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**NOTE**

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From: Presidency  
To: Council

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Subject: Investment Plan for Europe  
Proposal for a Regulation of the European Parliament and of the Council on the European Fund for Strategic Investments and amending Regulations (EU) No 1291/2013 and (EU) No 1316/2013 (First Reading)  
– General approach

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Following the Coreper meeting on 5 March 2015, delegations will find in the Annex a Presidency compromise on the above proposal with a view to the adoption of a general approach by the Council (Ecofin) at its meeting on 10 March 2015.

Changes compared to the text of the Commission proposal are marked in **bold**, or by (...) for deleted text.

Changes of a legal linguistic nature are marked in *italics*.

Proposal for a

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

**on the European Fund for Strategic Investments, the European Investment Advisory Hub and the European Investment Project Directory and amending Regulations (EU) No 1291/2013 and (EU) No 1316/2013**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

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

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The economic and financial crisis has led to a lowering of the level of investments within the Union. Investment has fallen by approximately 15% since its peak in 2007. The Union suffers in particular from a lack of investment as a consequence of market uncertainty regarding the economic future *in the Union* and (...) fiscal constraints on Member States. This lack of investment slows economic recovery and negatively affects job creation, long-term growth prospects and competitiveness.

- (2) Comprehensive action is required to reverse the vicious circle created by a lack of investment. Structural reforms and fiscal responsibility are necessary preconditions for stimulating investment. Along with a renewed impetus towards investment financing, *those* preconditions can contribute to establishing a virtuous circle, *in which* investment projects help support employment and demand and lead to a sustained increase in growth potential.
- (3) The G20, through the Global Infrastructure Initiative, has recognised the importance of investment in boosting demand and lifting productivity and growth and has committed to creating a climate that facilitates higher levels of investment.
- (4) Throughout the economic and financial crisis, the Union has made efforts to promote growth, in particular through initiatives set out in the Europe 2020 strategy, that put in place an approach for smart, sustainable and inclusive growth, **and through the European Semester for economic policy coordination**. The European Investment Bank ('EIB') has also strengthened its role in instigating and promoting investment within the Union, partly by way of an increase in capital in *December 2012*. Further action is required to ensure that the investment needs of the Union are addressed and that the liquidity available on the market is used efficiently and channelled towards the funding of viable investment projects.
- (5) On 15 July 2014, the then President-elect of the European Commission presented a set of Political Guidelines for the European Commission to the European Parliament. *Those* Political Guidelines called for the mobilisation of "up to EUR 300 billion in additional public and private investment in the real economy over the next three years" to stimulate investment for the purpose of job creation.

- (6) On 26 November 2014, the Commission presented a communication entitled "An Investment Plan for Europe"<sup>1</sup> that envisaged the creation of a European Fund for Strategic Investments ('EFSI'), a transparent **directory** of investment projects at European level, the creation of an advisory hub (European Investment Advisory Hub (...)) and **emphasised** an ambitious agenda to remove obstacles to investment and complete the Single Market.
- (7) The European Council on 18 December 2014 concluded that "fostering investment and addressing market failure in Europe is a key policy challenge" and that "The new focus on investment, coupled with Member States' commitment to intensifying structural reforms and to pursuing growth-friendly fiscal consolidation, will provide the foundation for growth and jobs in Europe and calls for setting up a European Fund for Strategic Investments (EFSI) in the EIB Group with the aim to mobilise 315 billion euro in new investments between 2015 and 2017", and invited **“the EIB Group to start activities by using its own funds as of January 2015”**. The European Council also underlined that **"the EFSI will complement and be additional to ongoing EU programmes and traditional EIB activities"**.
- (8) The EFSI is part of a comprehensive approach *designed* to address uncertainty surrounding public and private investments. The strategy has three pillars: mobilising finance for investment, making investment reach the real economy and improving the investment environment in the Union.
- (8a) On 13 January 2015, the European Commission presented a Communication<sup>2</sup> on how it will apply the existing rules of the Stability and Growth Pact.**

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

<sup>2</sup> **Communication to the European Parliament, the Council, the European Central Bank, the European Economic and Social Committee, the Committee of the Regions and European Investment Bank entitled "Making the best use of the flexibility within the existing rules of the stability and growth pact". COM(2015) 12 final.**

