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**AMENDMENT 001-001**

Committee on Budgets

Committee on Economic and Monetary Affairs

**Report**

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European Fund for Strategic Investments

**A8-0139/2015**

Proposal for a regulation (COM(2015)0010 – C8-0007/2015 – 2015/0009(COD))

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**Amendment 1**

AMENDMENTS BY THE EUROPEAN PARLIAMENT\*

to the Commission proposal

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Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on the European Fund for Strategic Investments ■**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 172, 173, and Article 175(3) and Article 182(1) thereof,

Having regard to the proposal from the European Commission,

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\* Amendments: new or amended text is highlighted in bold italics; deletions are indicated by the symbol ■ .

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinions of the European Economic and Social Committee and the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The economic and financial crisis has led to a lowering of the level of investments within the Union. Investment has fallen by approximately 15% since its peak in 2007. The Union suffers in particular from a lack of investment as a consequence of **fiscal constraints on Member States and sluggish growth, thereby resulting in** market uncertainty regarding the economic future **■**. This lack of investment, **which has been particularly severe in those Member States most affected by the crisis**, slows economic recovery and negatively affects job creation, long-term growth prospects and competitiveness, **potentially preventing the attainment of the Europe 2020 targets and objectives for smart, sustainable and inclusive growth. There is a need to strengthen the attractiveness of investing in Europe and in the infrastructure of a modern knowledge economy.**
- (2) Comprehensive action is required to reverse the vicious circle created by a lack of investment **and ever-increasing disparities between regions, and to reinforce confidence in the Union economy, while incentives for creating an investment-inducing environment in Member States could boost economic recovery. Along with a renewed impetus towards investment financing, structural reforms that are effective and economically and socially sustainable and fiscal responsibility constitute a means of** **■** establishing a virtuous circle, where investment projects help support employment and demand and lead to a sustained **reduction of the output gap as well as to an** increase in growth potential. **The EFSI, strengthened by Member State contributions, must be a complement to an overall strategy to improve Union competitiveness and attract investment.**
- (2a) **In order to maximise the employment impact of the EFSI, Member States should continue to undertake structural reforms that are effective and economically and socially sustainable, as well as other initiatives such as training programmes and active labour market policies, the support of conditions for the creation of quality and sustainable jobs, and investment in targeted social policies in line with the 2013 Social Investment Package. In addition, Member States should undertake additional activities such as customised training programmes to match the skills of workers to the needs of sectors benefiting from EFSI, tailor-made business services for enterprises to prepare them to expand and create more jobs, as well as support for start-ups and self-employed individuals.**
- (3) The G20, through the Global Infrastructure Initiative, has recognised the importance of investment in boosting demand and lifting productivity and growth and has committed to creating a climate that facilitates higher levels of investment.
- (4) Throughout the economic and financial crisis, the Union has made efforts to promote growth, in particular through initiatives set out in the Europe 2020 Strategy that put in

place an approach for smart, sustainable and inclusive growth ***and through the European Semester for economic policy coordination***. The European Investment Bank ('EIB') has also strengthened its role in instigating and promoting investment within the Union, partly by way of an increase in capital in January 2013. Further action is required to ensure that the investment ***and macro-economic*** needs of the Union are addressed ***adequately*** and that the liquidity available on the market is used efficiently and ***its channelling*** towards the funding of viable investment projects ***is encouraged***.

- (5) On 15 July 2014, the then President-elect of the European Commission presented a set of Political Guidelines for the European Commission to the European Parliament. These Political Guidelines called for the mobilisation of "up to EUR 300 billion in additional public and private investment in the real economy over the next three years" to stimulate investment for the purpose of job creation.
- (6) On 26 November 2014, the Commission presented a communication entitled "An Investment Plan for Europe"<sup>1</sup> that envisaged the creation of a European Fund for Strategic Investments ('EFSI'), a transparent ***directory*** of investment projects at European level, the creation of an advisory hub (European Investment Advisory Hub – 'EIAH') and ***emphasised*** an agenda to remove obstacles to investment and complete the Single Market.
- (7) The European Council on 18 December 2014 concluded that "fostering investment and addressing market failure in Europe is a key policy challenge" and that "The new focus on investment, coupled with Member States' commitment to intensifying structural reforms and to pursuing growth-friendly fiscal consolidation, will provide the foundation for growth and jobs in Europe and calls for setting up a European Fund for Strategic Investments (EFSI) in the EIB Group with the aim to mobilise 315 billion euro in new investments between 2015 and 2017".
- (7a) ***On 13 January 2015, the European Commission issued a communication entitled "Making the best use of the flexibility within the existing rules of the Stability and Growth Pact" in order to strengthen the link between investment, structural reform and fiscal responsibility.***
- (8) The EFSI ***should be*** part of a comprehensive approach to address uncertainty surrounding public and private investments ***and to reduce the investment gaps in the Union***. The strategy has three pillars: mobilising finance for investment, making investment reach the real economy and improving the investment environment in the Union. ***The strategy should boost competitiveness and economic recovery and should be complementary to the objective of economic, social and territorial cohesion across the Union. It must be seen as a complement to all other actions needed to reduce the investment gaps in the Union and – by acting as a guarantee fund - as a stimulus for new investments.***

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<sup>1</sup> Communication to the European Parliament, the Council, the European Central Bank, the European Economic and Social Committee, the Committee of the Regions and European Investment Bank entitled "An Investment Plan for Europe". COM(2014) 903 final

- (9) The investment environment within the Union should be improved by removing barriers to investment, ***ensuring that there is no discrimination based on whether the management of the projects is private or public***, reinforcing the Single Market and enhancing regulatory predictability. The work of the EFSI, and investments across Europe generally, should benefit from this accompanying work.
- (10) The purpose of the EFSI should be to help resolve the difficulties in financing and implementing ***transformative, productive and strategic*** investments in the Union ***that provide an immediate boost to its economy*** and to ensure increased access to financing, ***with the aim of reducing unemployment levels and boosting growth in the Union***. It is intended that increased access to financing should be of particular benefit to small and medium-sized enterprises, ***including for the creation of start-ups and spin-offs from universities, and social and solidarity enterprises***. It is also appropriate to extend the benefit of such increased access to financing to ***small*** mid-cap companies, ***as well as to non-profit organisations and social economy enterprises***. Overcoming Europe's current investment difficulties ***and reducing regional disparities should seek to contribute*** to strengthening the Union's ***competitiveness, research and innovation potential***, economic, social and territorial cohesion, ***and to supporting an energy- and resource-efficient transition towards a sustainable, renewable-based circular economy, through the creation of stable and fairly remunerated jobs***.
- (11) The EFSI should support strategic investments with high economic added value contributing to achieving Union policy objectives ***in synergy with, and ensuring additionality to, existing Union operations such as, but not limited to, projects of common interest of any size which aim to complete the single market in the sectors of transport, telecommunications, infrastructure transition and energy efficiency, and including the Union's energy, climate and efficiency targets laid down in the Europe 2020 Strategy and in the 2030 Framework for climate and energy policies and which aim to meet the objectives of the Europe 2020 Strategy for smart, sustainable and inclusive growth. To ensure additionality over existing operations, the EFSI should target projects with a higher risk profile than existing EIB and Union instrument operations and that are oriented on the goals set out in this Regulation. Overcoming the Union's current investment difficulties will contribute to strengthening its economic, social and territorial cohesion. The EFSI should improve access to finance and the competitiveness of enterprises and other entities, with special emphasis on SMEs and mid-cap companies.***
- (11a) ***EFSI support to transport infrastructure should contribute to the objectives of Regulations (EU) No 1315/2013 (CEF) and (EU) No 1316/2013 (TEN-T) by creating new or missing infrastructure and also by modernising and rehabilitating existing facilities while allowing the financing of research and innovation operations in this sector. Particular attention should be paid to synergy projects strengthening the connections between transport, telecommunications and energy sectors and also to smart and sustainable transport projects.***
- (11b) ***The CAP, being the only fully “Communitised” field of policy, is of territorial application and is therefore very well suited to carrying out projects comprehensively in conjunction with the EFSI. Many of the existing instruments of the CAP can be used to make targeted investments successfully.***

