

AMENDMENTS 001-105

by the Committee on Foreign Affairs

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European Fund for Sustainable Development (EFSD) and establishing the EFSD Guarantee and the EFSD Guarantee Fund

Proposal for a regulation (COM(2016)0586 – C8-0377/2016 – 2016/0281(COD))

Amendment 1**Proposal for a regulation****Recital 1***Text proposed by the Commission*

(1) The Union's ambitious External Investment Plan (EIP) **is needed** to support investments starting in Africa and the Union's Neighbourhood as a means to **promote** the sustainable development goals of the United Nations 2030 Agenda for Sustainable Development ('the 2030 Agenda') as well as the commitments under the recently revised European Neighbourhood Policy **thus addressing root causes of migration**. It should also contribute to the implementation of the Paris Agreement on Climate Change (COP 21).

Amendment

(1) The Union's ambitious External Investment Plan (EIP) **aims** to support investments starting in Africa and the Union's Neighbourhood as a means to **contribute to the achievement of** the sustainable development goals of the United Nations 2030 Agenda for Sustainable Development ('the 2030 Agenda'), **in particular the eradication of poverty**, as well as the commitments under the recently revised European Neighbourhood Policy. **Investing in Africa and the Union's neighbourhood will contribute towards addressing migratory pressures stemming from poverty, conflict, instability, underdevelopment, inequality, human rights violations, demographic growth, lack of employment and economic opportunities as well as from climate change, in complementarity with the partnership frameworks with third countries**. The EIP should also

contribute to the implementation of the Paris Agreement on Climate Change (COP 21).

Amendment 2

Proposal for a regulation

Recital 2

Text proposed by the Commission

(2) The EIP should incorporate the Union commitment under the Addis Ababa Action Agenda on Financing for Development. It should also allow **European** investors and private companies, **including** small and medium-sized enterprises, to **participate** more effectively to sustainable development in partner countries.

Amendment

(2) The EIP should incorporate the Union commitment under the Addis Ababa Action Agenda on Financing for Development **and the principles of development effectiveness, as well as policy coherence for development as provided for by Article 208 of the Treaty on the Functioning of the European Union (TFEU)**. It should also allow investors and private companies, **in particular micro**, small and medium-sized enterprises, to **contribute** more effectively to sustainable development in partner countries **in line with Union development and neighbourhood policies**.

Amendment 3

Proposal for a regulation

Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) The EFSD should contribute to the implementation of the 2030 Agenda, which recognises international migration as a multi-dimensional reality of major relevance for the development of countries of origin, transit and destination, requiring coherent and comprehensive responses, while underlining the potential for migrants to contribute to inclusive growth and sustainable development.

Amendment 4

Proposal for a regulation

Recital 3

Text proposed by the Commission

(3) This is in line with the Union Global Strategy for Foreign and Security Policy which embeds challenges such as migration and resilience in the overall EU foreign policy, ensuring ***coherence and synergies*** with European development and Neighbourhood policies.

Amendment

(3) This is in line with the Union Global Strategy for Foreign and Security Policy which embeds challenges such as migration and resilience in the overall EU foreign policy, ensuring ***that Union external policy is fully coherent with the objectives of development policy and ensuring synergies*** with European development and Neighbourhood policies. ***This is also in line with the Charter of Fundamental Rights of the European Union and international human rights law, ensuring a human rights-based approach while addressing forced displacement and irregular migration.***

Amendment 5

Proposal for a regulation

Recital 4

Text proposed by the Commission

(4) The EIP should provide an integrated financial package to finance investments ***starting in regions of Africa for countries that are signatories to the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its member States, of the other part, signed in Cotonou on 23 June 2000²² and the Neighbourhood countries, thereby creating growth and employment opportunities, maximising additionality, delivering innovative products, and crowding-in private sector funds.***

Amendment

(4) ***The European Fund for Sustainable Development (EFSD), as part of the EIP, should provide an integrated financial package to finance and attract investments in order to foster sustainable and inclusive economic and social development and promote the socio-economic resilience of partner countries, while maximising additionality, addressing market failures and sub-optimal investment situations, and crowding-in private sector funds. EFSD operations should be clearly distinct from, and complementary to, other support, in particular the European Investment Bank's (EIB) external lending mandate operations and Economic Resilience Initiative, and the ACP Investment Facility. EFSD operations should also be complementary to the existing activities of***

other eligible financial institutions and cover blind spots in investment that they are currently not able to meet.

²² *OJ L 317, 15.12.2000 as last amended by OJ L 287, 4.11.2010*

Amendment 6

Proposal for a regulation Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) Involvement of the private sector in the Union's cooperation with partner countries through the EFSD should yield measurable and additional development impact, without distorting the market and should be cost-effective, based on mutual accountability and risk and cost sharing. Such involvement should build on a commitment to internationally agreed guidelines and principles, including the Principles for Responsible Investment and the United Nations Guiding Principles on Business and Human Rights and the Organisation for Economic Cooperation and Development's (OECD) Guidelines for Multinational Enterprises.

Amendment 7

Proposal for a regulation Recital 4 b (new)

Text proposed by the Commission

Amendment

(4b) The EFSD should foster decent job creation, economic opportunities and entrepreneurship, and green and inclusive growth with particular focus on gender equality and the empowerment of women and young people in line with the Union's Gender Action Plan 2016-2020, while strengthening the rule of law, good governance, human rights and equitable

access to and use of natural resources.

Amendment 8

Proposal for a regulation

Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) In order to fulfil the political commitments of the EU on renewable energy, energy efficiency, and climate change mitigation and adaptation, a minimum share of 35% of the funding under the EFSD should be devoted to financing and investment operations wholly relevant for these sectors thus contributing to the implementation of the Paris Agreement on Climate Change.

Amendment 9

Proposal for a regulation

Recital 4 d (new)

Text proposed by the Commission

Amendment

(4d) Actions under this Regulation should be designed in such a way so as to fulfil the criteria for Official Development Assistance (ODA) established by the Development Assistance Committee (DAC) of the OECD, taking into account the specificities of private sector development, and to focus ODA on Least-Developed Countries with a view to directing 50 % of the Union's ODA to Least-Developed Countries in the near future.

Amendment 10

Proposal for a regulation

Recital 4 e (new)

Text proposed by the Commission

Amendment

(4e) Technical assistance to partner countries should constitute the second pillar of the EIP. In this context, the Commission should step up assistance in order to help partner countries attract investment by better preparing and promoting projects, developing a higher number of bankable projects and making them known to the international investor community. A project web-portal, in the form of a publicly accessible and user-friendly database, should be established to provide relevant information for each project.

Amendment 11

Proposal for a regulation Recital 4 f (new)

Text proposed by the Commission

Amendment

(4f) The improvement of the investment climate and overall policy environment in partner countries should constitute the third pillar of the EIP. In the context of the Union's existing political relations with partner countries, the Commission and the High Representative of the Union for Foreign Affairs and Security Policy (High Representative) should maintain policy dialogues aimed at developing legal frameworks, policies and institutions that promote economic stability, sustainable investment and inclusive growth. Those policy dialogues should cover, inter alia, the fight against corruption, organised crime and illicit financial flows, good governance, the inclusion of local markets, the boosting of entrepreneurship as well as local business settings, the respect for human rights and the rule of law as well as gender-responsive policies.

Amendment 12

Proposal for a regulation

Recital 5

Text proposed by the Commission

(5) The **European Fund for Sustainable Development (EFSD)** should be composed of regional investment platforms, which will combine financing from existing blending facilities and the EFSD Guarantee. The **existing blending facilities for Africa are created by Commission Decision C(2015)5210 and by Commission Implementing Decision C(2016)3436 for the Neighbourhood**. Each regional investment platform should have an operational board that supports the Commission in defining regional and sectorial investment goals, regional, sectorial and thematic investment windows, formulates opinions on the blending operations and discusses the use of the EFSD Guarantee in line with the investment windows to be defined.

