

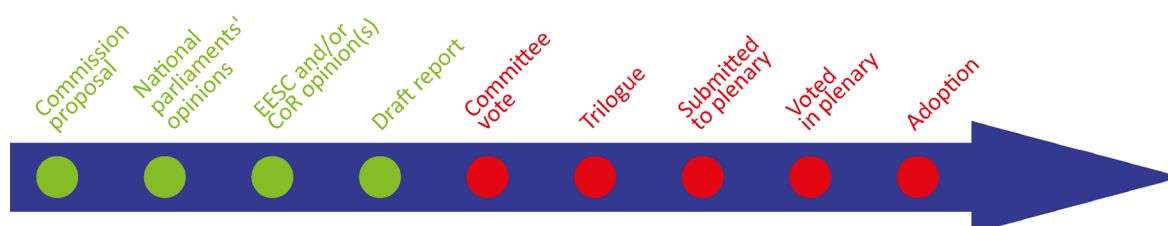
Solvency Support Instrument

OVERVIEW

In May 2020, the European Commission adopted a proposal on a Solvency Support Instrument. The aim is to support otherwise viable companies in the Union that face solvency difficulties as a result of the coronavirus crisis, and to mitigate possible distortions to the single market and its level playing field. Such distortions are to be expected given the differing degree to which the Member States are affected and the likely unevenness of their responses, which may depend on their fiscal capacity and level of debt. The Commission proposes to increase the guarantee provided to the European Investment Bank under the European Fund for Strategic Investments and to use it to support financial intermediaries, which will then select companies eligible for solvency help.

At the European Council meeting in July 2020, EU Heads of State or Government did not take up the idea of the solvency support instrument. Both the European Parliament and Commission President, Ursula von der Leyen, have expressed regret at this. Continuing the examination of the proposal in Parliament, the co-rapporteurs have published a draft report in which they propose to widen the scope of eligible companies and ensure fair geographical distribution.

Proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) 2015/1017 as regards creation of a Solvency Support Instrument		
<i>Committees responsible:</i>	Economic and Monetary Affairs (ECON) Budgets (BUDG) jointly under Rule 58	COM(2020) 404 29.5.2020
<i>Rapporteurs:</i>	José Manuel Fernandes (EPP, Spain) Irene Tinagli (S&D, Italy) Nils Torvalds (Renew Europe, Finland)	2020/0106(COD)
<i>Shadow rapporteurs:</i>	Frances Fitzgerald (EPP), Victor Negrescu (S&D), Billy Kelleher (Renew Europe), Gunnar Beck (ID), Hélène Laporte (ID), Claude Gruffat (Greens/EFA), Henrike Hahn (Greens/EFA), Bogdan Rzońca (ECR), Johan Van Overtveldt (ECR), José Gusmão (GUE/NGL), Dimitrios Papadimoulis (GUE/NGL)	Ordinary legislative procedure (COD) (Parliament and Council on equal footing – formerly 'co-decision')
<i>Next steps expected:</i>	Adoption of report in joint committee	



Introduction

The negative impact of the coronavirus crisis on the European economy is on an unprecedented scale. The profound asymmetric shock to the [single market](#) has led many businesses, which would be financially sound in a normal non-pandemic economy, to be confronted with unexpected solvency difficulties. The crisis could potentially cause long-lasting, irrevocable [damage](#) to the European economy. The broad negative effect of financially viable companies ceasing to exist due to the exceptional crisis will reverberate across national and tightly connected European markets. This essentially affects both the demand and the supply side, causing less obvious but significant and long-lasting economic harm. The [Solvency Support Instrument](#) (SSI), proposed by the European Commission under the broad framework of the [Recovery Plan for Europe](#), is intended to meet the recapitalisation needs of those – otherwise healthy – firms in order to avoid permanent damage to the European economy. Since the effect of and response to the crisis are likely to vary considerably at national level, the instrument also aims to direct support to where it is most needed, in order to avoid distortions to the single market and ensure a level playing field.

