

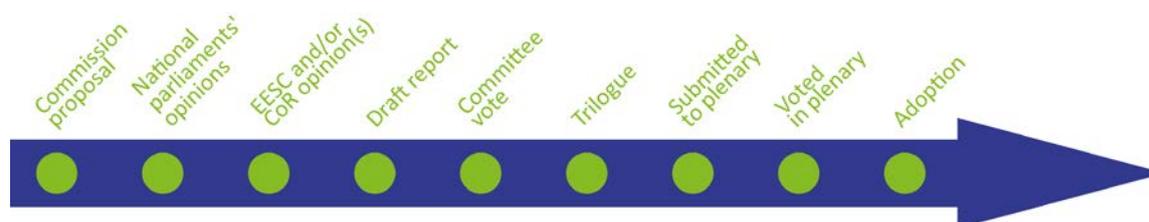
Guarantee Fund for External Action and EIB external lending mandate

OVERVIEW

In response to a sharp increase in the number of people trying to migrate to Europe illegally, and as part of the mid-term review of the European Investment Bank's external lending mandate (ELM), the Commission proposed an external investment plan to tackle the root causes of migration from countries neighbouring the European Union, consisting of a European Fund for Sustainable Development (EFSD) and quantitative and qualitative changes to the ELM. These changes entailed two legislative proposals. A compromise package was agreed in trilogue between Council and Parliament, and adopted at first reading during the February I 2018 plenary session. Both acts entered into force on 8 April 2018.

Proposal for a regulation of the European Parliament and of the Council amending Regulation (EC, Euratom) No 480/2009 establishing a Guarantee Fund for External Actions; Proposal for a decision of the European Parliament and of the Council amending Decision No 466/2014/EU granting an EU guarantee to the European Investment Bank against losses under financing operations supporting investment projects outside the Union

<i>Committee responsible:</i>	Budgets (BUDG)	COM(2016) 582; COM(2016) 583
<i>Rapporteur:</i>	Eider Gardiazabal Rubial (S&D, Spain)	14.9.2016
<i>Shadow rapporteurs:</i>	Siegfried Mureşan (EPP, Romania); Gérard Deprez (ALDE, Belgium); Xabier Benito Ziluaga (GUE/NGL, Spain) and Liadh Ní Riada (GUE/NGL, Ireland); Heidi Hautala (Greens/EFA, Finland); Marco Zanni (ENF, Italy)	2016/0274(COD) 2016/0275(COD)
Procedure completed	Regulation (EU) 2018/409 OJ L 76, 19.3.2018, pp. 1-2 Decision (EU) 2018/412 OJ L 76, 19.3.2018, pp. 30-43.	Ordinary legislative procedure (COD) (Parliament and Council on equal footing – formerly 'co-decision')



Introduction

In the context of the new [Partnership framework with third countries](#) and the [European agenda on migration](#), the Commission published an [external investment plan](#) (EIP) on 14 September 2016. The EIP aims to support investment in the EU's partner countries, strengthen EU-third country partnerships, and promote new forms of private sector participation. The EIP includes a European Fund for Sustainable Development (EFSD) and a proposal to amend the external lending mandate (ELM) of the European Investment Bank (EIB), entailing a qualitative and quantitative change to the EU guarantee to the EIB against losses on investments outside the EU, and with it changes to the management and provisioning of the Guarantee Fund for external action (GFEA).

The EU guarantee to the EIB covers risks related to loans and guarantees granted to third countries or for projects to be executed in third countries. The amendments proposed to the GFEA reflect the proposed changes to the EU guarantee to the EIB, and are designed to protect both the EU budget and the EIB's strong credit rating from possible additional risk resulting from those changes.