Amendment 13

Proposal for a regulation

Recital 5 a (new)

Text proposed by the Commission

Amendment

(5) The **EFSD** should be composed of regional investment platforms, which will combine financing from existing blending facilities and the EFSD Guarantee. The **regional investment platforms should be created by transforming the existing blending facilities created by Commission decisions. The regional investment platforms for Africa and the Neighbourhood should be established first. It should be possible to extend the geographical scope of the EFSD by means of a delegated act**. Each regional investment platform should have an operational board that supports the Commission in defining **and monitoring** regional and sectorial investment goals, regional, sectorial and thematic investment windows, formulates opinions on the blending operations and discusses the use of the EFSD Guarantee in line with the investment windows to be defined.

(5a) In the light of the findings of the Court of Auditors^{1a} regarding the use of blending in the external relations of the Union, which highlighted the fact that in the case of almost half of the projects examined there was insufficient evidence to conclude that the grants were justified, and that in a number of those cases there were indications that the investments would have been made without the Union contribution, it is essential that blending only be used where the Commission can

clearly demonstrate its added value.

^{1a} ECA special report No 16/2014 “The effectiveness of blending regional investment facility grants with financial institution loans to support EU external policies”.

Amendment 14

Proposal for a regulation Recital 5 b (new)

Text proposed by the Commission

Amendment

(5b) The EFSD in all its capacity should fully commit to and respect human rights and equal treatment in recipient countries and of all actors associated with financial and investment activities.

Amendment 15

Proposal for a regulation Recital 6

Text proposed by the Commission

Amendment

(6) Furthermore, the EFSD should operate as 'one-stop-shop' to receive financing proposals from financial institutions and public or private investors and deliver a wide range of financial support to eligible investments. The EFSD Guarantee should be backed by the EFSD Guarantee Fund. The EFSD should deploy innovative instruments to support investments and involve the private sector.

deleted

Amendment 16

Proposal for a regulation Recital 7

(7) **Coordination and coherence of the EFSD with the European Investment Bank's (EIB) external lending mandate as set out in Decision [to be adopted], including the EIB resilience initiative, as well as with the ACP Investment Facility²³ should be ensured through the Strategic Board of the EFSD.**

(7) **A strategic board of the EFSD should be created to support the Commission in setting strategic guidance and overall investment goals as well as in ensuring an appropriate and diversified geographical and thematic coverage for investment windows. The strategic board should support overall coordination, complementarity and coherence between the regional investment platforms, between the three pillars of the EIP, between the EIP and the Union's other initiatives on migration, as well as with Union external financing instruments and trust funds, with the EIB's external lending mandate, including the EIB resilience initiative, and with the ACP Investment Facility²³.**

²³ Annex II to the Cotonou Agreement

²³ Annex II to the Cotonou Agreement

Amendment 17

Proposal for a regulation Recital 8

(8) **Moreover, the Strategic Board should support the Commission in setting strategic guidance and overall investment goals. The Strategic Board should also support coordination and coherence between the regional platforms. This should ensure complementarity of the various instruments in external action. The Strategic Board should be co-chaired by the Commission and the High Representative of the Union for Foreign Affairs and Security Policy to ensure consistency and coherence with Union external policy objectives and partnership frameworks with third countries.**

(8) The strategic board should **be co-chaired by the Commission and the High Representative in order to ensure consistency and coherence with Union external policy objectives, in particular with core Union development goals, existing strategies and instruments, partnership frameworks with third countries and with the Union's other efforts addressing the root causes of migration, and respect for commitments on policy coherence for development. The European Parliament should participate in the Strategic Board as a permanent observer to ensure its right and obligation to exercise scrutiny over the implementation of the EFSD.**

Amendment 18

Proposal for a regulation Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) The Commission and the EIB should conclude an agreement specifying the conditions of their cooperation in the management of the EFSD Guarantee and should present that agreement to the strategic board.

Amendment 19

Proposal for a regulation Recitals 8 b (new)

Text proposed by the Commission

Amendment

(8b) The EFSD should operate as a 'one-stop-shop', receiving financing proposals from financial institutions and public or private investors and delivering a wide range of financial support to eligible investments which lead to sustainable and inclusive economic, social and environmental development. The EFSD Guarantee should be backed by the EFSD Guarantee Fund.

Amendment 20

Proposal for a regulation Recitals 8 c (new)

Text proposed by the Commission

Amendment

(8c) The EFSD should address bottlenecks to private investment and deploy innovative instruments to support investment and to facilitate access to finance from domestic and foreign investors, in particular for local companies and micro, small, and

medium-sized enterprises, targeting areas which can help achieve sustainable development outcomes and fostering the involvement of European companies.

Amendment 21

Proposal for a regulation Recital 8 d (new)

Text proposed by the Commission

Amendment

(8d) The EFSD Guarantee should not be used to fund major infrastructure projects which have a low impact on job creation and whose cost-benefit ratio renders the investment unsustainable. The EFSD Guarantee should only be used to fund projects whose implementation is not controversial from an environmental, financial, and social perspective on the basis of an independent in-depth ex ante assessment and an adequate cost-benefit analysis.

Amendment 22

Proposal for a regulation Recital 8 e (new)

Text proposed by the Commission

Amendment

(8e) European Union Delegations in partner countries should promote access to, and actively provide information on, the EFSD, and enhance coherence between the use of the EFSD Guarantee, the use of blended finance under the regional investment platforms, the provision of enhanced targeted technical assistance, and policy dialogues in their respective countries.

Amendment 23

Proposal for a regulation Recital 9

Text proposed by the Commission

(9) The EFSD Guarantee should be granted to eligible counterparts for financing and investment operations or guarantee instruments for an initial investment period up to 31 December 2020.

Amendment

(9) The EFSD Guarantee should be granted to eligible counterparts for financing and investment operations or guarantee instruments for an initial investment period up to 31 December 2020, ***with a possibility for extension if deemed necessary.***

Amendment 24

**Proposal for a regulation
Recital 10 a (new)**

Text proposed by the Commission

Amendment

(10a) The EFSD guarantee should be managed so as to provide a level playing field for eligible counterparts, avoid conflicts of interest and be efficient with due regard to the objective of crowding in private sector for financing investments and maximising additionality.

Amendment 25

**Proposal for a regulation
Recital 14**

Text proposed by the Commission

Amendment

(14) In order to increase the impact of the EFSD Guarantee in view of the needs in the regions concerned, Member States should have the possibility of providing contributions in the form of a guarantee or cash. Those contributions could be earmarked by region, ***sector*** or investment window.

(14) In order to increase the impact of the EFSD Guarantee in view of the needs in the regions concerned, Member States ***and EFTA countries*** should have the possibility of providing contributions in the form of a guarantee or cash. Those contributions could be earmarked by region or ***existing*** investment window.

Amendment 26

**Proposal for a regulation
Recital 15**

Text proposed by the Commission

(15) As the funds of the EDF are to be used for the countries eligible under the 11th European Development Fund (EDF)²⁵, it requires the allocation of a minimum of EUR 400 000 000 of EFSD Guarantee coverage for investments throughout the implementation period of the EFSD Guarantee. The EFSD Guarantee should only become available when EUR 400 000 000 of 11th EDF funds **have been allocated** to the EFSD Guarantee Fund.

²⁵ Internal Agreement between the Representatives of the Governments of the Member States of the European Union, meeting within the Council, on the financing of European Union aid under the multiannual financial framework for the period 2014 to 2020, in accordance with the ACP-EU Partnership Agreement and on the allocation of financial assistance for the Overseas Countries and Territories to which Part Four of the Treaty on the Functioning of the European Union applies (OJ L 210, 6.8.2013, p. 1).