- (11c) *In its communication entitled “A Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy”, the Commission stressed the importance of energy efficiency as an energy source in its own right and stated clearly that EFSI “provides an opportunity to leverage major investments in renovating buildings”. Investments in energy efficiency are acknowledged to create up to two million jobs by 2020 and possibly another two million jobs by 2030. In order to ensure that the EFSI fulfils its purpose of leveraging private investments, delivering jobs, fostering resilient economic developments, and reducing macro-economic imbalances, a special focus on energy efficiency is needed. Therefore, technical assistance under the EIAH should be provided for the establishment of dedicated investment platforms for aggregated energy efficiency projects.*
- (12) Many small and medium-sized enterprises, as well as mid-cap companies, across the Union require assistance to attract market financing, especially as regards investments that carry a greater degree of risk. The EFSI should help these businesses to overcome capital shortages *and market failures and financial fragmentation resulting in an uneven playing field across the Union* by allowing the EIB and the European Investment Fund ('EIF') *and national promotional banks or institutions, investment platforms or funds* to provide direct and indirect equity injections, as well as to provide guarantees for high-quality securitisation of loans, and other products that are granted in pursuit of the aims of the EFSI.
- (13) ■ The *provision of EFSI funding* to small and medium-sized enterprises and small mid-cap companies *may* be channelled through the European Investment Fund ('EIF')■ .
- (14) The EFSI should target projects delivering high societal, economic *and environmental* value. In particular, the EFSI should target projects that promote *quality* job creation, *short-, medium- and long-term sustainable* growth and competitiveness, *research, education from an early age and training, infrastructure and energy transition and efficiency, notably where such projects have the highest incremental value, thereby contributing to achieving the Union's political objectives in accordance with Article 3 TFEU and Article 9 TEU.*
- (14a) *The investments supported under EFSI should contribute to achieve existing Union programmes and policies and the targets and objectives of the Europe 2020 Strategy for smart, sustainable and inclusive growth. They should support the implementation of the conclusions of the European Council of 17 June 2010. For the purpose of reaching the general objectives set out in Article 5(2)(b) and c), they should contribute to achieve the objectives set out in Articles 170, 173 and 179 TFEU and Article 194(1) TFEU.*
- (14b) *With the aim of better protecting and reaping commercial and economic benefits from Union co-funded initiatives, a set of rules established in Horizon 2020 concerning the exploitation and dissemination of project results, including their protection through intellectual property, should be respected by the participants of EFSI projects.*
- (14c) The EFSI should support a wide range of financial products, including equity, debt or guarantees, to best accommodate the needs of the individual project. This wide range

of products should allow the EFSI to adapt to market needs whilst encouraging private investment in projects. The EFSI should not be a substitute for private market finance **or products provided by regional and national promotional banks** but should instead catalyse private finance by addressing market failures so as to ensure the most effective and strategic use of public money **and as a means of further enhancing cohesion across the Union.**

- (14d) *The impact of the EFSI on employment should be systematically monitored and further encouraged, especially with a view to achieving prolonged societal gains in the form of sustainable and quality employment, and as a result benefiting both investors and workers.*
- (15) The EFSI should target projects with a higher risk-return profile than existing EIB Group and Union instruments to ensure additionality over existing operations. The EFSI should **aim at financing** projects across the **whole of the Union**. The EFSI should only be used where financing is not available from other sources **including from private or public banks, from regional or national promotional banks, or from the EIB.**
- (16) The EFSI should target investments which may entail a degree of appropriate risk **higher than that of existing EIB Group activities**, whilst still **complying with Union principles and values in the field of social and environmental rules, encouraging the transition to a low-carbon circular economy, and in relation to territorial cohesion,** and meeting the particular requirements for EFSI financing. **The EFSI should not seek simply to reduce the cost of capital for investments that would find private financing even in absence of an EU guarantee. Average project risk under EFSI should be higher than under any other available investment portfolio in the Union. EU guarantee pricing policies should have due regard to the need to address investment gaps and financial fragmentation in the Union.**
- (16a) *The EFSI should also support projects in the fields of education, training and research, the development of ICT skills and digital education, as well as projects in the cultural and creative sector. Investment in these fields should adopt a holistic approach which in each case displays appropriate respect for the intrinsic value of education and culture.*
- (17) Decisions on the use of the **EU guarantee for potential projects and on the eligibility of national promotional banks or investment platforms to use the designation of “European Fund for Strategic Investments”** should be made **in a transparent and independent manner**, by an Investment Committee **in accordance with the investment guidelines adopted by the Steering Board pursuant to this Regulation.** The Investment Committee should be composed of **eight** independent experts **representing a broad range of expertise as outlined in this Regulation, and who should be approved by the European Parliament.**
- (18) In order to enable the EFSI to support investments, the Union should grant a guarantee of an amount equal to EUR 16 000 000 000. When provided on a portfolio basis, the guarantee coverage should be capped depending upon the type of instrument, such as debt, equity or guarantees, as a percentage of the volume of the portfolio of outstanding commitments. It is expected that when the guarantee is combined with

EUR 5 000 000 000 to be provided by the EIB, that the EFSI support should generate EUR 60 800 000 000 additional investment by the EIB and EIF. This EUR 60 800 000 000 supported by the EFSI is expected to generate a total of EUR 315 000 000 000 in investment in the Union within **a period of three years starting from the date of entry into force of this Regulation. Additional significant Member State contributions to the EFSI's capital are necessary to bring the Fund's capacity closer to actual needs and are essential to ensure an impact.** Guarantees that are attached to projects which are completed without a call on a guarantee are available for supporting new operations.

- (18a) ***The European Central Bank has expressed its readiness to purchase in the secondary market bonds issued by the EFSI, if the EFSI should issue such bonds itself, or if the EIB should do so on its behalf.***
- (19) In order to allow for ***the much needed*** further increase in its resources, participation in the EFSI should be open to third parties, including Member States, ***regional governments with fiscal and legislative powers***, national ***and regional*** promotional banks, ***regional banks*** or public agencies owned or controlled by Member States, private sector entities and entities outside the Union subject to the consent of existing contributors. Third parties may contribute directly to the EFSI. ***A Member State's participation in the EFSI through multiple public economic bodies or structures should not give the Member States and the third parties concerned an additional stake*** in the EFSI governance structure.
- (19a) ***The EFSI should also have the possibility of supporting private fund structures, such as European Long-Term Investment Funds (ELTIFs) set up by private investors or national promotional banks, that could also play a role in providing a complementary vehicle for delivering public or private/public investments in the real economy. As provided for in Regulation XX/XXXX, the Commission should prioritise and streamline its processes for all applications by ELTIFs for financing from the EIB. The Commission and the EIB should also explore all types of possible cooperation between the EFSI and ELTIFs.***
- (20) At the level of projects, third parties may co-finance together with EFSI on a project-by-project basis or ***through*** investment platforms ***■*** .
- (20a) ***In order to unleash investments at both the national and regional level, the EU guarantee should be able to be granted to national or regional promotional banks or institutions, investment platforms or funds, where possible seeking to achieve capital relief. Such operations should be considered EFSI operations.***
- (20b) ***A Member State's financial contribution in the form of one-off measures to the EFSI, dedicated investment platforms and to national promotional banks which benefit from the EU guarantee should be covered by the full range of the existing rules of the SGP.***
- (20c) ***Considering that infrastructure assets have a strong default and recovery record and considering that infrastructure project finance can be seen as a means of diversifying institutional investors' asset portfolios, infrastructure projects benefiting from EFSI support should be treated as Type 1 exposures for the***