Existing situation

The current scope and general conditions of the EU guarantee covering the EIB's operations outside the EU are set out in [Decision No 466/2014/EU](#), which stipulates that external financing during the 2014-2020 period is subject to a fixed ceiling of no more than €27 billion, with an optional additional amount of €3 billion, subject to approval by the European Parliament and the Council during the mid-term review/revision (launched in 2016). The current EU guarantee provides a comprehensive guarantee for loans to public sector entities, but only a 'political risk guarantee' for loans to private sector entities – meaning the risk of non-transfer of currency, expropriation, war or civil disturbance, or denial of justice upon breach of contract. The EU guarantee to the EIB is underpinned by the GFEA, which protects the EU budget from potential shocks related to defaults on loans that are guaranteed by the EU, in order to avoid possible disruptions to the implementation of the budget. The [GFEA Regulation](#) stipulates that the fund is the property of the EU, but its financial management is entrusted to the EIB. The GFEA is endowed with:

- one annual payment from the general budget of the Union,
- interest on Guarantee Fund resources invested, and
- amounts recovered from defaulting debtors.

The GFEA is provisioned from the EU budget annually, in order to maintain a target amount of 9 % of total outstanding loans under the ELM. The actual provisioning amount is calculated ex post and paid from the budget into the GFEA with a two-year delay.

The instruments under which the GFEA covers lending and guarantee operations are:

- Euratom loans;
- macro-financial assistance loans to tackle short-term balance of payments or budget difficulties;
- the ELM (over 95 % of the outstanding volume).

Parliament's starting position

On 14 April 2016, the European Parliament adopted a [resolution](#) on the private sector and development, in which it called for an expansion of the EIB's current ELM in order to increase the bank's role in sustainable development, and specifically in a new private-

sector strategy, through blending, co-financing of projects and local private-sector development. The resolution also called for greater transparency and accountability in partnerships and projects associated with the EIB, and for the EIB to ensure that companies that receive its support do not participate in tax evasion. Parliament encouraged the Commission to promote, support and finance public-private partnerships as the first option, and to include mandatory and publicly available ex-ante poverty and social impact assessments when development programmes are implemented together with the private sector. The resolution underlined that the primary objective of EIB financing operations implemented through the EU guarantee granted to the EIB in developing countries should be the eradication of poverty.

In a [resolution](#) of 5 April 2017 on the role of EU external action in addressing refugee and migrant movements, the European Parliament expressed its explicit support for the external investment plan. In the resolution, the Parliament also called for its greater involvement in the scrutiny of the new financial instruments, for full transparency in the implementation of the plan, and for more attention to be paid to combatting corruption and bad governance in the beneficiary countries. It stressed that support should be targeted and negotiated with third countries in order to craft an efficient and results-oriented policy that responds to local circumstances.

European Council starting position

In the context of its migration policy, on [28 June 2016](#), the European Council asked the Commission to present the EIP legislative proposal by September 2016, so that it could be examined as a matter of priority by the European Parliament and the Council. The importance placed by the European Council on the EIP and its implementation was reiterated on [21 October](#) and again on [15 December 2016](#), after the Council had reached agreement on the ELM, with a view to trilogue negotiations with the Parliament.

Preparation of the proposal

With the aim of generating growth and jobs, and to improve the business environment in developing countries, the European Commission set out a strategic [framework](#) for strengthening the private sector's role in promoting growth in developing countries. The European Investment Bank is one of the key institutions with which the EU plans to work in implementing its future policies to promote public-private partnerships and the blending of projects. The importance of private-sector participation in promoting different EU policy objectives in third countries was mentioned in the 2013 [communication](#) from the Commission, 'Beyond 2015: towards a comprehensive and integrated approach to financing poverty eradication and sustainable development', as well as in the 2014 [communication](#), 'A stronger role of the private sector in achieving inclusive and sustainable growth in developing countries'.

In May 2013, the European Commission published an [impact assessment](#) of the EIB external mandate in the 2014-2020 period, accompanying the proposal which led to the adoption of Decision No 466/2014/EU. The assessment identified the main problems as: the risk of sub-optimal use of the EU guarantee; the fact that the EIB will not be able to finance all types of microfinance operations with the EU guarantee; an inadequate level of funding for climate action; and the unclear positioning of the EIB as a key tool of EU external financial support. The impact assessment concludes that the best option would be to amend the existing guarantee to introduce a mechanism to focus the geographical scope in particular on Asia and Latin America (ALA), and on creditworthy beneficiaries

differentiated depending on the beneficiary and type of operations (sovereign, sub-sovereign or private) or the region concerned (pre-accession countries vs others).