Amendment 27

Proposal for a regulation
Recital 15 a (new)

Text proposed by the Commission

Amendment

(15) As the funds of the EDF are to be used for the countries eligible under the 11th European Development Fund (EDF)²⁵, it requires the allocation of a minimum of EUR 400 000 000 of EFSD Guarantee coverage for investments throughout the implementation period of the EFSD Guarantee. The EFSD Guarantee should only become available when **a contribution of EUR 400 000 000 of 11th EDF funds to the EFSD Guarantee Fund has been confirmed. As the funds of the EDF are to be used, the EFSD Guarantee should comprise investments in the areas from which the original funds had been diverted. Commitments to ensure EDF funding is ODA eligible as well as future decisions made by the OECD DAC on private sector instruments should be respected.**

²⁵ Internal Agreement between the Representatives of the Governments of the Member States of the European Union, meeting within the Council, on the financing of European Union aid under the multiannual financial framework for the period 2014 to 2020, in accordance with the ACP-EU Partnership Agreement and on the allocation of financial assistance for the Overseas Countries and Territories to which Part Four of the Treaty on the Functioning of the European Union applies (OJ L 210, 6.8.2013, p. 1).

Amendment

(15a) As the funds of the European Neighbourhood Instrument, established by Regulation (EU) No 232/2014 of the European Parliament and of the

Council^{1a}, are to be used, a minimum of EUR 100 000 000 of the EFSD Guarantee coverage should be allocated for investments in Neighbourhood partner countries throughout the implementation period of the EFSD Guarantee.

^{1a} Regulation (EU) No 232/2014 of the European Parliament and of the Council of 11 March 2014 establishing a European Neighbourhood Instrument (OJ L 77, 15.3.2014, p. 27).

Amendment 28

Proposal for a regulation Recital 16

Text proposed by the Commission

(16) The Commission should report annually to the European Parliament and the Council on the financing and investment operations covered by the EFSD Guarantee with a view to ensuring accountability to the European citizens. The report should be made public in order to allow relevant stakeholders, including civil society, to express their views. The Commission should also report annually to the European Parliament and the Council on the management of the EFSD Guarantee Fund so that accountability and transparency are ensured.

Amendment

(16) The Commission should report annually to the European Parliament and the Council ***and inform the Joint Parliamentary Assembly ACP-EU*** on the financing and investment operations covered by the EFSD Guarantee, with a view to ensuring ***full*** accountability to the European citizens ***and scrutiny and control by the European Parliament***. The report should be made public in order to allow relevant stakeholders, including civil society, to express their views. The Commission should also report annually to the European Parliament and the Council on the management of the EFSD Guarantee Fund so that accountability, transparency are ensured.

Amendment 29

Proposal for a regulation Recital 16 a (new)

Text proposed by the Commission

Amendment

(16a) In order to ensure the monitoring and accountability of the EFSD and of

the EIP, the European Parliament may organise hearings as part of an investment dialogue with the Commission, the High Representative, the EIB and other eligible financial institutions as well as private sector and civil society organisations.

Amendment 30

Proposal for a regulation

Recital 17

Text proposed by the Commission

(17) In order to take into account lessons learned and allow for further evolvement of the EFSD, the functioning of the EFSD and the use of the EFSD Guarantee Fund should be evaluated by the Commission. The application of this Regulation should be evaluated independently in order to assess the level of conformity of the implementation with the legal basis, but also to establish the applicability and practicability of the Regulation in the achievement of its objectives.

Amendment

(17) In order to take into account lessons learned and allow for further evolvement of the EFSD, the functioning of the EFSD and the use of the EFSD Guarantee Fund should be evaluated by the Commission ***and external evaluators and subjected to an annual consultation process with relevant stakeholders, including civil society organisations.*** The application of this Regulation should be evaluated independently in order to assess the level of conformity of the implementation with the legal basis, but also to establish the applicability and practicability of the Regulation in the achievement of its objectives.

Amendment 31

Proposal for a regulation

Recital 18

Text proposed by the Commission

(18) ***In order to protect the financial interests of the Union, with a view to establishing whether there has been*** fraud, corruption, money laundering ***or*** any other illegal activity affecting the financial interests of the Union in connection with any financing and investment operations covered by this Regulation, the European Anti-Fraud Office (OLAF) is entitled to

Amendment

(18) ***With a view to fighting*** financial crime, ***in particular by uncovering cases of*** fraud, corruption, ***and*** money laundering, ***and to combating*** any other illegal activity affecting the financial interests of the Union in connection with any financing and investment operations covered by this Regulation, the European Anti-Fraud Office (OLAF) is entitled to

carry out investigations in accordance with Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council²⁶, Council Regulation (Euratom, EC) No 2185/96²⁷ and Council Regulation (EC, Euratom) No 2988/95²⁸.

carry out investigations in accordance with Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council²⁶, Council Regulation (Euratom, EC) No 2185/96²⁷ and Council Regulation (EC, Euratom) No 2988/95²⁸.

²⁶ 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).

²⁶ 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).

²⁷ 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).

²⁷ 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).

²⁸ 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).

²⁸ 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).

Amendment 32

Proposal for a regulation Recital 19

Text proposed by the Commission

(19) In order to contribute to the international fight against tax fraud, tax evasion **and money-laundering**, the eligible counterparts should not support any activities carried out for illegal purposes **and should not** participate in any financing or investment operation through a vehicle located in a non-cooperative jurisdiction.

Amendment

(19) In order to contribute to the international fight against tax fraud, tax evasion, **fraud, corruption and money laundering all financing through EFSD should be provided in a completely transparent manner. Furthermore** the eligible counterparts should not support any activities carried out for illegal purposes **nor** participate in any financing or investment operation through a vehicle located in a non-cooperative jurisdiction **or**

in tax haven. Counterparts shall also refrain from making any use of tax avoidance or aggressive tax planning schemes.

Amendment 33

Proposal for a regulation Recital 20

Text proposed by the Commission

Amendment

(20) In order to fulfil the political commitments of the EU on renewable energy and climate change a minimum share of 20% for the funding allocated under the EFSD should be devoted to financing and investment operations relevant for these sectors.

deleted

Amendment 34

Proposal for a regulation Recital 20 a (new)

Text proposed by the Commission

Amendment

(20a) Remittance flows to developing countries are by far more important than official development flows. Therefore, projects or instruments which facilitate the transfer of remittances and lower costs thereof should be eligible for funding allocated under the EFSD.

Amendment 35

Proposal for a regulation Recital 20 b (new)

Text proposed by the Commission

Amendment

(20b) In order to reflect political developments and the need for Union action in the world, 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 in respect of amending the Annex to this Regulation listing the regions eligible for support through the EFSD Guarantee. The power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission with respect to the definition of a list of investment windows. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making^{1a}. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

^{1a} OJ L 123, 12.5.2016, p. 1

Amendment 36

Proposal for a regulation Article 2 – paragraph 1 – point 5

Text proposed by the Commission

(5) 'additionality' means the principle ensuring that the EFSD **Guarantee** support may not be aimed at replacing the support of a Member State, private funding or another Union financial intervention, **as well as that it is aimed at addressing market failures and avoiding** crowding out other public or private investments.

Amendment

(5) 'additionality' means the principle ensuring that the EFSD **contributes to sustainable development by operations which address market failures or sub-optimal investment situations and which could not have been carried out or could not have achieved positive results to the same extent without EFSD** support. **The principle also requires EFSD operations to mobilise new private sector financing, that they** not be aimed at replacing the support of a Member State, private funding or another Union **or international** financial

intervention, **and that they avoid** crowding out other public or private investments. **The principle also requires that projects supported by the EFSD shall typically have a higher risk profile than the portfolio of investments supported by the eligible counterparts under their normal investment policies before the entry into force of this Regulation.**

Amendment 37

Proposal for a regulation Article 3 – paragraph 1

Text proposed by the Commission

1. The purpose of the EFSD as an integrated financial package shall be to **support** through the supply of financing capacity in the form of grants, guarantees and other financial instruments to eligible counterparts investments and increased access to financing starting in African and Neighbourhood partner countries.