- (9) The investment environment within the Union should be improved by removing barriers to investment, reinforcing the Single Market and (...) enhancing regulatory predictability. **The Commission has announced that it is a political priority for the Commission of "lightening the regulatory load while keeping high levels of social, health and environmental protection and consumer choice" and that it would "overhaul the rules to make sure they contribute to the jobs and growth agenda"**<sup>3</sup>. **The Commission and the Member States should embark on this task without delay.** The work of the EFSI, and investments across Europe generally, should benefit from this accompanying work.
- (10) The purpose of the EFSI should be **i)** to help resolve the difficulties in financing and implementing productive **and strategic** investments in the Union; and **ii)** to ensure increased access to financing **for companies as well as other entities having up to 3000 employees, with a particular focus on small and medium-sized enterprises(SMEs) as defined in this Regulation (...).** *In addition it is* appropriate to extend the benefit of such increased access to financing to mid-cap companies, which are companies having up to 3000 employees. Overcoming Europe's current investment difficulties should contribute to strengthening the Union's **competitiveness, growth potential and** economic, social and territorial cohesion.

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<sup>3</sup> **Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions entitled "Commission Work Programme 2015: A New Start". COM(2014) 910 final.**

- (11) The EFSI should support strategic investments with high economic **and societal value** added contributing to achieving Union policy objectives<sup>4</sup>, **such as, but not limited to, projects of common interest which aim to complete the single market in the sectors of transport, telecommunications and energy infrastructures, including transport and energy interconnections, and digital infrastructure, expand renewable energy and energy and resource efficiency, and to develop and modernise the energy sector, increase its competitiveness and enhance the security of energy supply, including the use of local energy resources, and contribute to sustainable development, and exploit potential synergies between those sectors; in the urban and rural development and social fields; in the environmental and natural resources fields; and which strengthen the European scientific and technological base and foster benefits for society as well as better exploitation of the economic and industrial potential of policies of innovation, research and technological development, including research infrastructure, pilot and demonstration facilities. The EFSI should improve access to finance and the competitiveness of enterprises and other entities, with special emphasis on SMEs. The EFSI should contribute to the transformation to a green, sustainable and resource efficient economy and to sustainable job creation.**
- (12) Many *SMEs and* mid-cap companies (...) across the Union require assistance to attract market financing, especially as regards investments that carry a greater degree of risk. The EFSI should **equip those entities to better** overcome capital shortages **and market failures** by allowing the EIB and the European Investment Fund ('EIF') to provide direct and indirect equity injections, as well as to provide guarantees for high-quality securitisation of loans, and other products that are granted in pursuit of the aims of the EFSI.

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<sup>4</sup> as set out amongst others in Regulation (EU) No 1291/2013 of the European Parliament and of the Council of 11 December 2013 establishing Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020) and repealing Decision No 1982/2006/EC (OJ L 347, 20.12.2013, p. 104), Regulation (EU) No 1316/2013 of the European Parliament and of the Council of 11 December 2013 establishing the Connecting Europe Facility, amending Regulation (EU) No 913/2010 and repealing Regulations (EC) No 680/2007 and (EC) No 67/2010 (OJ L 348, 20.12.2013, p. 129), and Regulation (EU) No 1287/2013 of the European Parliament and of the Council of 11 December 2013 establishing a Programme for the Competitiveness of Enterprises and small and medium-sized enterprises (COSME) (2014 - 2020) and repealing Decision No 1639/2006/EC (OJ L 347, 20.12.2013, p.33)

- (13) The EFSI should be established within the EIB in order to benefit from its experience and proven track record (...). The work of the EFSI on providing finance to *SMEs* and small mid-cap companies **as well as other entities** should be **focused** through the European Investment Fund ('EIF') to benefit from its experience in these activities.
- (14) The EFSI should target projects delivering high societal and economic value. In particular, the EFSI should target projects that **create sustainable jobs and** promote (...) long-term growth and competitiveness, **including through innovation and the development and diffusion of technology**. The EFSI should support a wide range of financial products, including equity, debt or guarantees, to best accommodate the needs of the individual project. This wide range of products should allow the EFSI to adapt to market needs whilst encouraging private investment in the projects. The EFSI should not be a substitute for **or crowd out** private market finance but should instead catalyse private finance by addressing market failures so as to ensure the most effective and strategic use of public money. (...)
- (15) The EFSI should target projects with a higher risk (...) profile than existing EIB and Union instruments *in order* to ensure additionality over existing operations. The EFSI should finance projects across the Union, including in the countries most affected by the **economic and** financial crisis. The EFSI should only be used where financing is not available from other sources on reasonable terms.
- (15a) Market based incentives and the additionality provided by the EFSI should ensure that the EFSI targets socially and economically viable projects without any sectorial or regional pre-allocation in particular to address high investment needs or market failures. For Member States where financial markets are less developed, appropriate technical assistance should be provided to ensure that the general objectives of this Regulation can be achieved. At the same time, the EFSI should be able to support environmentally sound projects and benefit industries and technologies with high growth potential.**
- (16) The EFSI should target investments that are expected to be economically and technically viable **and that are expected to repay creditors**. Such investments *should* entail a degree of appropriate risk, whilst still meeting the particular requirements for EFSI financing.