Context

The coronavirus crisis has a direct negative impact on the businesses, workers and households of the European Union. Left unaddressed, these developments are likely to lead to a protracted phase of weakened investment and increased unemployment. Since the fiscal [response](#) of the Member States to the crisis is uneven, different sectors and regions in Europe are affected to a varying extent. In the worst case scenario, the direct impact of the crisis on the equity of all listed and unlisted companies may be of the magnitude of €1.2 trillion, according to the Commission's estimates. The new SSI therefore aims to protect the single market and boost cohesion across the Union, primarily assisting firms in the most affected Member States as well as in the economic sectors most heavily impacted by the pandemic. The instrument is also meant to be directed towards those Member States where national solvency support measures are narrower.

Since the European economy consists of strongly interconnected national economies, a downturn in one part of the EU is likely to exert negative spill-over effects on cross-border supply chains and, consequently, on the whole EU economy. By the same logic, supporting a vulnerable part of the Union is likely to generate broader positive spill-over effects on the intra-EU supply chains and the European economy. Indeed, industrial ecosystems in the EU rely on complex supply chains spread across Member States in the single market and protecting them is a matter of common interest.

Existing situation

The [European Fund for Strategic Investments \(EFSI\)](#) is an EU-budget based guarantee managed by the [European Investment Bank \(EIB\) Group](#). The Group provides financing to higher-risk projects using its leverage and the highest [credit rating](#). An independent [Investment Committee](#) decides, based on transparent and publicly available criteria, on the eligibility of projects for EFSI support. There are no quotas limiting the help by sector or per Member State and the financing is driven by market demand. Latest [figures](#) show that total investments related to EFSI approvals to date amount to €524 billion. The financing focuses on smaller companies, digitalisation, research, development and innovation, and energy efficiency improvements. Altogether, these sectors account for 89 % of the Bank's investments.

Comparative elements

The coronavirus crisis has resulted in unprecedented levels of State aid dispensed by the Member States. The Commission adopted a temporary State aid framework to deal with the economic hardship, which has been amended [three times](#) to enable flexible and broad public support at the national level. The Commission authorised five different types of aid: i) direct grants, selective tax advantages and advance payments of up to €800 000 per company; ii) state guarantees for loans

taken by firms from banks; iii) subsidised public loans with low interest rates to businesses; iv) safeguards for banks that dispense State aid to the real economy; and v) a short-term export credit insurance. The May [amendments](#) clarified criteria under which the Member States can provide recapitalisations and subordinated debt to firms in need, while protecting the level playing field in the EU. The June [amendments](#) allowed the Member States to provide public support to all micro and small companies – those with less than 50 employees and less than €10 million annual turnover and/or annual balance sheet total. However, the amounts of State aid disbursed by the Member States can vary to a [significant degree](#), creating [asymmetric risks](#) to the unity and the coherence of the single market. In other words, the difficulties and inequalities are compounded by the fact that the capacity of Member States to provide State aid differs greatly. The fact that some Member States do not have sufficient budgetary capacity available to provide adequate support to companies in need, may lead to an unlevel playing field. This lack of capacity to help viable companies can also lead to systemic distortions, creating new or cementing existing disparities.

Parliament's starting position

In its [resolution](#) of 15 May 2020, Parliament stressed that a recovery package of a magnitude of €2 trillion must transform the EU economy and boost its resilience. This should be done through the pooling of strategic investments, with a focus on supporting SMEs and increasing job opportunities and skills to mitigate the impact of the crisis on workers, consumers and families. In its subsequent [resolution](#) on the conclusions of the extraordinary European Council meeting of 17-21 July 2020, the Parliament criticised the massive cuts to the grant component, and in particular the cancellation by the Heads of State or Government of innovative programmes like the Solvency Support Instrument. It insisted that these cuts will decrease the firepower of the recovery instrument and its transformative effect on the economy. Parliament's [negotiators](#) have warned that its consent should not be taken for granted.

European Council starting position

On 21 July 2020, EU Heads of State or Government reached a political agreement on the 2021-2027 Multiannual Financial Framework and on the €750 billion recovery instrument, [Next Generation EU \(NGEU\)](#). However, the idea of a Solvency Support Instrument, originally envisaged under the NGEU's second pillar, and the subject of the proposal covered by this briefing, was dropped by the [leaders](#).

Preparation of the proposal

Due to the urgency in preparing the proposal so that it can be adopted in a timely manner by the European Parliament and the Council, neither a stakeholder consultation nor an impact assessment could be carried out by the Commission beforehand.