In its [communication](#), 'Strengthening European investments for jobs and growth: towards a second phase of the European Fund for Strategic Investments and a new European External Investment Plan', of 14 September 2016, the Commission outlined the framework of a proposal to address the root causes of migration. The proposal to amend Regulation (EC, Euratom) No 480/2009 establishing the GFEA was also mentioned in the Commission [communication](#) on the Mid-term review/revision of the 2014-2020 multiannual financial framework (MFF) of the same day.

The proposed amendments were among the legislative proposals accompanying the mid-term review, and were presented in the context of addressing the long-term root causes of migration, the refugee crisis and security threats, which require a significant increase in EU resources. The EIP is expected to closely involve the private sector in capacity-building and in the achievement of development goals.

The changes the proposals would bring

The first legislative proposal ([COM\(2016\) 582](#)) would amend Regulation (EC, Euratom) No 480/2009 establishing the GFEA. It would contain ancillary provisions for the functioning of the EIP, especially the private-sector lending mandate of the EIB. The risk premium revenues generated under the new private-sector lending mandate of the EIB on lending for projects in support of refugees and/or host communities, would become a source of income for the Guarantee Fund. However, the surplus amount of the Guarantee Fund, exceeding 10 % of the outstanding value of loans, would be paid back to the EU budget. The risk premium revenues would compensate for the higher risk, and contribute over the lifetime of the instrument to the funding of the additional provisioning needs for the Guarantee Fund. According to the Commission's original proposal, the management of the GFEA would have been transferred from the EIB to the Commission, but this was ultimately rejected in the compromise agreement reached between Council and Parliament.

The second proposal ([COM\(2016\) 583](#)) would amend Regulation 466/2014/EU on granting an EU guarantee to the EIB against losses under financing operations supporting investment projects outside the Union, by expanding both quantitatively and qualitatively the EIB's ELM. This would allow the EIB to continue to fulfil the current terms of the ELM in the Eastern Neighbourhood, in the context of a deterioration in the risk rating of countries there, as well as contribute to EIP objectives by providing additional financing to private-sector beneficiaries.

The main amendments in the Commission proposal are as follows:

- A fourth high-level objective for the ELM would be introduced: 'addressing root causes of migration'.
- The optional €3 billion provided for in the current Decision on the EU guarantee to the EIB on external lending would be released, with the same regional ceiling distribution as before.
- An additional maximum ceiling would be put in place for the EIB's private-sector mandate, amounting to €2.3 billion, while introducing a comprehensive guarantee for private-sector operations directly linked to refugees and host communities, and thus extending the coverage of the EU guarantee to commercial risks.

- Under the general mandate, €1.4 billion would be earmarked for projects in the public sector directed to refugees and host communities in crisis-affected areas.
- The overall maximum ceiling of EIB operations under the EU guarantee would therefore increase to €32.3 billion, implying total estimated additional provisioning needs for the GFEA of €297 million (€115 million over the current MFF and €182 million beyond 2020).
- Indicators would be developed for projects providing a strategic response to the migration crisis, to be integrated into the EIB's results measurement framework.
- EIB support for the internationalisation of EU SMEs would be enhanced.
- A number of high-income and high-investment countries would be removed from the list of eligible countries.
- The EIB would be given increased flexibility to switch amounts under the regional ceiling allocations (from the current 10 % between regions to a level of 20 %), except for the new EIB private-sector mandate of the EIB Resilience Initiative.

The amendment to the EU guarantee would require an injection from the EU budget of €115 million into the GFEA over the 2018-2020 period, to be financed from EU budget line 01 03 06. However, the risk premiums on additional EIB private-sector lending would constitute inflows to the GFEA. The premiums would be charged to the EIB in return for risks borne by the EU budget.

