will also be documented in a monitoring report.

At monitoring or payment stage the IB will also reserve the right to request other supporting evidence in the cases of E-Learning Online Training (Live Sessions), E-Learning Online Training (Self-Led) and Distance Learning (where relevant and possible) such as:

- a) Screenshot of session where trainees, dates and timings are clearly identifiable. The IB reserves the right to interview participants about the training programme content;
- b) Obtain an online log/attendance report prepared by the training service provider and endorsed by the legal representative;
- c) Request screenshots of communication between the trainer and trainee (such as email, Skype, WhatsApp etc.) which confirm that there was communication between both parties and when the latter occurred;
- d) Training material;
- e) Obtain recordings of the entire lessons;
- f) Obtain copies of any training material used during the training;
- g) Obtain copy of any trainee assessment submitted online at the end of the course (if applicable).

The IB may choose from the above which checks will be applied. The above list of actions is not exhaustive and the IB may request additional checks on a case-by-case basis.

The Beneficiary must inform trainers, trainees and training providers that such monitoring visits may be conducted and that photographs may be used for publicity purposes. It is the beneficiary's responsibility to ensure consent of the trainers and participants. Should any photograph be subsequently required for publication, the prior written consent will be obtained from the Beneficiary, and such consent should not unreasonably be withheld.

## 6.3 Participation in Monitoring and Evaluation Activities

The Beneficiary accepts to participate in and contribute to monitoring and evaluation activities organised by Jobsplus, the Managing Authority<sup>34</sup>, the European Commission as well as other Authorities.

# 7 Audit and Control

## 7.1 Internal Control

Officials from the Managing Authority<sup>35</sup>, the IB and other horizontal stakeholders and audit bodies will also have the right of access to all information related to the funded operation. This will include (but will not be limited to) the performance of documentary and physical on-the-spot checks to monitor compliance with the Grant

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<sup>34</sup> The Managing Authority (MA) is the body responsible for the overall management of the EU Cohesion Policy. The MA is the Planning and Priorities Co-ordination Division within the Ministry responsible for European Funds.

<sup>35</sup> The Planning and Priorities Co-ordination Division (PPCD) within the Ministry responsible for European Funds.

Agreement, with the horizontal priorities of publicity, state aid, equal opportunities, evaluation and with the prevailing EU Regulations for Structural Funds.

The Beneficiary also understands that the IB reserves the right to implement preventive and detective control mechanisms to combat fraud and corruption. The IB is also committed in transmitting cases to the competent authorities for investigations and sanctions.

## 7.2 First Level of Control & On-The- Spot Checks (Jobsplus and other Authorities)

Management verifications (administrative/monitoring and physical) shall be carried out by Jobsplus and in instances the Managing Authority to ensure that training was carried out in line with the Grant Agreement that the relevant procedures have been followed and that operations complied with Community and National rules (e.g., State Aid and publicity throughout the implementation of the operation).

### Jobsplus may conduct three types of checks:

- a) Physical On-the-Spot Checks (Monitoring) – This will be carried out ad hoc to ensure that the training is ongoing as per application form submitted and electronically signed Grant Agreement;
- b) Desk-Based On-the-Spot Checks at the Beneficiary – In-depth checks may be carried out on a sample basis, in terms of verification of documents. Further documents may be requested from Beneficiaries to assist Jobsplus during these checks; and
- c) Desk-Based Documentary Checks – The IB will ensure that documents submitted by the beneficiaries are correct.

It should be noted that these checks are NOT audits but administrative and physical verifications. Jobsplus will co-ordinate such checks. Any queries that may arise from such checks are submitted to the Beneficiary and should be answered within a stipulated deadline to ensure that funds are not at risk.

These checks focus on the administrative, publicity and physical aspects of the project (during or after the training to verify the reality of the operation and subsequent reimbursement). The Beneficiary should note that the following documents form an integral part of the project dossier which may be checked during on-the-spot checks:

- a) Copy of the Application Form and supporting documentation;
- b) Grant Agreement including electronic correspondence agreeing to Grant Agreement amount and content;
- c) Correspondence on agreed changes to the operation;
- d) Copies of all reimbursement documentation submitted;
- e) Publicity records including a photo of IIS poster affixed at a location readily visible to the public, such as the entrance area of a building.

The Managing Authority and other authorities may also carry out these checks.

### 7.2.1 Follow- Up Action to the On-The-Spot Check

Following an on-the-spot check, Jobsplus/MA shall fill out the OTS report (outlining findings and where necessary follow-up/recommendations<sup>36</sup>) which shall be signed by a representative of the Beneficiary or a representative of the Institution contracted by the beneficiary to provide training services and the monitoring officer. The finalised report is uploaded on a Database (Structural Funds Database 2021-2027) by Jobsplus for the benefit of the relevant stakeholders<sup>37</sup>.