Amendment

1. The purpose of the EFSD as an integrated financial package shall be to **foster sustainable and inclusive economic and social development and promote the socio-economic resilience of partner countries by supporting investments and increased access to financing** through the supply of financing capacity in the form of grants, guarantees and other financial instruments to eligible counterparts, starting in African and Neighbourhood partner countries, **while maximising additionality, delivering innovative products and crowding in private sector funds.**

Amendment 38

Proposal for a regulation Article 3 – paragraph 2

Text proposed by the Commission

2. The EFSD shall contribute to the achievement of the Sustainable Development Goals of the 2030 Agenda with a particular focus on sustainable growth, job creation, socio-economic sectors and on the support to micro, small and medium sized enterprises, **thus** addressing root causes of migration and

Amendment

2. The EFSD shall contribute to the achievement of the Sustainable Development Goals of the 2030 Agenda **and be guided by the objectives of Union external action set out in Article 21 of the Treaty on European Union (TEU) and of Union development cooperation policy set out in Article 208 TFEU and the**

contributing to sustainable reintegration of *returned* migrants *in* their countries of origin *while maximising additionality, delivering innovative products and crowding in private sector funds.*

internationally agreed development effectiveness principles, thus contributing to the Union's development and neighbourhood policies, with a particular focus on *the eradication of poverty, long-term sustainable and inclusive growth, decent* job creation, socio-economic sectors and on the support to micro, small and medium sized enterprises. *In so doing, the EFSD shall, inter alia, contribute to addressing the specific socio-economic root causes of migration and foster sustainable reintegration of migrants returning to* their countries of origin, *as well as strengthen resilience of transit and host communities.*

The EFSD shall also contribute to the implementation of the Paris Agreement by targeting investments to sectors that advance climate change mitigation and adaptation.

Amendment 39

Proposal for a regulation Article 3 a (new)

Text proposed by the Commission

Amendment

Article 3a

In the regions and countries where it operates, the EFSD shall be consistent with the objectives set out in the Union acts establishing the relevant external financing instruments and with the priorities contained in the national or regional programmes, where available.

Amendment 40

Proposal for a regulation Article 4 – paragraph 1

Text proposed by the Commission

Amendment

1. The EFSD shall be composed of regional investment platforms, *which will*

1. The EFSD shall be composed of regional investment platforms, *established*

combine financing from existing blending facilities and the EFSD Guarantee.

on the basis of existing *external action* blending facilities *of the Union and which shall combine their blending operations* and the EFSD Guarantee.

Amendment 41

Proposal for a regulation Article 4 – paragraph 2

Text proposed by the Commission

2. The management of the EFSD shall be ensured by the Commission.

Amendment

2. The management of the EFSD shall be ensured by the Commission. ***The Commission shall work in close cooperation with the EIB supported by the other eligible counterparts as regards the operational management of the EFSD Guarantee. To that end, a technical working group shall be established.***

Amendment 42

Proposal for a regulation Article 5 – paragraph 1 – subparagraph 1

Text proposed by the Commission

In the management of the EFSD the Commission shall be ***assisted*** by a strategic board.

Amendment

In the management of the EFSD the Commission shall be ***advised*** by a strategic board.

Amendment 43

Proposal for a regulation Article 5 – paragraph 1 – subparagraph 2

Text proposed by the Commission

It shall provide strategic guidance and support the Commission in setting overall investment goals as regards the use of the EFSD Guarantee. The strategic board shall also support overall coordination and coherence between the regional investment platforms ***and*** with the external lending

Amendment

The strategic board shall provide strategic guidance and support the Commission in setting overall investment goals as regards the use of the EFSD Guarantee, ***as well as in monitoring an appropriate and diversified geographical and thematic coverage for investment windows, while***

mandate operations managed by the EIB, including the EIB resilience initiative.

giving special attention to the Least-Developed Countries and fragile States. The strategic board shall ensure that EFSD operations support the strategic priorities of Union external action and development policy and, in particular, its guiding principles and objectives as provided for in Article 21 TEU and Article 208 TFEU respectively.

The strategic board shall also support overall coordination, ***complementarity*** and coherence between the regional investment platforms, ***between the three pillars of the EIP, between the EIP and the Union's other efforts on migration and on the implementation of the 2030 Agenda, as well as with Union external financing instruments and trust funds,*** with the external lending mandate operations managed by the EIB, including the EIB resilience initiative ***and the ACP Investment Facility.***

Amendment 44

Proposal for a regulation Article 5 – paragraph 2

Text proposed by the Commission

2. The strategic board shall be composed of representatives of the Commission and of the High Representative ***of the Union for Foreign Affairs and Security Policy (High Representative)***, of the Member States and of the EIB. The Commission may invite other contributors to become members of the strategic board having regard where appropriate to the view of the board. Partner ***Countries*** and relevant regional organisations, the eligible counterparts ***and the European Parliament*** may be given observer status, where appropriate. The strategic board shall be co-chaired by the Commission and the High Representative.

Amendment

2. The strategic board shall be composed of representatives of the Commission and of the High Representative, of the ***contributing*** Member States and of the EIB. The Commission may invite other contributors to become members of the strategic board having regard where appropriate to the view of the board. ***The European Parliament shall have observer status. Observers designated by the European Parliament shall have the right to fully participate in the deliberations without the right to vote.*** Partner ***countries*** and relevant regional organisations, the eligible counterparts ***and other stakeholders*** may be given observer status, where appropriate. The strategic board shall be co-chaired by the Commission and the

Amendment 45

**Proposal for a regulation
Article 5 – paragraph 2 a (new)**

Text proposed by the Commission

Amendment

2a. The strategic board shall adopt its rules of procedure during its first meeting, which shall include details on the number of meetings to be held per year, the voting rights of its members and progress reports to be issued by the Commission. The minutes and agendas of the meetings of the strategic board shall be made public.

Amendment 46

**Proposal for a regulation
Article 5 – paragraph 2 b (new)**

Text proposed by the Commission

Amendment

2b. The strategic board shall regularly organise a consultation of relevant stakeholders on the orientation and implementation of the EFSD.

Amendment 47

**Proposal for a regulation
Article 5 – paragraph 2 c (new)**

Text proposed by the Commission

Amendment

2c. During the implementation phase of the EFSD, the strategic board shall, as soon as possible, adopt and publish guidelines setting out how conformity of EFSD operations with the objectives and eligibility criteria set out in Article 8 is to be ensured.

Amendment 48

Proposal for a regulation Article 5 – paragraph 2 d (new)

Text proposed by the Commission

Amendment

2d. In its strategic guidance, the strategic board shall take into account relevant European Parliament resolutions and Council decisions and conclusions.

Amendment 49

Proposal for a regulation Article 5 a (new)

Text proposed by the Commission

Amendment

Article 5a

Regional operational boards

- 1. Each regional investment platform shall have an operational board.**
- 2. Operational boards shall support the Commission in defining regional and sectoral investment goals and regional, sectoral and thematic investment windows and shall formulate opinions on blending operations and on the use of the EFSD Guarantee. They shall, in particular, provide guidance on future financing proposals, monitor and review the pipeline of projects, examine project-related results and monitor the portfolio of approved projects.**
- 3. Operational boards shall be chaired by the Commission and be composed of representatives of the Commission, of the High Representative and of the Member States as voting members, and, where appropriate, of the eligible counterparts as observers. The European Parliament shall be granted observer status.**
- 4. The Commission and the High Representative shall ensure the close involvement of the European Union**

Delegations and of the eligible counterparts in preparing the work of the operational boards.

Amendment 50

**Proposal for a regulation
Article 6 – paragraph 1**

Text proposed by the Commission

1. The Union shall provide an irrevocable and unconditional guarantee on first demand to the eligible counterpart for the financing and investment operations covered by this Regulation ***starting in the African and Neighbourhood partner countries.***

Amendment

1. The Union shall, ***after careful consideration of the viability of a project,*** provide an irrevocable and unconditional guarantee on first demand to the eligible counterpart for the financing and investment operations covered by this Regulation.