*calculation of the Solvency Capital Requirement as set out in Title I Chapter V Section 6 of Commission Delegated Regulation (EU) 2015/35 of 10 October 2014 supplementing Directive 2009/138/EC of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II). This approach should be examined as part of the Commission review of the methods, assumptions and standard parameters used when calculating the Solvency Capital Requirement with the standard formula, as referred to in recital 150 of that Delegated Regulation.*

- (21) *The EFSI should complement, and be additional to, ongoing regional, national and Union programmes as well as existing EIB activities.* Provided that all relevant eligibility criteria are fulfilled, Member States may use European Structural Investment Funds to contribute to the financing of eligible projects that are supported by the EU guarantee, *and to invest in the capital of the promotional banks or institutions, investment platforms or funds.* The flexibility of this approach should maximise the potential to attract investors to the areas of investment targeted by the EFSI.
- (21a) *Member States may use European Structural and Investment Funds to contribute to the financing of eligible projects that are supported by the EU guarantee, in accordance with the objectives, principles and rules under the legal framework applicable to those funds, and in particular Regulation (EU) No 1303/2013 of the European Parliament and of the Council (the "Common Provisions Regulation"), and with Partnership Agreements and relevant programmes. The flexibility of that approach should foster synergies between Union instruments, ensure maximum added value and enhance the potential to attract investors to the areas of investment targeted by the EFSI. Full complementarity between instruments and investments, without replacement of financial instruments developed under the European Structural and Investment Funds, should be ensured, so that the crowding-out effect between them is avoided to the greatest extent possible.*
- (22) *Infrastructure and project investments supported under the EFSI, when cofinanced by Member States, should be consistent with State aid rules in accordance with the Treaty on the Functioning of the European Union ■ and for the purposes of legal certainty.* To that end, the Commission has announced that *within a reasonable time (and in any case before the entry into force of this Regulation)* it will formulate a set of core principles, for the purpose of State aid assessments, which a project will have to meet to be eligible for support under the EFSI. If a project, *regardless of its economic sector*, meets these criteria and receives support from the EFSI, the Commission has announced that any national complementary support, will be assessed under a simplified and accelerated State aid assessment whereby the only additional issue to be verified by the Commission will be the proportionality of public support (absence of overcompensation). The Commission has also announced that it will provide further guidance on the set of core principles with a view to ensuring an efficient use of public funds *and the full respect of the principle of legitimate expectations.*
- (23) Given the need for urgent action within the Union, the EIB and the EIF may have financed additional projects, outside of their usual profile, in the course of 2015 before the entry into force of this Regulation. In order to maximise the benefit of the



measures provided for in this Regulation, it should be possible for such additional projects to be included within the EU guarantee coverage in the event that they fulfil the substantive criteria set out in this Regulation.

- (24) EIB financing and investment operations supported by the EFSI should be managed in accordance with ***Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council<sup>1</sup>***, including appropriate control measures and measures taken to avoid tax evasion, as well as with the relevant rules and procedures concerning the European Anti-Fraud Office (OLAF) and the Court of Auditors, including the Tripartite agreement between the European Commission, the European Court of Auditors and the European Investment Bank.
- (25) The EIB ***and the Investment Committee*** should regularly evaluate ***and report on*** activities supported by the EFSI with a view to assessing their relevance, performance, impact, ***additionality, added value as well as their coordination and coherence with other Union policies, in particular with regard to financial support from the European Structural and Investment Funds***, and to identifying aspects that could improve future activities. Such evaluations ***and reporting*** should ***be made public and*** contribute to accountability and analysis of sustainability.
- (25a) ***EFSI policies should take into account gender equality and support the integration of gender perspectives, as well as the prevention of any kind of discrimination, especially as regards accessibility for persons with disabilities.***
- (26) Alongside the financing operations that will be conducted through the EFSI, a European Investment Advisory Hub ('EIAH') should be created. The EIAH should provide strengthened support for project development and preparation across the Union, by building on the expertise of the Commission, the EIB, national promotional banks and the managing authorities of the European Structural and Investment Funds. This should establish a single point of entry for questions related to technical assistance for investments within the Union. ***The EIAH should provide free expertise in order to ensure fair access to EFSI financing across the Union. The EIAH should work closely with similar structures at national level, in order to ensure decentralised assistance on the ground, fostered by a multilingual approach, and to facilitate effective dissemination of information.***
- (26a) ***The EIAH shall in particular build upon good practices in existing programmes, such as European Local ENergy Assistance (ELENA), European Efficiency Industrial Fund (EEIF), JEREMIE (Joint European Resources for Micro to Medium Enterprises), JASPERS (Joint Assistance to Support Projects in European Regions), JESSICA (Joint European Support for Sustainable Investment in City Areas) and JASMINE (Joint Action to Support Micro-finance Institutions in Europe).***
- (27) In order to cover the risks related to the EU guarantee to the EIB, a guarantee fund should be established. The guarantee fund should be constituted by a gradual

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<sup>1</sup> ***Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).***

**contribution** from the Union budget. The guarantee fund should subsequently also receive revenues and repayments from projects that benefit from EFSI support and amounts recovered from defaulting debtors where the guarantee fund has already honoured the guarantee to the EIB. *Any surplus in the guarantee fund resulting from an adjustment of the target amount or any remaining remunerations after restoring the target amount should be returned to the general budget of the Union as assigned revenue, in order to replenish any lines which may have been used as a source of redeployment to the EU guarantee fund.*

- (28) The guarantee fund is intended to provide a liquidity cushion for the Union budget against losses incurred by the EFSI in pursuit of its objectives. Experience on the nature of investments to be supported by the EFSI indicates that *the level of resources in the guarantee fund should represent* a ratio of 50% of the Union's total guarantee obligations.
- (29) *The contribution from the Union budget should be progressively authorised by the European Parliament and the Council in the framework of the annual budgetary procedures up to and including 2022. For this purpose, the budgetary authority should make use, where appropriate, of all means available under Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the Multiannual Financial Framework 2014-2020, with particular recourse to the Global Margin for Commitments, the Global Margin for Payments, and the Flexibility Instrument.*
- (30) Given *their assimilation to Union financial instruments*, the EU guarantee to the EIB and the guarantee fund *should comply with the principles of sound financial management, transparency, proportionality, non-discrimination, equal treatment and subsidiarity as referred to in Article 140 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council<sup>1</sup> and, where appropriate, should comply with Article 139 of that Regulation.*
- (31) Within the Union, there is a significant number of *potential economically and technically* viable projects that are not being financed due to a lack of certainty and transparency with respect to such projects. Often, this is because private investors are not aware of the projects or have insufficient information to make an assessment of the investment risks. The Commission and the EIB should promote the creation of a transparent *directory* of current and future investment projects in the Union suitable for investment. This 'project *directory*' should ensure that information is made publicly available regarding investment projects on a regular and structured basis to ensure that investors have reliable *and transparent* information on which to base their investment decisions. *In connection with the directory, value will be attached to the protection of essential business secrets.*
- (32) Member States, *in cooperation with regional and local authorities, should be able to contribute to the European investment project directory by providing, inter alia, information on investment projects in their territory.*

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<sup>1</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

- (33) *The project **directory** should include projects across the Union for visibility to investors and for information purposes only.* This ■ may include projects that are capable of being fully financed by the private sector or with the assistance of other instruments provided at European or national level. The EFSI should be able to support financing and *environmentally sustainable* investment to projects identified by the project **directory**, but there should be no automaticity between inclusion on the list and access to EFSI support and the EFSI, *the EIB and the Investment Committee should* be conferred with *full* discretion to select and support projects that are not included on the list.
- (34) To ensure accountability to European citizens, the EIB should regularly report to the European Parliament and the Council on the progress and impact of the EFSI, *in particular as regards the additionality of operations conducted under the EFSI compared to normal EIB operations, including special operations. At the request of the European Parliament, the Chairperson of the Steering Group and the Managing Director should participate in hearings and reply to questions within a fixed period.*
- (35) In order to ensure an appropriate coverage of the EU guarantee obligations and to ensure the continued availability of the EU guarantee, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission with respect to the adjustment of the amounts to be paid in from the general budget of the Union. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (36) Since the objectives of this Regulation, namely to support investments in the Union and to ensure increased access to financing for companies having up to 3000 employees, cannot be sufficiently achieved by the Member States by reason of the disparities in their fiscal capacity to act but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

## CHAPTER I -European Fund for Strategic Investments

### Article 1

#### *European Fund for Strategic Investments*

1. The Commission shall *negotiate a draft* agreement with the European Investment Bank (EIB) on the establishment of a European Fund for Strategic Investments ('EFSI') *in line with the requirements of this Regulation.*

The purpose of the EFSI shall be to support investments in the Union and to ensure increased access to financing for companies having up to 3000 employees, *giving*

*priority to small and medium enterprises and small mid-cap companies*, through the supply of risk bearing capacity to the EIB ('EFSI Agreement').