Any follow-up action is to be undertaken by the Beneficiary within a stipulated deadline. Failure to do so may result in suspension of the grant or potential recovery of funds if paid.

Jobsplus undertakes a follow-up spot check if necessary.

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<sup>36</sup> Where applicable.

<sup>37</sup> Managing Authority, Audit Authority and any other relevant organisations.

### 7.3 Second Level of Control

The 2<sup>nd</sup> level of control refers to audits (on systems and operations) that are carried out by local and foreign audit institutions. The Internal Audit and Investigations Department (IAID) is the designated audit authority and it is the main entity responsible for second level of control. The audits are carried out on an ongoing basis throughout the programming period; therefore, documents are to be retained for a **five-year period** from 31<sup>st</sup> December of the year in which the last payment to the beneficiary is made.

Beneficiaries should note that other organisations including the National Audit Office (NAO) as well as the European Commission and the European Court of Auditors may undertake audits on the projects. Other organisations such as the State Aid Monitoring Board (SAMB) or the VAT Department may carry out checks on the project in order to ensure that the project is being implemented in accordance with state aid or VAT regulations.

The Beneficiary must ensure that all relevant documentation is made available to the auditors. The Beneficiary should provide the necessary support to the auditors in carrying out their work.

A report will be sent by the Audit Authority to Jobsplus, copied to the MA and the Line Ministry. The Audit Authority may organise follow-up audits if necessary.

### 7.4 Preparing for Audit Visits (applicable to all audits)

As part of their preparation for an audit, Beneficiaries should:

- a) Ensure that all persons (including technical personnel) within the Beneficiary organisation involved in the implementation of the operation being audited are available during the audit. It is important that the Contact Person/Project Leader or his/her delegate are present during the audit;
- b) Ensure that all the project documentation is made available and filed to facilitate easy access to the necessary documentation during the audit; the auditors may ask for copies of documents that are in file; and
- c) It is important to note that auditors may give no prior notice to visit the site and may ask the Beneficiary at short notice for an ad-hoc site visit.

Typically, auditors will seek to examine the following documentation during an audit visit<sup>38</sup>:

- a) **Project Documentation:**
  - i. Copy of application submitted and supporting documentation including the acknowledgement Notification.
  - ii. Acceptance Notification and Grant Agreement and between IB and the Beneficiary; and
  - iii. Addenda and Corrigenda to the Grant Agreement and related correspondence.
- b) **Payments:**
  - i. Copies of the claims for reimbursement of the operation sent to Jobsplus together with copies of attendance sheets, certificates and boarding passes where applicable.
- c) **Information and Publicity such as:**
  - i. Photos or recordings evidencing information activities or publicity undertaken in relation to the operation;
  - ii. Copies of handouts, documents, attendance sheets, certificates, agendas and other publications displaying EU information and publicity requirements;
  - iii. Copies of press articles (where applicable); and
  - iv. Verification of compliance with compulsory EU information and publicity requirements at the beneficiary's premises.
- d) **Any other documents** submitted at application, implementation and reimbursement stage.

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<sup>38</sup> Electronic copies will also be accepted.

### 7.5 Follow-up to an Audit

Once the audit is concluded, the auditors will write a report with the findings and any recommendations. Should there be the need for any clarifications; the auditors will seek feedback from both the IB and the beneficiary.

### 7.6 Closure

Beneficiary should note that projects can be audited even after completion of the project implementation. In view of this all project documentation must be retained by the Beneficiary for **five years** after the end date of the project (training programme).

## 8 Reporting on Irregularities

### 8.1 How to Detect and Irregularity

Irregularities are mainly detected through the various checks and audits carried out by different entities. However, irregularities can be detected through other means including evaluation, grievance or complaints (anonymous or not), and/or public domain information.

### 8.2 Reporting an Irregularity by the Beneficiary

The Beneficiary is duty bound to **IMMEDIATELY** report any irregularities noted to the Project Leader of Investing in Skills Scheme within Jobsplus.

### 8.3 Financial Recoveries

In case an irregularity necessitates recovery of funds, the organisation detecting the irregularity must ensure that recovery procedures are initiated immediately.

### 8.4 Financial Correction

It is important to note that failure to apply rules and regulations can result in irregularities. These in turn, could lead to financial corrections up to 100% of the amount paid with the possibility of additional interests and fines. Such irregularities will be reimbursed by the Beneficiary by simple demand.