Amendment 51

**Proposal for a regulation
Article 6 – paragraph 1 a (new)**

Text proposed by the Commission

Amendment

1a. The EFSD Guarantee shall support financing and investment operations in partner countries in the regions listed in the Annex. The Commission is empowered to adopt delegated acts in accordance with Article 20a amending the Annex listing the regions eligible for support through EFSD Guarantee .

Amendment 52

**Proposal for a regulation
Article 7 – paragraph 3**

Text proposed by the Commission

3. The maximum period allowed for eligible counterparts to conclude agreements with financial intermediaries or final beneficiaries shall be four years after

Amendment

3. The maximum period allowed for eligible counterparts to conclude agreements with ***co-financing private sector partners,*** financial intermediaries or

the conclusion of the relevant guarantee agreement.

final beneficiaries shall be four years after the conclusion of the relevant guarantee agreement.

Amendment 53

Proposal for a regulation

Article 8 – paragraph 1 – introductory part

Text proposed by the Commission

1. The financing and investment operations eligible for support through the EFSD Guarantee shall be consistent and aligned with Union policies, in particular development and neighbourhood policies of the Union, the partner countries' strategies and policies and **aim at supporting** the following **general** objectives:

Amendment

1. The financing and investment operations eligible for support through the EFSD Guarantee shall be ***in line with the purpose of the EFSD as provided for in Article 3. Such operations shall be*** consistent and aligned with Union policies, in particular development and neighbourhood policies of the Union, ***as well as*** the partner countries' strategies and policies. ***Such operations shall take into account other Union and international support to ensure complementarity with other initiatives and shall support*** the following objectives:

Amendment 54

Proposal for a regulation

Article 8 – paragraph 1 – point a

Text proposed by the Commission

(a) contribute to economic and social development, with particular focus on sustainability **and job creation** (in particular **for youth and women**), thus addressing root causes of migration and contributing to sustainable reintegration of **returned migrants in** their countries of origin;

Amendment

(a) contribute to economic and social development **and the implementation of the 2030 Agenda**, with particular focus on **the eradication of poverty**, sustainability, **fostering decent employment, economic opportunities, skills and entrepreneurship, and promoting**, in particular, **gender equality and the empowerment of women and young people**, thus addressing **the specific** root causes of migration, **enhancing resilience** and contributing to **the** sustainable reintegration of **migrants returning to** their countries of origin, **with due regard to the strengthening of the**

rule of law, good governance and human rights;

Amendment 55

Proposal for a regulation

Article 8 – paragraph 1 – point b

Text proposed by the Commission

(b) **target** socio-economic sectors, in particular infrastructure including sustainable energy, water, transport, information and communications technologies, environment, sustainable use of natural resources and blue growth, social infrastructure, human capital, in order to improve the socio-economic environment;

Amendment

(b) **strengthen** socio-economic sectors, in particular infrastructure including **renewable and sustainable energy, water and waste management**, transport, information and communications technologies, **as well as** environment, sustainable use of natural resources, **sustainable agriculture** and blue growth, social infrastructure, human capital, in order to improve the socio-economic environment;

Amendment 56

Proposal for a regulation

Article 8 – paragraph 1 – point c

Text proposed by the Commission

(c) provide finance **in favour of** micro-, small- and medium-sized enterprises **with a particular focus on private sector development**;

Amendment

(c) provide finance **and support to private and cooperative sector development, with a particular focus on local companies and** micro, small and medium-sized enterprises, **in particular those in the Least Developed Countries and fragile states, while addressing market failures and limiting market distortions and fostering the involvement of European companies**;

Amendment 57

Proposal for a regulation

Article 8 – paragraph 1 – point d

Text proposed by the Commission

(d) ***provide financial instruments aimed at addressing the*** bottlenecks to private investments, including first loss guarantees to portfolios guarantees to private sector projects such as loan guarantees for small and medium-sized enterprises and guarantees for specific risks for infrastructure projects and other risk capital;

Amendment

(d) ***address*** bottlenecks to private investments ***by providing financial instruments***, including first loss guarantees to portfolios guarantees to private sector projects such as loan guarantees for small and medium-sized enterprises and guarantees for specific risks for infrastructure projects and other risk capital; ***financial instruments provided may be denominated in the local currency of the partner country concerned;***

Amendment 58

**Proposal for a regulation
Article 8 – paragraph 1 – point e**

Text proposed by the Commission

(e) maximise private sector leverage by addressing bottlenecks to investment.

Amendment

(e) maximise private sector leverage, ***with a particular focus on micro, small and medium-sized enterprises*** by addressing bottlenecks to investment.

Amendment 59

**Proposal for a regulation
Article 8 – paragraph 1 – point e a (new)**

Text proposed by the Commission

(ea) contribute to climate action and environmental protection and management, thus producing climate co-benefits allocating at least 35 % of the financing to investments with components that contribute to climate action, renewable energy and resource efficiency.

Amendment

Amendment 60

**Proposal for a regulation
Article 8 – paragraph 2 – introductory part**

Text proposed by the Commission

Amendment

2. The EFSD Guarantee shall support financing and investment operations which ***in particular***:

2. The EFSD Guarantee shall support financing and investment operations which ***address market failures or sub-optimal investment situations and which***:

Amendment 61

Proposal for a regulation

Article 8 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) provide additionality;

(a) provide additionality ***as defined in Article 2;***

Amendment 62

Proposal for a regulation

Article 8 – paragraph 2 – point a a (new)

Text proposed by the Commission

Amendment

(aa) ensure complementarity with other initiatives, making sure that EFSD operations are clearly distinct, in particular from the external lending mandate operations managed by the EIB;

Amendment 63

Proposal for a regulation

Article 8 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) are economically and financially viable, ***taking also into account*** the possible support from, and co-financing by, private and public partners to the project;

(c) are economically and financially viable, ***with due regard to*** the possible support from, and co-financing by, private and public partners to the project, ***while taking into account the specific operating environment and capacities of countries identified as experiencing fragility or conflict, Least Developed Countries and heavily indebted poor countries where***

more concessional terms can be given;

Amendment 64

Proposal for a regulation

Article 8 – paragraph 2 – point e

Text proposed by the Commission

(e) maximise the mobilisation of private sector capital.

Amendment

(e) maximise, ***where possible***, the mobilisation of private sector capital;

Amendment 65

Proposal for a regulation

Article 8 – paragraph 2 – point e a (new)

Text proposed by the Commission

Amendment

(ea) respect the principles of development effectiveness as set out in the Busan Partnership for Effective Development Cooperation and reaffirmed in Nairobi in December 2016, including, ownership, alignment, focus on results, transparency and mutual accountability, as well as the objective of untying aid; and

Amendment 66

Proposal for a regulation

Article 8 – paragraph 2 – point e b (new)

Text proposed by the Commission

Amendment

(eb) fulfil the criteria for ODA established by the Development Assistance Committee of the OECD, taking into account the specificities of private sector development;

Amendment 67

Proposal for a regulation

Article 8 – paragraph 2 – point e c (new)

Text proposed by the Commission

Amendment

(ec) are implemented in full respect of internationally agreed guidelines, principles and conventions including the UN Principles for Responsible Investment, UN Guiding Principles on Business and Human Rights, OECD Guidelines for Multinational Enterprises, and the UN Food and Agriculture Organisation’s Principles for Responsible Investment in Agriculture and Food Systems, and International Labour Organisation conventions, as well as international human rights law;

Amendment 68

Proposal for a regulation

Article 8 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The EFSD Guarantee shall not be used to replace government responsibility for providing essential services.