The changes the proposal would bring

The [proposal](#) for the Solvency Support Instrument was adopted by the Commission on 29 May 2020. Its main aim is to help prevent insolvencies of viable companies which have been profoundly and negatively affected by the coronavirus crisis. It is also intended to help achieve the EU priorities of the twin green and digital transitions and of supporting cross-border economic activities in Europe, as well as strengthening the social dimension and convergence of the Union.

Financing would come from money raised jointly by the EU on financial markets using the [Recovery Instrument](#). This would be used to expand the EU guarantee provided to the European Investment Bank (EIB) Group under the European Fund for Strategic Investments (EFSI). The Commission proposes that the current guarantee should be increased by €66 billion for the purposes of the instrument, to reach a total of €92.4 billion. The Commission estimates that this increase necessitates a provisioning rate of 50 % of EU guarantee obligations. This means that the EU budget should

provide about €33.2 billion. Using this €66 billion guarantee, the instrument is expected to mobilise €300 billion for the real economy.¹

The instrument would constitute a separate window under the EFSI to attract private capital. The increased guarantee would be used by the EIB Group to provide investment, guarantees or funding of financial intermediaries (such as private equity funds, special purpose vehicles, investment platforms or national promotional banks). Independent fund or vehicle managers would then carry out a selection of eligible companies with adequate return prospects, using a commercial logic. The public intervention, while based on these commercial terms, aims to crowd in private investors by decreasing their risk. The instrument should primarily channel solvency support through these financial market intermediaries (which would also need to be established and operate in the EU in order to be eligible for the SSI), and only exceptionally enable direct support to companies by the EIB Group.

The EFSI Steering Board, appointed by the Commission and the EIB, would play a key role in the governance structure of the instrument. Its members would consist of three representatives from the Commission, one from the EIB, and an observer from the European Parliament. This board would set the investment guidelines and carry out quarterly reviews of the instrument. It would also appoint the Investment Committee for three years, to be composed of eight financial experts and headed by the Managing Director. This Committee would approve decisions, proposed by the EIB staff, on which financial intermediaries should benefit from the instrument. Member States would not take part in the decision-making on the EFSI guarantee but could co-invest and set-up platforms and special vehicles.

The SSI would be open to all Member States and sectors covered by the EFSI, but with an increased focus on those most economically affected by the pandemic, and where national solvency support measures are weaker. The EFSI Steering Board would set geographical concentration limits to ensure that the distribution of investment corresponded to these principles and was not concentrated in a limited number of Member States.

The instrument would not be available to businesses that were already in financial difficulties at the end of 2019, before the coronavirus outbreak. According to the proposal, companies 'shall be encouraged to comply, to the extent possible, with minimum high-level social and environmental safeguards in line with guidance provided by the Steering Board. Such guidance should include adequate provisions for avoiding undue administrative burdens, taking into account the size of companies and including lighter provisions for SMEs. Companies with a certain level of exposure to a pre-defined list of environmentally harmful activities, in particular the sectors covered by the EU Emissions Trading System (EU ETS), shall be encouraged to put in place, in the future, green transition plans. Companies shall also be encouraged to advance in their digital transformation. Technical assistance shall be available to assist companies for the purpose of these transitions.'

The SSI is intended as a temporary instrument related to hardship resulting from the coronavirus crisis. The Commission has indicated its wish to put it in place as soon as possible in 2020 and to deploy it at full capacity in the course of 2021, with the investment period ending in 2024. However, it has insisted that 60 % of the financing and investment operations should already be approved by the end of 2022.

Advisory committees

The Economic and Social Committee (EESC), in its [opinion](#) of 15 July 2020 (rapporteur: Ronny Lannoo, Belgium), welcomed the instrument and called for it to be made operational as quickly as possible. The EESC stressed that the instrument should only benefit companies with viable business models in the most affected Member States, which also have limited national solvency support capabilities.

The Committee of the Regions (CoR), in its [resolution](#) of 2 July 2020, supported the proposal, calling for its swift roll-out and for clear guidelines that align investments with EU priorities. It also underlined that financial support must be distributed on the basis of transparent criteria, which take into account not only the specific impact of the crisis on the sector and region concerned, but also the public financial support otherwise received.