## 9 Information and Publicity

### 9.1 Publicity

- a) In order to enhance transparency regarding the use of the Scheme's Funds, and in line with the transparency requirements under the GBER, general details of the operation such as: the name of the Employers; the title of the operations and the amount of public funding allocated to each operation may be published.
- b) The IB will provide a publicity poster to the Employer showing the funding sources of the Scheme. The applicant must affix this poster in a prominent place within their premises.
- c) The Beneficiary shall ensure that the participants being subsidised under the Investing in Skills Scheme have been informed about the operation's source of funding.
- d) The IB may request the Employer to collaborate in the organisation of events or promotional activities, including networking and exchanges at both National and European level.

For any further details or clarifications, kindly contact the Communications Unit at the Managing Authority.

### 9.2 Data Protection

All data is collected and held by Jobsplus and/or transferred to third parties in order to fulfil Jobsplus' functions including publicity and research and other Community obligations according to law and in line with the provisions of the Data Protection Act<sup>39</sup> and the General Data Protection Regulation (EU/679/2016).<sup>40</sup>

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<sup>39</sup> Data Protection Act CAP 586 of the Laws of Malta.

<sup>40</sup> General Data Protection Regulation (EU/679/2016).

Beneficiaries should disclose to Jobsplus, data which is correct and accurate. The Beneficiary has a right to access all data as well as to request that any incorrect data be rectified. The Beneficiary should ask for assistance, if any queries arise. Where the data pertains to a third party, the employee should be informed by the beneficiary and the accuracy of the data should be ascertained.

## 10 Retention of Documents

### 10.1 Duration of Retention

The Beneficiary in Investing in Skills is obliged to **keep all documents** related to the operation for audit purposes for **five years** after the end date of the project (training programme). Beneficiaries will be required to maintain documents in their original, copy or electronic format as required. Refer to Section 7 for details of the documents to be retained and can be checked during audit visits.

## 11 Examples of Ineligible Training Programmes

**This list of Training Programmes carried out to comply with National Mandatory Standards on training is NOT exhaustive.**

Anti-money laundering training – Subsidiary Legislation 373.01: Prevention of Money Laundering and funding of Terrorism Regulations.

Training on Machinery – Subsidiary Legislation 424.35: Work Equipment (Minimum Safety & Health Requirement) Regulations 2016.

Manual Handling - Subsidiary Legislation 424.17: Protection against risks of back injury at work places regulations.

Fire Fighting - Subsidiary Legislation 424.15 of 2003 – Work Place (Minimum Health and Safety Requirements) Regulations.<sup>41</sup>

CPE credits for Accountants - Directive 1 of the Accountancy Profession Act<sup>42</sup>.

Health & Safety Training - Subsidiary Legislation 424.18: General Provisions for Health and Safety at Work Place Regulations.

Seafarers Security Training – Subsidiary Legislation 234.17 Merchant Shipping (Training & Certification) Regulations.

Dangerous Goods – Air Navigation: Subsidiary legislation 499.44 Air Navigation (Dangerous Goods) Regulations.

Training on Aircraft Maintenance: EC Regulation 1321/2014 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisation and personnel involved in these tasks.

CPD mandatory credits for the Insurance Industry: The Insurance Distribution Act - CAP 487 and CAP 7 - Continuous Professional Development.

Electrical License Courses: Subsidiary Legislation 542.24 Electrical Installations Regulations.

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<sup>41</sup> Fire Fighting could be supported if number of trainees exceeds the legal requirement.

<sup>42</sup> Structured CPE hours could be supported subject to the Beneficiary providing adequate assurance that trainees are already in possession of the mandatory annual 25 structured CPE credits.

## 12 Annex 1 - Definitions of Undertaking and Undertaking in Difficulty

**Definition of Undertaking:** An undertaking is considered to be any entity engaged in an economic activity, irrespective of its legal status and the way in which it is financed and includes a partnership, company, self-employed persons, family businesses, association or other bodies, whether vested with legal personality or not. The term Undertaking is to be taken to have the same meaning of undertaking as per Commission Regulation (EC) No 651/2014. For the purpose of establishing the aid intensities under Investing in Skills, an undertaking shall be considered as the sum of all partner and linked organisations related to the Beneficiary.

- **‘Autonomous enterprise’ ; is any enterprise, which is not classified as a partner enterprise within the meaning of ‘partner enterprises’ or as a linked enterprise within the meaning of ‘linked enterprises’ as explained below.**
- **‘Partner enterprises’** refers to all enterprises which are not classified as linked enterprises within the meaning of ‘linked enterprises’ and between which there is the following relationship: an enterprise (upstream enterprise) holds, either solely or jointly with one or more linked enterprises within the meaning of ‘linked enterprises’, 25 % or more of the capital or voting rights of another enterprise (downstream enterprise).