Amendment 69

Proposal for a regulation

Article 8 – paragraph 3

Text proposed by the Commission

Amendment

3. On a case by case basis the Commission may allow combined financing from different Union instruments.

3. On a case by case basis the Commission may allow combined financing from different Union instruments ***to the extent that it is needed for the success of the investment project backed by the EFSD and as long as this does not lead to reduced financing for other developmental objectives.***

Amendment 70

Proposal for a regulation Article 8 – paragraph 4

Text proposed by the Commission

4. The Commission *may define* investment windows for specific regions or partner countries or for both, for specific sectors, for specific projects or for specific categories of final beneficiaries or for both to be funded by instruments referred to in Article 9 to be covered by the EFSD Guarantee up to a fixed amount. ***All requests for financial support within investment windows shall be made to the Commission.***

Amendment

4. The Commission is ***empowered to adopt, after consultation with the strategic board, delegated acts in accordance with Article 20a supplementing this Regulation by establishing a list of investment windows. Investment windows shall be established*** for specific regions or partner countries or for both, for specific sectors, for specific projects or for specific categories of final beneficiaries or for both to be funded by instruments referred to in Article 9 to be covered by the EFSD Guarantee up to a fixed amount.

The choice of investment windows shall be duly justified by an analysis of the market failure or sub-optimal investment situations. Such analysis shall be carried out by the Commission in cooperation with potentially eligible counterparts and stakeholders.

Within the relevant regional investment platforms, a significant share of the EFSD Guarantee shall be allocated to fragile and conflict-affected countries, landlocked countries and Least-Developed Countries.

Amendment 71

Proposal for a regulation Article 8 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. The Commission shall establish and publish a scoreboard of indicators reflecting the eligibility criteria set out in this Article, to be used to ensure an independent and transparent assessment of the potential and actual operations backed by the EFSD Guarantee. The

Commission shall publish the results of its assessments.

Amendment 72

Proposal for a regulation

Article 9 – paragraph 1 – point a

Text proposed by the Commission

(a) loans;

Amendment

(a) *loans, including local currency loans;*

Amendment 73

Proposal for a regulation

Article 10 – paragraph 1 – point e

Text proposed by the Commission

(e) bodies governed by the private law of a Member State that provide adequate financial guarantees, by derogation from Article 58(1)(c)(vii) of Regulation (EU) No 966/2012

Amendment

(e) bodies governed by the private law of a Member State that provide adequate financial guarantees, by derogation from Article 58(1)(c)(vii) of Regulation (EU) No 966/2012, *and that disclose what extra-financial factors ("Environment Social and Governance ESG"), such as climate change, resource scarcity, misaligned executive compensation or corruption, they consider as part of their fiduciary duty.*

Amendment 74

Proposal for a regulation

Article 10 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The Commission shall ensure a level-playing field for eligible counterparts and promote cooperation between them. It shall ensure an absence of conflicts of interest throughout the stages of implementation of the EFSD. In order to ensure complementarity, the

eligible counterparts shall provide any relevant information about their non-EFSD operations.

Amendment 75

Proposal for a regulation Article 10 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Eligible counterparts may be invited to an exchange of views in the European Parliament concerning financing and investment operations covered by this Regulation.

Amendment 76

Proposal for a regulation Article 11 – title

Text proposed by the Commission

Amendment

Coverage and terms of the EFSD
guarantee agreements

Coverage and terms of the EFSD
Guarantee

Amendment 77

Proposal for a regulation Article 11 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

Member States may contribute to the EFSD Guarantee Fund in the form of guarantees or cash. Subject to Commission approval, other contributors may contribute, in the form of cash.

Member States **and EFTA countries** may contribute to the EFSD Guarantee Fund in the form of guarantees or cash. Subject to Commission approval, other contributors may contribute, in the form of cash.

Amendment 78

Proposal for a regulation Article 11 – paragraph 3 – subparagraph 3

Text proposed by the Commission

The Commission shall inform the European Parliament and the Council about the contributions confirmed.

Amendment

The Commission shall inform the European Parliament and the Council ***without delay*** about the contributions confirmed.

Amendment 79

Proposal for a regulation

Article 11 – paragraph 4 – subparagraph 2

Text proposed by the Commission

At the request of the Member States, the contributions made by them may be earmarked for the initiation of projects in specific regions, ***countries, sectors or*** investment windows.

Amendment

At the request of the Member States ***and subject to approval by the strategic board,*** the contributions made by them may be earmarked for the initiation of projects in specific regions ***or existing*** investment windows.

Amendment 80

Proposal for a regulation

Article 11 – paragraph 5

Text proposed by the Commission

5. At least EUR 400 000 000 of EFSD Guarantee coverage shall be allocated for investments in the partner countries eligible under the 11th EDF throughout the implementation period of the EFSD Guarantee.

Amendment

5. At least EUR 400 000 000 of EFSD Guarantee coverage shall be allocated for investments in the partner countries eligible under the 11th EDF throughout the implementation period of the EFSD Guarantee, ***in line with the objectives of the Cotonou Partnership Agreement.***

Amendment 81

Proposal for a regulation

Article 11 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. At least EUR 100 000 000 of EFSD Guarantee coverage shall be allocated for investments in the partner countries from

Amendment 82

**Proposal for a regulation
Article 12 – paragraph 2 a (new)**

Text proposed by the Commission

Amendment

2a. The guarantee agreements shall be made publicly available, with a limited regime of exceptions.

Amendment 83

**Proposal for a regulation
Article 12 – paragraph 3 – point a a (new)**

Text proposed by the Commission

Amendment

(aa) the objectives and purpose of this Regulation, a needs assessment and an indication of the expected results, taking into account the promotion of corporate social responsibility, including, in particular, by respect for all internationally agreed guidelines, principles and legal instruments, in particular those referred to in Article 8(2)(ec).

Amendment 84

**Proposal for a regulation
Article 12 – paragraph 3 – point b**

Text proposed by the Commission

Amendment

(b) the remuneration of the guarantee;

(b) the remuneration of the guarantee, which shall reflect the risk level; it shall be possible for the remuneration to be partly subsidised in order to give more concessional terms, in duly justified cases, in particular in the countries referred to in point (c) of Article 8(2);

Amendment 85

Proposal for a regulation

Article 12 – paragraph 3 – point e a (new)

Text proposed by the Commission

Amendment

(ea) a robust, safe and accessible complaints procedure for individuals, workers, communities and civil society organisations that could be negatively affected by eligible counterpart's operations or the investment supported by the EFSD.

Amendment 86

Proposal for a regulation

Article 12 – paragraph 4 – point c

Text proposed by the Commission

Amendment

(c) the amount of own resources that the counterpart is ready to mobilise for the investment window.

(c) the amount of own resources ***as well as private sector co-financing*** that the counterpart is ready to mobilise for the investment window.

Amendment 87

Proposal for a regulation

Article 13 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) possible contributions from Member States and other contributors;

(b) possible contributions from Member States, ***EFTA countries*** and other contributors;

Amendment 88

Proposal for a regulation

Article 13 – paragraph 6 – point a

Text proposed by the Commission

Amendment

(a) any surplus shall ***be paid to the***

(a) ***without prejudice to paragraph 8 of***

general budget of the Union;

this Article, any surplus shall constitute internal assigned revenue in accordance with Article 21(4) of Regulation (EU, Euratom) No 966/2012 to the benefit of Union development cooperation and neighbourhood instruments;

Amendment 89

Proposal for a regulation Article 13 – paragraph 7

Text proposed by the Commission

7. From 1 January 2021, if, as a result of calls on the EFSD Guarantee, the level of resources in the Guarantee Fund falls below 50% of the provisioning rate referred to in paragraph 5, the Commission shall submit a report on exceptional measures that may be required to replenish the EFSD Guarantee Fund.