Court of Auditors

In its 2013 [annual report](#), the European Court of Auditors reported on its regular audit of the GFEA. It confirmed that the financial management of the Fund was in compliance with the agreement between the Commission and the EIB, and that the Commission had properly monitored the GFEA in 2013. The Court also stated that the return on the GFEA's portfolio for the year 2013 amounted to 0.79 %, representing a performance of 34 basis points below the benchmark index of its annual performance, which is not, however, representative of the GFEA performance over a longer period.

National parliaments

The [deadline](#) for the submission of reasoned opinions on the grounds of subsidiarity was 30 November 2016. The Italian Senate submitted an [opinion](#) supporting the proposal as one that enables the EU to achieve its strategic objectives more quickly and more efficiently over both the short and the long term. However, the Italian Senate recommended that the Commission assess the implications of taking over management of the GFEA from the EIB.

Stakeholders' views

This section aims to provide a flavour of the debate and is not intended to be an exhaustive account of all different views on the proposal. Additional information can be found in related publications listed under 'EP supporting analysis'

The GFEA has been discussed in the context of the EIP and criticised by some non-governmental organisations (NGOs). According to [Plan International](#) as well as a [coalition of NGOs](#) including Oxfam, ActionAid, Care and Transparency International, framing the EIP as an EU foreign policy tool linked to border control is a flawed approach, and raises questions about its nominal focus on sustainable development.

In a November 2016 [critique](#) of the ELM, the NGO, Counter-Balance argued that the EIB was failing to fulfil its transparency obligations set out in the EU Treaties, and should take greater care to ring-fence its investments from private finance linked to tax evasion and

avoidance. In November 2017, a Counter-Balance [report](#) on the EIP questioned what it described as an 'EU narrative' that assumes that migration is a problem and that development – diverted from its genuine aid objective – is a way to 'solve' it.

Legislative process

The proposals to amend Regulation (EC, Euratom) No 480/2009 and Decision No 466/2014/EU were sent to the European Parliament and the Council on 14 September 2016. The two files were referred to the Committee on Budgets (BUDG), with Eider Gardiazabal Rubial (S&D, Spain) appointed rapporteur for both.

The Committee on Budgets (BUDG) report on the proposal to amend Regulation No 480/2009 on the GFEA was adopted on 27 March 2017 with amendments to the Commission proposal related mainly to the financial management of the GFEA and the annual reports. BUDG amendments stressed, inter alia, that the proposal to transfer management of the GFEA from the EIB to the Commission should lead to cost savings as well as more accurate and better reporting on the GFEA to Parliament, and that there should be a cost-benefit analysis of the proposal and a report submitted to Parliament by June 2018; that the adequacy of the 9 % target amount and of the 10 % threshold referred to in article 3 of the proposal should be reviewed and reported on by the Commission annually; that transfers to the GFEA from the EU budget should not be to the detriment of existing activities under heading IV of the EU budget; and that the Commission should report in detail on the fund's status and performance, and the results of projects financed under the fund.

The BUDG report on the proposal to amend Decision No 466/2014/EU granting an EU guarantee to the EIB was adopted the same day, and warned against linking development finance and management of borders and migratory flows, and encouraged the Commission, inter alia, to incorporate the United Nation Sustainable Development Goals (SDGs), the Paris Agreement on combatting climate change, and all objectives of the EU's Global Strategy into the EIB's ELM; to increase the maximum ceiling for EIB financing operations under the EU guarantee to €38 470 million; for EIB financing operations to support small investment projects run by micro-, small and medium-sized enterprises (MSMEs); for the EIB to report on its operations under the ELM in more detail and with greater transparency vis-à-vis the EP; that the share of climate-relevant operations should rise to at least 35 % by 2020; for the EIB to integrate gender equality and corporate social responsibility priorities into its financing operations; and that the EIB should not make use of or engage in tax-avoidance structures.

The BUDG committee also decided to open interinstitutional negotiations on the basis of the two BUDG reports, which was announced in the April plenary session.

Meanwhile, on 5 April 2017, in agreeing its position, the Council [endorsed](#) the Commission's proposal to increase the ELM limit from €27 billion to €32.3 billion, and to allocate €3.7 billion of this to investments helping to address the needs of refugees and respond to the root causes of migration.