However, an enterprise may be ranked as autonomous, and thus as not having any partner enterprises, even if this 25 % threshold is reached or exceeded by the following investors, provided that those investors are not linked, within the meaning of ‘linked enterprises’, either individually or jointly to the enterprise in question:

- a) public investment corporations, venture capital companies, individuals or groups of individuals with a regular venture capital investment activity who invest equity capital in unquoted businesses (business angels), provided the total investment of those business angels in the same enterprise is less than EUR 1,250,000;
  - b) universities or non-profit research centres;
  - c) institutional investors, including regional development funds;
  - d) autonomous local authorities with an annual budget of less than EUR 10 million and less than 5,000 inhabitants; or
- **‘Linked enterprises’** are enterprises which have any of the following relationships with each other:
    - a) an enterprise has a majority of the shareholders' or members' voting rights in another enterprise;
    - b) an enterprise has the right to appoint or remove a majority of the members of the administrative, management or supervisory body of another enterprise;
    - c) an enterprise has the right to exercise a dominant influence over another enterprise pursuant to a contract entered into with that enterprise or to a provision in its memorandum or articles of association;
    - d) an enterprise, which is a shareholder in or member of another enterprise, controls alone, pursuant to an agreement with other shareholders in or members of that enterprise, a majority of shareholders' or members' voting rights in that enterprise.

There is a presumption that no dominant influence exists if the investors listed in the second subparagraph of the definition of ‘partner enterprises’ are not involving themselves directly or indirectly in the management of the enterprise in question, without prejudice to their rights as shareholders.

Enterprises having any of the relationships described in the first subparagraph through one or more other enterprises, or any one of the investors mentioned in the definition of ‘partner enterprises’, are also considered to be linked.

Enterprises which have one or other of such relationships through a natural person or group of natural persons acting jointly are also considered linked enterprises if they engage in their activity or in part of their activity in the same relevant market or in adjacent markets.

An 'adjacent market' is considered to be the market for a product or service situated directly upstream or downstream of the relevant market.

**Definition of an Undertaking in Difficulty:** an undertaking in respect of which at least one of the following circumstances occurs:

- a) In the case of a limited liability company (other than an SME that has been in existence for less than 3 years or, for the purposes of eligibility for risk finance aid, an SME that fulfils the condition in Article 21(3), point (b), and qualifies for risk finance investments following due diligence by the selected financial intermediary), where more than half of its subscribed share capital has disappeared as a result of accumulated losses. This is the case when deduction of accumulated losses from reserves (and all other elements generally considered as part of the own funds of the company) leads to a negative cumulative amount that exceeds half of the subscribed share capital. For the purposes of this provision, 'limited liability company' refers in particular to the types of company mentioned in Annex I to Directive 2013/34/EU of the European Parliament and of the Council and 'share capital' includes, where relevant, any share premium.
- (b) In the case of a company where at least some of its members have unlimited liability for the debt of the company (other than an SME that has been in existence for less than 3 years or, for the purposes of eligibility for risk finance aid, an SME that fulfils the condition in Article 21(3), point (b), and qualifies for risk finance investments following due diligence by the selected financial intermediary), where more than half of its capital as shown in the company accounts has disappeared as a result of accumulated losses. For the purposes of this provision, 'a company where at least some of its members have unlimited liability for the debt of the company' refers in particular to the types of company mentioned in Annex II to Directive 2013/34/EU.
- c) Where the undertaking is subject to collective insolvency proceedings or fulfils the criteria under its domestic law for being placed in collective insolvency proceedings at the request of its creditors;
- d) Where the undertaking has received rescue aid and has not yet reimbursed the loan or terminated the guarantee, or has received restructuring aid and is still subject to a restructuring plan; and
- e) In the case of an undertaking that is not an SME, where, for the past two years:
  - i. The undertaking's book debt to equity ratio has been greater than 7.5; and
  - ii. The undertaking's EBITDA interest coverage ratio has been below 1.0.



Jobsplus reserves the right, in particular based on approval or direction by the European Commission or the Managing Authority to amend from time-to-time certain provisions established by this guidance document. Such amendments may become applicable and enforced retrospectively.

In case of any conflicts between these guidelines and the text of the European Social Fund Operational Programme 2021-2027 and other legislative text, the interpretation given by the Operational Programme and relevant legislation will be given priority.

The Intermediate Body also reserves the right to request additional information not included in this Guidance Document.