Amendment

7. From 1 January 2021, if, as a result of calls on the EFSD Guarantee, the level of resources in the Guarantee Fund falls below 50% of the provisioning rate referred to in paragraph 5, the Commission shall submit a report on:

- (a) the cause of the shortfall, with detailed explanations; and*
- (b) where deemed necessary, any exceptional measures that may be required to replenish the EFSD Guarantee Fund.*

Amendment 90

Proposal for a regulation Article 13 – paragraph 8

Text proposed by the Commission

8. After a call on the EFSD Guarantee, endowments to the EFSD Guarantee Fund provided for in points (c), (d) and (e) of paragraph 2 exceeding the resources necessary to reach the provisioning rate at the level referred to in paragraph 5 shall be used within the limits of the *initial investment* period provided for in Article 7(2) to restore the EFSD Guarantee up to its initial amount.

Amendment

8. After a call on the EFSD Guarantee, endowments to the EFSD Guarantee Fund provided for in points (c), (d) and (e) of paragraph 2 exceeding the resources necessary to reach the provisioning rate at the level referred to in paragraph 5 *or any surplus provided for in point (a) of paragraph 6 of this Article* shall *first* be used within the limits of the *maximum* period provided for in Article 7(3) to restore the EFSD Guarantee up to its initial amount.

Amendment 91

Proposal for a regulation Article 15 – paragraph 1

Text proposed by the Commission

1. The Commission shall submit an annual report to the European Parliament and to the Council on the financing and investment operation covered by the EFSD Guarantee. This report shall be made public. It shall include the following elements:

- (a) an assessment of the financing and investment operations in operation and covered by the EFSD Guarantee, sector, country and regional levels and their compliance with this Regulation;
- (b) an assessment of the added value, the mobilisation of private sector resources, the estimated and actual outputs and the outcomes and impact of the financing and investment operations covered by the EFSD Guarantee on an aggregated basis, including the impact on **employment** creation;
- (c) an assessment of the compliance with the requirements concerning the use of the EFSD Guarantee and key performance indicators established for each proposal

Amendment

1. The Commission shall submit an annual report to the European Parliament and to the Council on the financing and investment operation covered by the EFSD Guarantee. This report shall be made public. It shall include the following elements:

- (a) an assessment of the financing and investment operations in operation and covered by the EFSD Guarantee, sector, country and regional levels and their compliance with this Regulation;
- (b) an assessment, ***on the basis of the scoreboard of indicators provided for in Article 8(4a)***, of the ***additionality and*** added value, the mobilisation of private sector resources, the estimated and actual outputs and the outcomes and impact of the financing and investment operations covered by the EFSD Guarantee on an aggregated basis, including the impact on ***decent job*** creation, ***the eradication of poverty and on the way in which the root causes of migration are addressed, including gender-disaggregated data where possible***;
- (ba) ***an assessment of the extent to which operations covered by this Regulation contribute to the achievement of the general objectives set out in Article 8(1), in particular the overall contribution to the Sustainable Development Goals of the 2030 Agenda and the share of spending relevant for the fight against climate change and the implementation of the Paris Agreement***;
- (c) an assessment of the compliance with the requirements concerning the use of the EFSD Guarantee and key performance indicators established for each proposal

submitted;

(d) an assessment of the leverage effect achieved by the operations covered by the EFSD Guarantee;

(e) the financial amount transferred to beneficiaries and an assessment of financing and investment operations by each counterpart on an aggregated basis;

(f) an assessment of the added value of financing and investment operations of the eligible counterparts, and of the aggregate risk associated with those operations;

(g) detailed information on calls on the EFSD Guarantee, losses, returns, amounts recovered and any other payments received;

(h) the financial reports on financing and investment operations of the eligible counterparts covered by this Regulation audited by an independent external auditor.

submitted;

(d) an assessment of the leverage effect achieved by the operations covered by the EFSD Guarantee;

(e) the financial amount transferred to beneficiaries and an assessment of financing and investment operations by each counterpart on an aggregated basis;

(f) an assessment of the ***additionality and*** added value of financing and investment operations of the eligible counterparts, and of the aggregate risk associated with those operations;

(g) detailed information on calls on the EFSD Guarantee, losses, returns, amounts recovered and any other payments received;

(h) the financial reports on financing and investment operations of the eligible counterparts covered by this Regulation audited by an independent external auditor;

(ha) an assessment of the actions developed under the second and third pillars of the EIP and the synergies between them and the operations covered by the EFSD Guarantee, with particular regard to progress made in the fight against corruption and organised crime and illicit financial flows, good governance, the inclusion of local financial markets, the boosting of entrepreneurship as well as local business settings, respect for human rights and the rule of law as well as gender-responsive policies;

(hb) an assessment of the compliance of EFSD operations with the internationally agreed development effectiveness principles.

Amendment 92

Proposal for a regulation Article 16 – paragraph 1

Text proposed by the Commission

1. By 31 December **2020**, the Commission shall evaluate the functioning of the EFSD. The Commission shall submit its evaluation report to the European Parliament and the Council, containing an independent evaluation of the application of this Regulation. ***This report shall be submitted without delay by the Commission in the event that the approved financing and investment operations absorb in full the amount of the EFSD Guarantee available before 30 June 2020.***

Amendment

1. By 31 December **2019**, the Commission shall evaluate the functioning of the EFSD, ***its management and its effective contribution to the purpose and objectives of this Regulation.*** The Commission shall submit its evaluation report to the European Parliament and the Council, containing an independent ***external*** evaluation of the application of this Regulation, ***accompanied by a reasoned proposal to amend this Regulation, as appropriate, in particular with a view to extending the initial investment period referred to in Article 7(2). That evaluation report shall be accompanied by an opinion of the Court of Auditors.***

Amendment 93

**Proposal for a regulation
Article 16 – paragraph 2**

Text proposed by the Commission

2. By 31 December **2020** and every three years thereafter, the Commission shall evaluate the use of the EFSD Guarantee Fund. The Commission shall submit its evaluation report to the European Parliament and the Council. That evaluation report shall be accompanied by an opinion of the Court of Auditors.

Amendment

2. By 31 December **2019** and every three years thereafter, the Commission shall evaluate the use ***and the functioning*** of the EFSD Guarantee Fund. The Commission shall submit its evaluation report to the European Parliament and the Council. That evaluation report shall be accompanied by an opinion of the Court of Auditors ***on the management of the EFSD Guarantee Fund and the effectiveness and additionality of EFSD operations. Where adjustments to the EFSD Guarantee Fund are deemed necessary or in the event that the EFSD Guarantee Fund is extended beyond 2020, that evaluation report shall be accompanied by a legislative proposal to amend this Regulation accordingly.***

Amendment 94

Proposal for a regulation

Article 17

Text proposed by the Commission

Article 17

Transparency and public disclosure of information

In accordance with its transparency policies and general Union *principles* on access to documents and information, the eligible counterparts shall make publicly available on their websites information relating to all financing and investment operations covered by the EFSD Guarantee under this Regulation, relating in particular to the manner in which those operations contribute to the requirements of this Regulation.

Amendment

Article 17

Transparency, **communication**, and public disclosure of information

1. In accordance with its transparency policies and Union **rules** on access to documents and information **and data protection**, the eligible counterparts shall **proactively and systematically** make publicly available on their websites information relating to all financing and investment operations covered by the EFSD Guarantee under this Regulation, relating in particular to the manner in which those operations contribute to the **objectives and** requirements of this Regulation. **Where possible, such information shall be broken down at project level. Such information shall always take into account the protection of confidential and commercially sensitive information.**
2. **The Commission shall publish on its web-portal information on financing and investment operations and the essential elements of all guarantee agreements, including information on the legal identity of counterparts, expected development benefits and complaints procedures in accordance with point (ea) of Article 12(3).**
3. **Eligible counterparts shall publicise the Union support in all information which they publish on financing and investment operations covered by the EFSD guarantee in accordance with this Regulation.**
4. **European Union delegations shall include information about funding opportunities provided by the EFSD in their communication targeted at civil society and the public at large.**

Amendment 95

Proposal for a regulation Article 17 a (new)

Text proposed by the Commission

Amendment

Article 17a

Grievance and redress mechanism

The Commission shall establish a Union centralised grievance mechanism for all EFSD-supported projects. Stakeholders affected by EFSD operations and stakeholders dissatisfied with how their complaints are addressed by the grievance mechanisms of EFSD counterparts shall be able to directly contact the Union grievance mechanism.