2. The EFSI Agreement shall be open to accession by Member States *and* third parties, including national *and regional* promotional banks or public agencies owned or controlled by Member States, *regional authorities, dedicated investments platforms*, and private sector entities. *Neither Member States nor third parties shall be entitled to be a member of the Steering Board.*
- 2a. *The Commission shall be empowered to enter into the EFSI Agreement on behalf of the Union by means of a delegated act in accordance with Article 17, provided that the EFSI Agreement meets the requirements of this Regulation.*
- 2b. *The Commission shall be empowered to accept later amendments of the EFSI Agreement by means of delegated acts in accordance with Article 17, provided that the amendments to the EFSI Agreement meet the requirements of this Regulation.*

#### *Article 1a* *Definitions*

*For the purposes of this Regulation, the following definitions apply:*

- a) *'EFSI Agreement' means the legal instrument whereby the Commission and the EIB further specify the conditions laid down in this Regulation for the management of the EFSI;*
- b) *'national promotional bank or institution' means a legal entity carrying out a financial activity on a professional basis which is given a public mandate by a Member State, whether at central, regional or local level, to carry out development or promotional activities;*
- c) *'investment platforms' means special purpose vehicles, managed accounts, contract-based co-financing or risk sharing arrangements or arrangements established by any other means by which investors channel a financial contribution in order to finance a number of investment projects and which may include national platforms that regroup several investment projects on the territory of a given Member State, multi-country or regional platforms that regroup partners from several Member States or third countries interested in large projects in a given geographic area, and thematic platforms that could gather investment projects in a given sector;*
- d) *'small and medium-sized enterprises' or 'SMEs' means micro, small and medium-sized enterprises, as defined in Article 2 of the Annex to Commission Recommendation 2003/361/EC<sup>1</sup>;*
- e) *'small mid-cap companies' means legal entities having up to 499 employees and that are not SMEs;*

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<sup>1</sup> Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

- f) *'mid-cap companies' means legal entities having up to 3000 employees and that are not SMEs or small mid-cap companies;*
- g) *'additionality' means the support by the EFSI of operations which address market failures or investment gaps and which could not have been carried out in that period under normal EIB instruments, including special operations, without EFSI support or to the same extent during that period under EIF and EU instruments. Projects supported by the EFSI, while striving to create jobs and growth, shall typically have a higher risk profile than projects supported by normal EIB operations, including special operations.*

## Article 2 *Terms of the EFSI Agreement*

1. The EFSI Agreement shall contain, in particular, the following:
  - (a) provisions governing the establishment of the EFSI as a distinct, clearly identifiable and transparent guarantee facility and separate account managed by the EIB;
  - (b) the amount and terms of the financial contribution which shall be provided by the EIB through the EFSI;
  - (c) the terms of the funding which shall be provided by the EIB through the EFSI to the European Investment Fund ('EIF');
  - (d) the governance arrangements concerning the EFSI, in accordance with Article 3, without prejudice to the Statute of the European Investment Bank;
  - (da) detailed requirements for EIB financing and investment operations and EIB funding to the EIF which are eligible for the EU guarantee, in accordance with Article 5(2a) and Article 5a;*
  - (db) a scoreboard of the key performance indicators to be used for assessing the macroeconomic impact of EFSI investments, including on jobs and growth, energy efficiency, TEN-T, urban mobility, the fulfilment of Union objectives, including those of the Europe 2020 Strategy, and on the mobilisation of private capital and its effect on supporting investment;*
  - (e) detailed rules on the provision of the EU guarantee, in accordance with Article 7, including its capped coverage of portfolios of specific types of instruments, calls on the EU guarantee, that – with the exception of possible losses on equity - shall only occur once a year after profits and losses from operations have been netted, and its remuneration and the requirement that remuneration for risk-taking be allocated amongst contributors in proportion with their respective risk share;
  - (f) provisions and procedures relating to recovery of claims;

- (fa) *the procedure for project selection, including the role of the EIB in the initial assessment of project proposals and their transmission to the Investment Committee;*
- (g) requirements governing the use of the EU guarantee, including within specific time frames and key performance indicators;
- (ga) *detailed arrangements for ensuring that financing and investment operations signed by the EIB during the transitional period laid down in Article 20 benefit from the EU guarantee;*
- (h) provisions on ■ financing ■ the EIAH in accordance with *Article 8a (new)*;
- (i) provisions governing the manner in which third parties may co-invest with EIB financing and investment operations supported by the EFSI;
- (j) the modalities of the EU guarantee coverage;
- (ja) *provisions on the intellectual property of the funded projects as provided for in Regulation (EU) No 1291/2013 of the European Parliament and of the Council<sup>1</sup>.*

The EFSI Agreement shall provide that there is a clear distinction between operations carried out with the EFSI support and other operations of the EIB. *Therefore, the EIB shall ensure that EFSI activities are subject to a separate financial statement.*

The EFSI Agreement shall provide that EFSI activities conducted by the EIF are to be governed by the EIF governing bodies. *However, they shall be included in the overall EFSI reporting.*

The EFSI Agreement shall provide that remuneration attributable to the Union from EFSI supported operations shall be provided following the deduction of payments due to calls on the EU guarantee and, subsequently, costs in accordance with *Article 8a (new)* and with Article 5(3).

■

3. Member States that become parties to the EFSI Agreement shall be able to provide their contribution, in particular, in the form of cash or a guarantee acceptable to the EIB. Other third parties shall be able to provide their contribution only in cash.

#### *Article 2a* *Financial rules*

*The financial rules applicable to the EFSI and the EIAH shall be adopted by the Steering Board. They shall not deviate from Regulation (EC, Euratom) No 966/2012.*

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<sup>1</sup> *Regulation (EU) No 1291/2013 of the European Parliament and of the Council of 11 December 2013 establishing Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020) and repealing Decision No 1982/2006/EC (OJ L 347, 20.12.2013, p. 104).*

*In the framework of the negotiations to the EFSI Agreement prior to the setup of the EFSI or after a formal request of the Steering Committee, the Commission shall be empowered to allow in duly justified cases for derogations in the form of transitional financial rules by means of a delegated act in accordance with Article 290 TFEU and Article 17 of this Regulation. Such transitional rules shall be valid for a maximum of three years or until Parliament and Council amend Regulation (EC, Euratom) No 966/2012 to incorporate the special requirements of the EFSI.*

### *Article 3* *Governance of the EFSI*

1. The EFSI Agreement shall provide that the EFSI shall be governed by a Steering Board, which shall determine the strategic orientation *in line with the Europe 2020 objectives and giving particular regard to where the impact on growth and jobs is highest*, the strategic asset allocation and operating policies and procedures, including the investment policy of projects that EFSI can support and the risk profile of the EFSI, *in order to maximise growth, job and investment*, in conformity with the objectives under Article 5(2) *and Article 5(2)(a) and to the effect of ensuring the additionality of the investments supported by the EFSI guarantee*. The Steering Board shall *also specify the investment policy regarding eligible investment platforms. The Steering Board shall determine the EU guarantee pricing policies having due regard to the need to address investment gaps and financial fragmentation in the Union. The Steering Board shall adopt investment guidelines for the use of the EU guarantee to be implemented by the Investment Committee.*

- 1a. *The priorities to be pursued by the Commission for the investment guidelines of the EFSI shall mirror the Union objectives and be in line with Article 5(2a) of this Regulation. They shall be specified before the EFSI Agreement enters into force and revised if appropriate. The priorities shall be made public. The Commission shall be empowered to adopt delegated acts in accordance with Article 17 for this purpose.*

*When exercising its mandate within the Steering Board of the EFSI, the Commission shall promote, and vote consistently with, the priorities as specified and revised in accordance with the first subparagraph.*

2. *The Steering Board shall comprise four █ members: three appointed by the Commission and one by the EIB. The Steering Board shall elect a Chairperson from among its members for a fixed term of three years, renewable once.*

The Steering Board shall take decisions by consensus.