Trilogue negotiations were led, on the EP side, by Eider Gardiazabal Rubial (S&D, Spain) as rapporteur and presided over by the committee vice-chair, Siegfried Mureşan (EPP, Romania), who was also a shadow rapporteur for both files. Trilogue meetings took place on 12 April, 27 April, 4 May, 8 May, 30 May, 7 June, 22 June, and 23 November. On 1 December, the interinstitutional negotiators [announced](#) that a compromise package

had been agreed, which was subsequently approved in the BUDG committee on 4 December 2017.

Most of the changes in the compromise package agreed by Parliament and Council were to the Commission's proposed amendment to Decision No 466/2014/EU on the EU guarantee to the EIB. The compromise introduces an explicit commitment to the broader objectives of the EU Global Strategy; and underlines that operations under the ELM's new objective of addressing the root causes of migration should be distinct from EU border-control efforts. The co-legislators also introduced requirements concerning corporate social responsibility (CSR), transparency, due diligence, money laundering, terrorism financing, tax fraud and tax avoidance, as well as gender equality; and more detailed reporting requirements for the EIB regarding civil society involvement in EIB-funded projects, and in terms of the provision of results-measurement sheets for investment projects, and required that the EIB submits an evaluation of the ELM by 30 June 2019, with a view to its further revision. Changes were also made to the allocation of funds between regional ceilings, with the amount for pre-accession countries and beneficiaries reduced and the amounts for all other regions increased. New conditions were also placed on the reallocation of funds between regions.

On the proposed amendment to Regulation (EC, Euratom) No 480/2009 on the GFEA, the compromise agreement would see the EIB continue to manage the GFEA, but the Commission would submit to Parliament and Council an independent external evaluation of the merits of entrusting management of GFEA assets to the Commission, the EIB, or a combination of the two, by 30 June 2019. In addition, as of 2019 and every third year, the Commission would report on the adequacy of the 9 % target and the 10 % threshold for the fund.

The agreed text was adopted by the European Parliament in plenary on 8 February 2018, and by the Council on 27 February 2018. According to the adopted regulation, the Commission will entrust the financial management of the fund to the EIB. However, the final text specifies that the Commission shall submit the annual report on the management of the fund in the previous calendar year, by 31 May of each year, containing a presentation of the financial position and information on the functioning of the fund at the end of the previous calendar year, the financial flows as well as the significant transactions and any relevant information on the financial accounts.

The decision adopted on the EU guarantee increases the maximum ceiling for EIB financing operations under the EU guarantee to €32.3 billion, giving the financial means to the external lending mandate to respond to potential upcoming challenges and Union priorities, as well as to fulfil the new objectives.

The final acts were signed on 14 March 2018 and both entered into force on 8 April 2018, the twentieth day following their publication in the Official Journal.

EP supporting analysis

Latek M., [European Fund for Sustainable Development \(EFSD\)](#), EU Legislation in progress briefing, EPRS, European Parliament, November 2017.

Other sources

[Guarantee Fund for External Action \(GFEA\): asset management](#), European Parliament, Legislative Observatory (OEIL).

[EU guarantee to the European Investment Bank \(EIB\) against losses under financing operations supporting investment projects outside the Union: ceilings for EIB financing operations](#), European Parliament, Legislative Observatory (OEIL).

Disclaimer and Copyright

This document is prepared for, and addressed to, the Members and staff of the European Parliament as background material to assist them in their parliamentary work. The content of the document is the sole responsibility of its author(s) and any opinions expressed herein should not be taken to represent an official position of the Parliament.

Reproduction and translation for non-commercial purposes are authorised, provided the source is acknowledged and the European Parliament is given prior notice and sent a copy.

© European Union, 2018.

eprs@ep.europa.eu

<http://www.eprs.ep.parl.union.eu> (intranet)

<http://www.europarl.europa.eu/thinktank> (internet)

<http://epthinktank.eu> (blog)



Second edition. The 'EU Legislation in Progress' briefings are updated at key stages throughout the legislative procedure.