National parliaments

The deadline for the submission of reasoned opinions on the grounds of subsidiarity was 30 July 2020. No [reasoned opinions](#) were sent. The [Assembleia da República](#) of Portugal and [Cortes Generales](#) of Spain sent detailed notes about their scrutiny to the Commission.

Stakeholders' views²

[Eurochambres](#), which represents chambers of commerce and industry, has expressed concern at the cancelling of the Solvency Support Instrument by European leaders. Its President, Christoph Leidl, regretted the decision of the European Council and called for the European Parliament to attempt to [reinstate](#) it.

[SME United](#), which represents crafts and SMEs in Europe, has called for quasi-capital in the form of subordinated loans, and the use of already existing instruments supported by the EIF and implemented by national promotional banks, to increase solvency of European SMEs. After rejection of the instrument during the July European Council summit, SME United, together with [AECM](#) (European Association of Credit Guarantee Institutions) and [NEFI](#) (European Network of Promotional Banks), called on the Council and Parliament negotiators to improve the outcome on SME financing by providing enough budgetary means to finance direct equity and quasi-equity instruments for SMEs in order to help highly indebted firms and partially compensate for the cancelled instrument.

The European Trade Union Confederation ([ETUC](#)) is opposed to the European Council's proposed cuts to the EU budget for solvency support. The trade unions strongly support MEPs in demanding that the instrument be restored, and have called on them to withstand pressure from national governments.

Academic views

Theresa Küspert of the Bertelsmann Stiftung, and Nils Redeker, Policy Fellow at the [Jacques Delors Centre](#), see the Solvency Support Instrument as a potentially powerful tool for economic recovery. However, they also argue that the Commission proposal needs improvement because, as the funds will be disbursed using commercially focused agents and market-driven incentives, there are possible risks of European funds being used for profit maximisation. That would miss the opportunity to create more competitive labour and product markets, to avoid increases in market concentration, safeguard employment and align financial support with wider EU industrial policy goals. Their [policy paper](#) suggests three ways of improving the instrument: firstly, clearer political guidelines and conditions specifying which companies should be eligible and under which requirements (for example, they should be obliged to cut carbon emissions, secure jobs, and curb executive remuneration). Secondly, it argues that final investment decisions should be taken by public financial institutions that can adjust market-based appraisals with national and European policy goals. Thirdly, it proposes to strengthen political control, particularly regarding the large projects. This could be done by establishing a special political control board under the EFSI dedicated to the projects under the instrument.

The [Bruegel](#) think-tank calculated amounts actually committed by the national governments in large EU Member States (+ UK) to finance loan guarantees to companies, and compared them with headline numbers (total financial envelopes announced by governments).³ It found out that, contrary to widespread concerns, patterns of distribution are not correlated to a country's fiscal space or debt level. In other words, firms in richer or less-indebted Member States do not appear to

benefit disproportionately from state support. For example in [Germany](#), which was reported to account for as much as 51 % of the total Covid-19-related EU approved State aid, the amount of credit support as a percentage of GDP was the lowest among the surveyed countries. Bruegel concludes that 'negative scenarios of cross-border market distortions driven by countries' different fiscal capacities appear to have been generally avoided so far.' Regarding the design of the SSI, the think-tank recommends that [financial viability](#) of companies should be determined looking at the longer-term state of financial accounts – they should clearly be economically viable also during the years before 2019.

Legislative process

In the European Parliament, the file has been assigned to the Economic and Monetary Affairs (ECON) and Budgets (BUDG) Committees, under Rule 58 of the Rules of Procedure (joint committee procedure), and to the Committees on Environment, Public Health and Food Safety (ENVI), Industry Research and Energy (ITRE) and Transport and Tourism (TRAN) as associated committees (Rule 57).

The three rapporteurs published their [draft report](#) on 29 July 2020. They proposed to broaden the eligibility criteria to also include companies newly created before the end of 2020, which have acquired or are managing assets or branches of businesses in difficulty (as specified by the State aid framework in place by the end of 2019), as long as there has been a change in management. Furthermore, under specific conditions, micro- or small enterprises that were already in difficulty on 31 December 2019 should also be eligible, since the March 2019 [temporary State aid framework](#) allows them to be helped.⁴ The draft report calls on the Commission to establish indicators and a methodology (through delegated acts), on the basis of which the Steering Board should set specific geographical concentration limits for the solvency support window. These limits could be updated over time. It also specifies a detailed list of tax good governance provisions concerning financial intermediaries or approved eligible vehicles and beneficiaries (such as not being resident for tax purposes in non-cooperative jurisdictions).