3. █ The Steering Board shall █ make decisions by consensus. █

*█ Member States and third parties shall be allowed to contribute to the EFSI in form of guarantees or cash respectively but shall not be granted membership of the Steering Board.*

*The minutes of Steering Board meetings shall be published as soon as they have been approved by the Board.*

4. The EFSI Agreement shall provide that the EFSI shall have a Managing Director, who shall be responsible for the day-to-day management of the EFSI and the preparation and chairing of meetings of the Investment Committee referred to in paragraph 5. The Managing Director shall be assisted by a Deputy Managing Director.

The Managing Director shall report every quarter on the activities of the EFSI to the Steering Board. The Managing Director and the Deputy Managing Director shall be appointed by the Steering Board on a joint proposal of the Commission and the EIB for a *once* renewable fixed term of three years. *On the basis of an open selection process the Commission shall, upon receiving the consent of the EIB, provide the European Parliament with a separate shortlist of candidates for each of the positions of Managing Director and Deputy Managing Director.*

*The Commission shall, upon receiving the consent of the EIB, submit to the European Parliament for approval a proposal for the appointment of the Managing Director and the Deputy Managing Director. Following the approval of that proposal, the Steering Board shall appoint the Managing Director and the Deputy Managing Director.*

5. The EFSI Agreement shall provide that the EFSI shall have an Investment Committee, which shall be responsible for examining potential *projects* in line with the EFSI investment policies and approving the support of the EU guarantee for *projects* in line with Article 5, irrespective of their geographic location. *Furthermore, the Investment Committee shall be the competent body for approving the eligibility of investment platforms and national promotional banks and permitting them to use the designation of 'EFSI' or 'European Fund for Strategic Investments'. The request for approval shall be renewed if the investment platform amends its basic investment policies in a substantial manner.*

The Investment Committee shall be composed of *eight* independent experts and the Managing Director. Independent experts shall have a high level of relevant market experience in project *structuring and project financing, as well as macroeconomic expertise. The Investment Committee shall have a pluridisciplinary composition encompassing a broad range of expertise in various sectors and of geographic markets within the Union. This shall include expertise in investments related to the general objectives of the EFSI, such as research and development, transport and SMEs, environmental objectives, social affairs including the social and solidarity economy, public and public-led project investment experience, territorial cohesion and in education and training. The Investment Committee shall* be appointed by the Steering Board for a renewable fixed term of three years *and not exceeding six years in total.*

*On the basis of an open selection process, the Commission shall, upon receiving the consent of the EIB, provide the European Parliament with a shortlist of candidates for the positions of the eight experts of the Investment Committee.*

*The Commission shall, upon receiving the consent of the EIB, submit to the European Parliament for approval a gender-balanced proposal for the*



*appointment of the experts. Following the approval of that proposal, the Steering Board shall appoint the experts for a renewable fixed term of three years.*

*When carrying out their duties, the members of the Investment Committee shall be independent and shall not take instructions from the EIB, the Union institutions, Member States or any other public or private body. EIB staff may assist with analytical, logistical, and administrative support. However, any project assessment conducted by EIB staff shall not be binding on the Investment Committee.*

*CVs and declarations of interest of each member of the Investment Committee shall be made public, constantly updated and be subject to thorough validity checks by the Commission and the EIB.*

Decisions of the Investment Committee shall be taken by simple majority *and shall be public and accessible.*

## **CHAPTER II -EU Guarantee and EU Guarantee Fund**

### *Article 4 EU Guarantee*

The Union shall provide *an irrevocable and unconditional* guarantee to the EIB for financing or investment operations covered by this Regulation *and the EFSI Agreement* ('EU guarantee') *and* carried out within the Union, *including operations between partners from several Member States and a third country falling within the scope of the European Neighbourhood Policy including the Strategic Partnership, the Enlargement Policy, and the European Economic Area or the European Free Trade Association, or between a Member State and an Overseas Country or Territory, as set out in Annex II of the TFEU.* The EU guarantee shall be granted as a guarantee on demand in respect of instruments referred to in Article 6. *It shall seek to achieve capital relief in the event that it is granted to a promotional bank or an investment platform.*

### *Article 5 Requirements for use of the EU guarantee*

1. The granting of the EU guarantee shall be subject to the entry into force of the EFSI Agreement *and to the adoption of investment guidelines by the Steering Board.*
2. The EU guarantee shall be granted for EIB financing and investment operations or *EIB* funding to the EIF *at the level of investment in funds* in order to conduct EIB financing and investment operations in accordance with Article 7(2) *and approved by the Investment Committee.*

The operations concerned shall be consistent with Union policies and support any of the following general objectives:

- (a) development of *new, existing or missing transport infrastructure and innovative technologies, in accordance with Regulations (EU) 1316/2013 (CEF) and 1315/2013 (TEN-T Guidelines) as far as both core and comprehensive networks as well as horizontal priorities are concerned;*
- (aa) *development of smart and sustainable urban mobility projects that include targets for accessibility, reduction of greenhouse gases, energy and accidents;*
- (b) *development and modernisation of energy infrastructure in accordance with the Energy Union priorities and the 2020, 2030 and 2050 Climate and Energy frameworks, in particular interconnections, smart grids at distribution level, energy storage and the synchronisation of markets;*
- (c) expansion of renewable energy, **■** resource efficiency, *energy efficiency and energy savings, with a particular focus on reducing demand through demand-side management and the refurbishment of buildings;*
- (d) *development of information and communication technologies, of digital and telecom infrastructures and of broadband networks across the entire Union;*
- (e) *investment in innovation, research and development, including research infrastructure, pilot and demonstration projects, collaborations between the academia and industry, and knowledge and technology transfer;*
- (ea) *investment in education, training, entrepreneurial skills;*
- (eb) *investment in innovative health solutions, such as eHealth and new effective medicines, and in the social sector;*
- (ec) *investment in cultural and creative industries;*
- (ed) *investment in projects and infrastructure in the field of environmental protection and management, strengthening of eco-system services and sustainable urban development;*
- (ee) *financial support, including the provision of working capital risk financing for SMEs, start-ups, spin-offs and small mid-cap companies through the EIF, and for mid-cap companies, in order to ensure technology leadership in innovative and sustainable sectors;*
- (ef) *financing of projects which are in line with the objectives of Horizon 2020 and the Connecting Europe Facility.*

In addition, the EU guarantee shall be granted *through the EIB* for support of dedicated investment platforms *or funds* and national *and regional* promotional banks *or other institutions* that invest in operations meeting the requirements of this Regulation *after approval by the Investment Committee*. In that case, the Steering Board shall specify policies, *in accordance with Article 3(1)*, regarding eligible vehicles mentioned leaving to them the approval of the individual investment decisions. Such operations and the contributions thereto, shall be considered EFSI