Amendment 96

Proposal for a regulation Article 18 – paragraph 1

Text proposed by the Commission

Amendment

1. The external audit of the activities undertaken in accordance with this Regulation shall be carried out by the Court of Auditors in accordance with Article 287 of the Treaty on the Functioning of the European Union (TFEU).

1. The external audit of the activities undertaken in accordance with this Regulation shall be carried out by the Court of Auditors in accordance with Article 287 of the Treaty on the Functioning of the European Union (TFEU) ***and the activities are thus subject to the discharge procedure in accordance with Article 319 TFEU.***

Amendment 97

Proposal for a regulation Article 18 – paragraph 2

Text proposed by the Commission

Amendment

2. For the purpose of paragraph 1 of

2. For the purpose of paragraph 1 of

this Article, the Court of Auditors shall, at its request and in accordance with Article 287(3) TFEU, be granted access to any document or information necessary to carry out its *task*.

this Article, the Court of Auditors shall, at its request and in accordance with Article 287(3) TFEU, be granted access to any document or information necessary to carry out its *auditing tasks*.

Amendment 98

Proposal for a regulation Article 18 – paragraph 2a (new)

Text proposed by the Commission

Amendment

2a. By 30 June 2020 and every three years thereafter, the Court of Auditors shall publish a special report on the use of the EFSD Guarantee Fund and on the efficiency and effectiveness of the EFSD.

Amendment 99

Proposal for a regulation Article 19 – paragraph 1

Text proposed by the Commission

Amendment

1. ***The Commission or the eligible counterparts shall notify the European Anti-Fraud Office (OLAF) promptly and provide it with the necessary information when,*** at any stage of the preparation, implementation or closure of financing and investment operations covered by this Regulation, they have grounds for suspecting fraud, corruption, money laundering or any other illegal activity that may affect the financial interests of the Union.

1. ***If,*** at any stage of the preparation, implementation or closure of financing and investment operations covered by this Regulation, ***the Commission or the eligible counterparts*** have grounds for suspecting fraud, corruption, ***embezzlement***, money laundering or any other illegal activity that may affect the financial interests of the Union, they ***shall immediately notify the European Anti-Fraud Office (OLAF) and provide it with all necessary information to enable a full and thorough investigation to be carried out.***

Amendment 100

Proposal for a regulation Article 19 – paragraph 2 – subparagraph 1

Text proposed by the Commission

OLAF may 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, Council Regulation (Euratom, EC) No 2185/96 and Council Regulation (EC, Euratom) No 2988/95 in order to protect the financial interests of the Union, with a view to establishing whether there has been fraud, corruption, money laundering or any other illegal activity affecting the financial interests of the Union in connection with any financing and investment operations covered by this Regulation. OLAF may transmit any information obtained in the course of its investigations to the competent authorities of the Member States concerned.

Amendment

OLAF may 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, Council Regulation (Euratom, EC) No 2185/96 and Council Regulation (EC, Euratom) No 2988/95 in order to protect the financial interests of the Union, with a view to establishing whether there has been fraud, corruption, ***embezzlement, financing of terrorism, tax fraud and tax evasion***, or any other illegal activity affecting the financial interests of the Union in connection with any financing and investment operations covered by this Regulation. OLAF may transmit any information obtained in the course of its investigations to the competent authorities of the Member States concerned.

Amendment 101

Proposal for a regulation

Article 19 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Where such illegal activities are proven, the eligible counterparts shall undertake recovery efforts with respect to its financing and investment operations covered by this Regulation that are concerned by such activities.

Amendment

Where such illegal activities are proven, the eligible counterparts shall undertake recovery efforts with respect to its financing and investment operations covered by this Regulation that are concerned by such activities, ***and shall also provide to the relevant authorities all information needed for investigation and possible prosecution.***

Amendment 102

Proposal for a regulation

Article 20 – paragraph 1

Text proposed by the Commission

1. In their financing and investment operations, the eligible counterparts shall not support any activities carried out for illegal purposes, including money laundering, terrorist financing, organised crime, tax fraud and tax evasion, corruption, **and** fraud affecting the financial interests of the Union. The eligible counterparts shall **not** participate in any financing or investment operation through a vehicle located in a **non-cooperative** jurisdiction, **in accordance with its policy towards weakly regulated or non-cooperative jurisdictions based on policies of the Union, the Organisation for Economic Co-operation and Development or the Financial Action Task Force.**

Amendment

1. In their financing and investment operations, the eligible counterparts shall not support any activities carried out for illegal purposes, including, **but not limited to**, money laundering, terrorist financing, organised crime, tax fraud and tax evasion, corruption, fraud **or other activities** affecting the financial interests of the Union. **In particular**, the eligible counterparts shall **neither** participate in any financing or investment operation through a vehicle located in a jurisdiction **that does not cooperate with the Union in relation to the application of the internationally agreed tax standards on transparency and the exchange of information nor maintain business relations with entities established in such a jurisdiction. In their financing and investment operations covered by this Regulation, the eligible counterparts shall not make use of or engage in tax avoidance structures, in particular aggressive tax planning schemes, or practices that do not comply with Union tax good governance principles, as set out in Union law, including Commission recommendations and communications. When concluding agreements with financial intermediaries, the eligible counterparts shall transpose the requirements referred to in this paragraph in the relevant contracts and shall request country-by-country reporting concerning their observance.**

Amendment 103

**Proposal for a regulation
Article 20 – paragraph 2**

Text proposed by the Commission

2. In its financing and investment operations, the eligible counterpart 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

Amendment

2. In its financing and investment operations, the eligible counterpart 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 and in particular Regulation (EU) 2015/847 of the European Parliament and of the Council³⁵ and Directive (EU) 2015/849 of the European Parliament and of the Council³⁶. The eligible counterparts shall make both direct funding and funding via intermediaries under this Regulation contingent upon the disclosure of beneficial ownership information in accordance with Directive (EU) 2015/849.

³⁵ Regulation (EU) 2015/847 of the European Parliament and of the Council of 20 May 2015 on information accompanying transfers of funds and repealing Regulation (EC) No 1781/2006 (OJ L 141, 5.6.2015, p. 1).

³⁶ Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).

Amendment 104

Proposal for a regulation Article 20 a (new)

Text proposed by the Commission

money laundering and terrorist financing and in particular Regulation (EU) 2015/847 of the European Parliament and of the Council³⁵ and Directive (EU) 2015/849 of the European Parliament and of the Council³⁶. The eligible counterparts shall make both direct funding and funding via intermediaries under this Regulation contingent upon the disclosure of beneficial ownership information in accordance with Directive (EU) 2015/849 ***(the EU Anti-Money Laundering Directive) and publish country-by-country reporting data in accordance with Article 89(1) of Directive 2013/36/EU of the European Parliament and of the Council.***

³⁵ Regulation (EU) 2015/847 of the European Parliament and of the Council of 20 May 2015 on information accompanying transfers of funds and repealing Regulation (EC) No 1781/2006 (OJ L 141, 5.6.2015, p. 1).

³⁶ Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).

Amendment

Article 20a

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.

2. The power to adopt delegated acts referred to in Articles 6 and 8 shall be conferred on the Commission from the date of entry into force of this Regulation until 31 December 2020.

3. The delegation of power referred to in Articles 6 and 8 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. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Articles 6 and 8 shall enter into force only if no objection has been expressed either by the European Parliament or 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.

Amendment 105

**Proposal for a regulation
Annex (new)**

ANNEX

Regions eligible for support through the EFSD Guarantee:

- Africa, encompassing the African countries that are signatories of the Cotonou Partnership Agreement;***
- Neighbourhood partner countries, as listed in Annex I to Regulation (EU) No 232/2014 of the European Parliament and of the Council.***