The rapporteurs also propose that private co-investors be exposed to a meaningful portion of losses and that subordinated debt is added to the toolbox of the instrument. Furthermore, companies that benefit from financing above €30 million or more, should be subject to restrictions on dividend payments, senior pay and share buy-backs during the period of the guarantee. The draft report proposes to increase the amount needed to support the set-up and management of investment funds, special purpose vehicles and investment platforms from €1 000 000 to €1 500 000.

To cover expenses that would have been met by beneficiaries of the financing and investment operations, but which could not be recovered in case of default, the EIB uses the EU guarantee within a cumulated maximum limit corresponding to 1 % of total outstanding EU guarantee obligations. The draft report proposes raising this limit for solvency support window operations to 3 %.

The rapporteurs demand that the EIB should regularly report to the European Parliament and the Council on the progress, impact and operations of the instrument. The Commission should report annually on the state of the guarantee fund. Beneficiaries and financial intermediaries that have a consolidated net turnover of or exceeding €750 000 000 should draw up publicly available and free of charge annual reports on income tax information.

On 27 August 2020, a further 197 [amendments](#) proposed by other MEPs were published. These cover all the parts of the proposal including: options for broadening the aim and scope of the SSI, ensuring fair allocation of funds, proposals for specific economic sectors to be prioritised, limits and prohibition on executive pay, bonuses and dividends payouts, ideas for commitments required from companies covered by the SSI and green transition plans, measures to prevent tax avoidance, money laundering, fraud and abuse, ensuring alignment with broader EU objectives and reporting obligations.

The [ITRE](#) committee adopted its opinion on 2 September 2020, focusing on making the instrument more targeted towards saving and creating more sustainable jobs as well as helping SMEs, also to

overcome the challenges of their green and digital transformation. It also proposed that the operations of the instrument should be aligned with a wider and clear list of EU policy priorities.⁵

The [ENVI](#) committee adopted its opinion on 3 September 2020. It proposed that the instrument contribute continuously towards the achievement of climate, energy and environmental targets in the Union. The majority of supported companies should be SMEs.

EP SUPPORTING ANALYSIS

D'Alfonso, A., Pari M., Sapała, M., [Negotiations on the next MFF and the EU recovery instrument. Key issues ahead of the July European Council](#), EPRS, European Parliament, July 2020.

D'Alfonso, A., [Future financing of the Union: MFF, Own Resources and Next Generation EU](#), EPRS, European Parliament, July 2020.

OTHER SOURCES

[Solvency Support Instrument](#), Legislative Observatory (OEIL), European Parliament.

Küspert, T., Redeker, N., [How to improve the design of the Solvency Support Instrument](#), Jacques Delors Centre and Bertelsmann Stiftung, July 2020.

ENDNOTES

- ¹ In the communication on 'The EU budget powering the recovery plan for Europe' adopted two days before the Solvency Support Instrument proposal (on 27 May 2020), the Commission gave slightly different numbers: 'With provisioning in the EU budget of EUR 5 billion from the current financial framework in 2020 to ensure a fast start and an additional EUR 26 billion from Next Generation EU, the Union budget will provide a guarantee of about EUR 75 billion to the European Investment Bank Group'.
- ² 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'.
- ³ It covered the following Member States: France, Germany, Italy and Spain.
- ⁴ Specific conditions are: 'provided that they are not subject to collective insolvency procedure under national law, and that they have not received rescue aid, unless they have reimbursed the loan or terminated the guarantee at the moment support is granted under the solvency support window, or restructuring aid, unless they are no longer subject to a restructuring plan at the moment support is granted under the solvency support window.'
- ⁵ It specifies: 'The New Industrial Strategy for Europe, the SME Strategy for a sustainable and digital Europe, the European Pillar of Social Rights, the European Social Charter (Revised), the Union's energy and climate laws, and with the EIB's lending policy, as well as contribute to the 2030 and 2050 energy and climate targets.'

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