*operations. Investment platforms can bring together co-investors, public authorities, experts, education, training and research institutions, the relevant social partners and representatives of the civil society and other relevant actors at EU, national and regional levels.*

**2a.** *The EFSI shall target projects with a higher risk profile than existing EIB and Union instruments so as to ensure additionality over existing operations. The EFSI shall support projects which orient on the following goals:*

- a) are viable from an economic perspective, according to a cost benefit analysis following European standards and further where cofinancing by a public partner or by a financial intermediary such as an investment platform or a promotional bank provides support to close a possible financial gap;*
- b) are in pursuit of the Union objective of smart, sustainable and inclusive growth as well as quality job creation, enhance economic, social and territorial cohesion, and which provide high societal and economic progress as an EU added value;*
- c) focus on operations that could not have been carried out using the Union budget or the ordinary activity of the EIB including special operations, and which are, furthermore, not financed by the market;*
- d) have a higher risk profile than projects supported under existing EIB activity, taking account of the fact that the highest level of additionality can only be ensured when financial resources are concentrated on projects not financed otherwise; the design of the appropriate measures is to be elaborated under the procedures of Article 3(1).*

**2b.** *Acknowledging that projects of any size can bring the European economy forward, there shall be no restrictions on the size of projects to be targeted by the EFSI.*

**3.** In accordance with Article 17 of the Statute of the European Investment Bank, the EIB shall charge the beneficiaries of the financing operations to cover its expenses related to the EFSI. Without prejudice to sub-paragraph 2 and 3, no administrative expenditure or any other fees of the EIB for financing and investment activities conducted by the EIB under this Regulation shall be covered from the Union budget.

The EIB may call the EU guarantee, in accordance with Article 2(1)(e), within a cumulated maximum limit corresponding to 1% of the total outstanding EU guarantee obligations to cover expenses that whilst charged to beneficiaries of the financing operations, have not been recovered.

Fees of the EIB should the EIB provide funding to the EIF on behalf of the EFSI which is backed by the EU guarantee in accordance with Article 7(2) may be covered from the Union budget.

**4.** **■** Member States may use European Structural and Investment Funds to contribute to the financing of eligible projects in which the EIB is investing with the support of the EU guarantee, *in accordance with the objectives, principles and rules under the legal framework applicable to those funds, and with the Partnership Agreements*

*and relevant programmes. Coordination, complementarity, additionality, coherence and synergies shall be ensured.*

- 4a. *The Commission shall be empowered to adopt delegated acts in accordance with Article 17 laying down additional specific arrangements on combining the support of the European Structural and Investment Funds to projects financed by the EIB with the support of the EU guarantee, including arrangements for the participation of the European Structural and Investment Funds under Investment Platforms.***

#### *Article 6*

##### ***Eligible Instruments***

For the purposes of Article 5(2), the EIB shall use the EU Guarantee towards risk coverage for instruments as a rule on a portfolio basis.

***Instruments*** eligible for coverage ***under the EU guarantee or portfolios*** may be composed of the following Instruments:

- (a) EIB loans, guarantees, counter-guarantees, capital market instruments, any other form of funding or credit enhancement instrument, equity or quasi-equity participations, ***including through national promotional banks or institutions, investment platforms or funds***. These Instruments shall be granted, acquired or issued for the benefit of operations carried out in the Union, including cross-border operations between a Member State and a third country, in compliance with this Regulation and where EIB financing has been granted in accordance with a signed agreement which has neither expired nor been cancelled;
- (b) EIB funding to the EIF enabling it to undertake loans, guarantees, counter-guarantees, any other form of credit enhancement instrument, capital market instruments and equity or quasi-equity participations, ***including through national promotional banks or institutions, investment platforms or funds***. These Instruments shall be granted, acquired or issued for the benefit of operations carried out in the Union, in compliance with this Regulation and where EIF financing has been granted in accordance with a signed agreement which has neither expired nor been cancelled.
- (ba) ***EIB guarantee to national promotional banks or institutions, investment platforms or funds under a counter-guarantee of the Union.***

#### *Article 7*

##### ***Coverage and terms of the EU guarantee***

- 1. The EU guarantee to the EIB shall be of an amount equal to EUR 16 000 000 000, of which a maximum amount of EUR 2 500 000 000 may be allocated for EIB funding to the EIF in accordance with paragraph 2. Without prejudice to Article 8(9), aggregate payments from the Union under the guarantee to the EIB shall not exceed the amount of the guarantee.
- 2. The coverage of the guarantee over a particular type of instrument portfolio, referred to in Article 6, shall be determined by the risk of that portfolio. The EU guarantee shall be eligible to provide either first loss guarantees on a portfolio basis or a full

guarantee. The EU guarantee may be granted on a *pari passu* basis with other contributors.

Where the EIB provides funding to the EIF *through the EFSI* in order to conduct EIB financing and investment operations, the EU guarantee shall provide for a full guarantee on funding by the EIB provided that an equal amount of funding is provided by the EIB without EU guarantee. The amount covered by the EU guarantee shall not exceed EUR 2 500 000 000.

3. Where the EIB calls the EU guarantee in accordance with the EFSI Agreement, the Union shall pay on demand in accordance with the terms of that Agreement.
4. *When the Union makes a payment to the EIB upon a call on the guarantee, the Union shall subrogate the relevant rights of the EIB relating to any financing operation under the EU guarantee and the EIB shall, on behalf of the Union, pursue the recovery of claims for the amounts paid and reimburse the Union from the sums recovered in accordance with the provisions and procedures referred to in Article 2(1)(f).*

#### *Article 8* **EU guarantee fund**

1. An EU guarantee fund ('guarantee fund') shall be established *which shall constitute a liquidity cushion* from which the EIB *shall* be paid in the event of a call on the EU guarantee.
2. The guarantee fund shall be endowed by:
  - (a) *contributions* from the general budget of the Union,
  - (b) returns on guarantee fund resources invested,
  - (c) amounts recovered from defaulting debtors in accordance with the recovery procedure laid down in the EFSI Agreement as provided for in Article 2(1)(f),
  - (d) *revenues and* any other payments received by the Union in accordance with the EFSI Agreement.
3. Endowments to the guarantee fund provided for in points (b), (c) and (d) of paragraph 2 shall constitute internal assigned revenues in accordance with Article 21(4) of Regulation (EU) No 966/2012.
4. The resources of the guarantee fund provided to it under paragraph 2 shall be directly managed by the Commission and invested in accordance with the principle of sound financial management and follow appropriate prudential rules.
5. Endowments to the guarantee fund referred to in paragraph 2 shall be used to reach an appropriate level to reflect the total EU guarantee obligations ('target amount'). The target amount shall be set at 50% of the Union's total guarantee obligations.

The target amount shall initially be met by **2022 at the latest through** the gradual payment of resources referred to in paragraph 2(a) *as well as endowments* to the guarantee fund provided for in points (b), (c) and (d) of paragraph 2.

- 5a. *The necessary appropriations to meet the initial target amount shall be gradually authorised by the European Parliament and the Council in the framework of the annual budgetary procedure, taking due account of all means available under the Council Regulation No 1311/2013 of 2 December 2013 laying down the Multiannual Financial Framework (MFF) 2014-2020, with particular recourse to the Global Margin for Commitments, the Global Margin for Payments and the Flexibility Instrument.*

*In this context, the European Parliament and the Council shall explore ways to finance the EU Guarantee Fund using any unforeseen revenue arising during the course of each financial year, including revenue resulting from fines, and to amend the applicable legal framework in order to allow for the use of the annual surplus of the general budget of the Union.*

*The financing of the guarantee fund, both in respect of commitment and payment appropriations, shall be reviewed by the European Parliament and the Council in the context of the post-electoral review/revision of the Multiannual Financial Framework 2014-2020, to be launched by the end of 2016 at the latest, as provided for in Article 2 of Council Regulation (EU, Euratom) No 1311/2013.*

*In the event that redeployments from EU programmes were agreed in the framework of the annual budgetary procedure as source of financing for the EU guarantee in the years preceding the MFF review/revision, the European Parliament and the Council shall, on that occasion, explore ways to compensate them to the greatest extent possible.*

6. By 31 December 2018, and every year thereafter, the Commission shall review the adequacy of the level of the guarantee fund taking into account any reduction of resources resulting from the activation of the guarantee and the EIB's assessment submitted in accordance with Article 10(3).

The Commission shall be empowered to adopt delegated acts in accordance with Article 17 adjusting **downwards** the target **level** provided for in paragraph 5 by a maximum of 10% to better reflect the potential risk of the EU guarantee being called.

7. Following an adjustment in year *n* of the target **level** or an assessment on the adequacy of **resources available in** the guarantee fund in accordance with the review provided for in paragraph 6:
- (a) any surplus *in the guarantee fund shall be paid to the general budget as assigned revenue in accordance with Article 21(4) of Regulation (EU, Euratom) No 966/2012 for any lines which may have been used as a source of redeployment to the EFSI guarantee fund,*
  - (b) any replenishment of the guarantee fund shall be paid in annual tranches during a maximum period of three years starting on year *n*+1.

8. If as a result of calls on the guarantee, the *resources* of the guarantee fund falls below 50% of the *liabilities that have been incurred at the given moment*, the Commission shall submit a report on exceptional measures that may be required to replenish it.
9. Subsequent to a call on the EU guarantee, endowments to the guarantee fund provided for in points (b), (c) and (d) of paragraph 2 ■ shall be used to restore the EU guarantee up to its *target* amount. *Any remaining remuneration shall be paid to the general budget as assigned revenue in accordance with Article 21(4) of Regulation (EU, Euratom) No 966/2012 for any lines which may have been used as a source of redeployment to the EFSI guarantee fund.*
- 9a. *In the event that additional surplus remains, after the requirements of points 7(a) and 9 have been fully met, the Commission shall present a proposal on an increase of the overall level of the EU guarantee, leading to a reinforcement of the investment plan.*

### CHAPTER III- European investment advisory hub and project directory

#### Article 8a

##### European Investment Advisory Hub

1. *The EFSI Agreement shall provide for the creation of the EIAH within the EIB. The EIAH shall have as its objective to build upon existing EIB and Commission advisory services in order to provide advisory support for investment project identification, preparation and development, and to act as a single technical advisory hub for project financing within the Union. This shall include providing support on the use of technical assistance for project structuring, use of innovative financial instruments, use of public-private partnerships and advice, as appropriate, on relevant issues of Union legislation, taking into account the specificities and needs of Member States with less developed financial markets.*  
*To meet the objective referred to in the first subparagraph, the EIAH shall engage the expertise of the EIB, the Commission, national promotional banks and the managing authorities of the European Structural and Investment Funds.*
2. *The EIAH shall have a specific technical assistance service dedicated to the establishment of investment platforms aggregating energy efficiency, TEN-T and urban mobility projects.*  
*In order to ensure the best possible regional and territorial reach across the Union for such advisory services and support, the EIAH shall closely network with similar structures at national level, such as those provided by national promotional banks or national agencies. Technical assistance to project promoters at sub-national level shall be enhanced.*
3. *The EIAH shall be partially financed by the Union up to a maximum amount of EUR 20 000 000 per year during the period ending on 31 December 2020 for the additional services provided for by the EIAH over existing EIB technical assistance. For the years after 2020 the financial contribution from the Union shall be directly linked to the provisions included in the future multi-annual*

*financial frameworks.*

*Access to expertise from the EIAH shall be free of charge.*

#### Article 9

##### ***European investment project directory***

1. The Commission and the EIB shall ***create*** a transparent ***directory*** of current and potential future investment projects in the Union. ***It shall constitute a publicly accessible and user-friendly project database, providing relevant information for each project.*** The ***directory shall be for visibility to investors and information purposes only and shall be*** without prejudice to the final projects selected for support according to Article 3(5).
2. The Commission and the EIB shall develop, update and disseminate, on a regular and structured basis, information on current and future ***projects***.



## **CHAPTER IV- Reporting, accountability and evaluation**

#### Article 10

##### ***Reporting and accounting***

1. The EIB, in cooperation with the EIF as appropriate, shall report semi-annually to the Commission on EIB financing and investment operations under this Regulation. The report shall include an assessment of compliance with the requirements on the use of the EU guarantee and the key performance indicators established pursuant to Article 2(1)(g). The report shall also include statistical, financial and accounting data on each EIB financing and investment operation and on an aggregated basis.
2. The EIB, in cooperation with the EIF as appropriate, shall report ***semi***-annually to the European Parliament and to the Council on EIB financing and investment operations. The report shall be made public and include:
  - (a) an assessment of EIB financing and investment operations at operation, sector, country and regional levels and their compliance with this Regulation, ***in particular with the additionality principle***, together with an assessment of the allocation of EIB financing and investment operations between the objectives in Article 5(2) ***and 5(2a)***;
  - (b) an assessment of the added value, the mobilisation of private sector resources, the estimated and ***achieved*** outputs, outcomes and impact of EIB financing and investment operations at an aggregated basis, ***including the impact on employment creation***;
  - (ba) ***an assessment of the extent to which operations covered by the EU guarantee under this Regulation contribute to the achievement of the objectives of Articles 5(2) and 5(2a), including an assessment of the level of EFSI***



*investments in the areas of research, development and innovation and transport (including TEN-T and urban mobility), telecommunications and energy infrastructure, including energy efficiency;*

*(bb) assessment of compliance with the requirements concerning the use of the EU guarantee and the key performance indicators established pursuant to Article 2(1)(g);*

*(bc) an assessment of the leverage effect achieved by EFSI- financed projects:*

*(bd) a description of the projects where the support of the European Structural and Investment Funds is combined with the support of the EFSI, and the total amount of the contributions from each source;*

(c) an assessment of the financial benefit transferred to beneficiaries of EIB financing and investment operations on an aggregated basis;

(d) an assessment of the quality of EIB financing and investment operations, **and the risks associated with these operations;**

(e) detailed information on calls on the EU guarantee, **losses, returns, amounts recovered and any other payments received;**

(f) the financial statements of the EFSI, **accompanied by an opinion of an independent external auditor.**

3. For the purposes of the Commission's accounting and reporting of the risks covered by the EU guarantee and management of the guarantee fund, the EIB, in cooperation with the EIF as appropriate, shall provide the Commission **and the European Court of Auditors** every year:

(a) the EIB's and EIF's risk assessment and grading information concerning EIB financing and investment operations **under this Regulation;**

(b) the outstanding financial obligation for the EU concerning the guarantees provided towards EIB financing and investment operations broken down by the individual operations **under this Regulation;**

(c) the total profits or losses deriving from the EIB financing and investment operations within the portfolios provided by the EFSI Agreement pursuant to Article 2(1)(e).

4. The EIB **in cooperation with the EIF as appropriate** shall provide to the Commission upon request any additional information necessary to fulfil the Commission's obligations in relation to this Regulation.

5. The EIB, and EIF as appropriate, shall provide the information referred to in paragraphs 1 to 4 at their own expense.

6. The Commission shall, by **31 March** of each year, send to the European Parliament, the Council and the Court of Auditors an annual report on the situation of the

guarantee fund and the management thereof in the previous calendar year. ***The report shall assess the adequacy of the level of the guarantee fund and the need to adjust the target amount.***

- 6a. ***The Commission shall send to the European Parliament and the Council a report on the realisation of the investment priorities as specified in the delegated act under Article 3(1a) on the same date as the EIB reports under paragraphs 1 and 2. The report shall be accompanied by a proposal with necessary amendments of the delegated act under Article 3(1a).***

#### *Article 11*

#### **Accountability**

1. At the request of the European Parliament, the ***Chairperson of the Steering Board and the*** Managing Director shall participate in a hearing of the European Parliament on the performance of the EFSI.
2. The ***Chairperson of the Steering Board and the*** Managing Director shall reply orally or in writing to questions addressed to the EFSI by the European Parliament, in any event within five weeks of receipt of a question.
3. At the request of the European Parliament, the Commission shall report to the European Parliament on the application of this Regulation.
- 3a. ***At the request of the European Parliament, the President of the EIB shall participate in a hearing of the European Parliament that concerns EIB financing and investment operations under this Regulation. The President of the EIB shall, within five weeks of receipt, reply orally or in writing to questions addressed to the EIB by the European Parliament concerning EIB financing and investment operations under this Regulation.***
- 3b. ***An agreement shall be concluded between the European Parliament and the EIB on the detailed arrangements for the exchange of information between the European Parliament and the EIB on financing and investment operations conducted by the EIB under this Regulation.***

#### *Article 12*

#### **Evaluation and Review**

1. At the latest [PO insert date: 18 months after the entry into force of this Regulation] the EIB shall evaluate the functioning of the EFSI. The EIB shall submit its evaluation to the European Parliament, the Council and the Commission;

At the latest [PO insert date: 18 months after the entry into force of this Regulation] the Commission shall evaluate the use of the EU guarantee and the functioning of the guarantee fund, including the use of endowments according to Article 8(9). The Commission shall submit its evaluation to the European Parliament and the Council. ***This evaluation shall be accompanied by an opinion of the Court of Auditors.***

2. By 30 June 2018 and every three years thereafter:
  - (a) the EIB shall publish a comprehensive report on the functioning of the EFSI;
  - (b) the Commission shall publish a comprehensive report on the use of the EU guarantee and the functioning of the guarantee fund. ***This report shall include an evaluation of the impact of the EFSI on the investments in the Union, employment creation and access to financing for mid-cap companies and SMEs.***
3. The EIB, in cooperation with the EIF as appropriate, shall contribute to and provide the necessary information for the Commission evaluation and report under paragraph 1 and 2 respectively.
4. The EIB and EIF shall on a regular basis provide the European Parliament, the Council and the Commission with all their independent evaluation reports which assess the ***impact and*** practical results achieved by the specific activities of the EIB and EIF under this Regulation.
5. At the latest [*PO insert date three years after the entry into force of this Regulation*] ***and every three years thereafter***, the Commission shall submit a report to the European Parliament and the Council on the application of this Regulation accompanied by any relevant proposal. ***In case possible adjustments to EFSI are deemed necessary, this report shall be accompanied by a legislative proposal to amend this Regulation accordingly.***

## CHAPTER V-General provisions

### Article 13

#### ***Transparency and public disclosure of information***

In accordance with its own transparency policies ***and Union principles*** on access to documents and information, the EIB shall make publicly available on its website information relating to all EIB financing and investment operations ***under this Regulation, including those financed through financial intermediaries***, and how they contribute to the general objectives referred to in Article 5(2) ***and 5(2a)***.

### Article 14

#### ***Auditing by the Court of Auditors***

***The external audit of the activities undertaken in accordance with this Regulation is carried out by the European Court of Auditors in accordance with Article 287 TFEU and is thus subject to the EP discharge procedure according to Article 319 TFEU.***

***The Commission shall ensure that the Court of Auditors is able to exert its right as provided for in the first subparagraph of Article 287(3) TFEU and has full access to all information it needs to carry out its audits.***

***The EIB, the EIF, all financial intermediaries involved in the activities undertaken in accordance with the EFSI Regulation and final recipients shall afford the Court of***

*Auditors all the facilities and give it all the information which the Court of Auditors considers necessary for the performance of its tasks, pursuant to Article 161 of Regulation (EU) No 966/2012.*

*Article 15*  
***Anti-fraud measures***

1. The EIB shall notify OLAF promptly and provide it with the necessary information when, at any stage of the preparation, implementation or closure of operations subject to the EU guarantee, it has grounds to suspect that there is a potential case of fraud, corruption, money laundering or other illegal activity that may affect the financial interests of the Union.
2. OLAF ***shall*** carry out investigations, including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council<sup>(1)</sup>, Council Regulation (Euratom, EC) No 2185/96<sup>(2)</sup> and Council Regulation (EC, Euratom) No 2988/95 <sup>(3)</sup> in order to protect the financial interests of the Union, with a view to establishing whether there has been fraud, corruption, money laundering, ***financing of terrorism, tax fraud, organised crime*** or any other illegal activity affecting the financial interests of the Union in connection with any operations ***under this Regulation***. OLAF may transmit to the competent authorities of the Member States concerned information obtained in the course of investigations.

Where such illegal activities are proven, the EIB shall undertake recovery efforts with respect to its operations supported by the EU guarantee.

3. Financing agreements signed in relation to operations supported under this Regulation shall include clauses allowing exclusion from EIB financing and investment operations and, if necessary, appropriate recovery measures in cases of fraud, corruption or other illegal activity in accordance with the EFSI Agreement, EIB policies and applicable regulatory requirements. The decision whether to apply an exclusion from the EIB financing and investment operation shall be taken in accordance with the relevant financing or investment agreement.

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<sup>1</sup> Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

<sup>2</sup> Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

<sup>3</sup> Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p. 1).

## Article 16

### ***Excluded activities and non-cooperative jurisdictions***

1. In its financing and investment operations ***under this Regulation***, the EIB, ***the EIF and all financial intermediaries*** shall not support any activities carried out for illegal purposes, including money laundering, financing of terrorism, ***organised crime***, tax fraud and tax evasion, corruption, or fraud affecting the financial interests of the Union. In particular the EIB shall not participate in any financing or investment operation through a vehicle located in a non-cooperative jurisdiction, in line with its policy towards weakly regulated or non-cooperative jurisdictions based on policies of the Union, the Organisation for Economic Cooperation and Development or the Financial Action Task Force.
2. In its financing and investment operations ***under this Regulation***, the EIB shall apply the principles and standards set out in Union law on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing. ***In particular, the EIB shall make both direct funding or funding via intermediaries under this Regulation contingent upon the disclosure of beneficial ownership information in accordance with Directive (EU) 2015/... (the EU Anti-Money Laundering Directive).***

## Article 17

### ***Exercise of the delegation***

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
  - 1a. ***The power to adopt delegated acts referred to in Article 1(2a) shall be conferred on the Commission for a period of one year from the entry into force of this Regulation.***
  - 1b. ***The power to adopt delegated acts referred in Article 1(2b) shall be conferred on the Commission for an unlimited period of time.***
2. The power to adopt delegated acts referred to in Article 8(6) shall be conferred on the Commission for a period of three years from the entry into force of this Regulation. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the three-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of power referred to in ***Articles 3(1a) and 8(6)*** may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
- 4a. *A delegated act adopted pursuant to Articles 1(2a) and 1(2b) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of one month of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by one month at the initiative of the European Parliament or of the Council.*
5. A delegated act adopted pursuant to *Articles 3(1a) and 8(6)* shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

#### *Article 17a*

*Financial contributions in the form of one-off measures from Member States to the EFSI to dedicated investment platforms and to national promotional banks referred to in Article 5(2) and which benefit from the EU guarantee are covered by the full range of the existing rules of the Stability and Growth Pact.*



## **CHAPTER VII-Transitional and final provisions**

#### *Article 20*

##### ***Transitional provision***

Financing and investment operations signed by the EIB or EIF, during the period from 1 January 2015 to the conclusion of the EFSI Agreement, may be submitted by the EIB or the EIF to the Commission for coverage under the EU guarantee.

The Commission shall assess those operations and, where they comply with the substantive requirements set out in Article 5 and in the EFSI Agreement, decide that the EU guarantee coverage extends to them.

#### *Article 21*

##### ***Entry into force***

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

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