- (16a) **The EFSI should be endowed with an appropriate governance structure whose function should be commensurate to the sole purposes of ensuring the appropriate use of the EU guarantee. That governance structure should be composed of a Steering Board, a Managing Director and an Investment Committee. It should not encroach upon or interfere with the decision making of the EIB, or be a substitute of the governing bodies of the latter. The Steering Board should determine the investment guidelines according to which the Investment Committee should decide on the use of the EU guarantee, in conformity with the objectives laid down in this Regulation. The Managing Director should be responsible for the daily management of the EFSI and carry out the preparatory work of the meetings of the Investment Committee.**
- (17) *An Investment Committee should be set up in order to take decisions on the use of the EU guarantee for individual projects and for projects supported through national promotional banks or institutions and investment platforms or funds, which are not channelled through the EIF.* The Investment Committee should be composed of independent experts who are knowledgeable and experienced in the areas of **operations that pursue the general objectives of EFSI.** The Investment Committee should be accountable to a Steering Board of the EFSI, *which* should supervise the fulfilment of the EFSI's objectives. **The independence of the Investment Committee is a key factor in ensuring the trust and the participation of the private sector in the Investment Plan.**
- (18) In order to enable the EFSI to support investments, the Union should grant a guarantee of an amount equal to EUR 16 000 000 000. When provided on a portfolio basis, the guarantee coverage should be capped depending upon the type of instrument, such as debt, equity or guarantees, as a percentage of the volume of the portfolio of outstanding commitments. It is expected that when the guarantee is combined with EUR 5 000 000 000 to be provided by the EIB, (...) the EFSI support should generate EUR 60 800 000 000 additional investment by the EIB and EIF. This EUR 60 800 000 000 supported by the EFSI is expected to generate a total of **at least** EUR 315 000 000 000 in investment in the Union within a **period of three years starting from the entry into force of this Regulation.** Guarantees that are attached to projects which are completed without a call on a guarantee **within the availability period of the guarantee** are available for supporting new operations.



- (18a) **Within 3 years from the entry into force of this Regulation, the Commission should submit to the European Parliament and to the Council a report containing an independent evaluation of the use of the EU guarantee and of the fulfilment of the general objectives laid down in this Regulation, including the mobilisation of private capital, as well as an assessment of the additionality provided by the EFSI, of the risk profile of operations supported by the EFSI, of the macroeconomic impact of the EFSI, including its impact on growth and employment, of the services provided by the EIAH and of the fulfilment of the objectives of the EFSI and of the EIAH. If appropriate, the report should be accompanied by a proposal to the European Parliament and to the Council to amend this Regulation, including with regard to the approval of further projects by the Investment Committee and the continued reloading of the EU guarantee beyond the time period provided for in this Regulation.**
- (19) **In order to reach the target of EUR 315 billion within the shortest possible time, national promotional banks or institutions and investment platforms and funds, with support of the EFSI guarantee, should play a prominent role in identifying viable projects, developing and, where appropriate, bundling projects, and attracting potential investors. In that context, it should be possible to establish multi-country platforms to promote cross-border projects or a group of projects across Member States.**
- (20) (...) *Third parties should be able to co-finance projects together with the EFSI, either on a project-by-project basis or through investment platforms (...)* .
- (21) **The EFSI should complement and be additional to ongoing EU programmes and traditional EIB activities. In that context, the full use of all existing and allocated EU resources should be encouraged, under the existing rules. Provided that all relevant eligibility criteria are fulfilled, Member States should be able to use any type of Union financing to contribute to the financing of eligible projects that are supported by the EU guarantee. The flexibility of this approach should maximise the potential to attract investors to the areas of investment targeted by the EFSI.**

- (22) In accordance with the Treaty on the Functioning of the European Union (*TFEU*), infrastructure and project investments supported under *the* EFSI should be consistent with State aid rules. To that end, *and for the purpose of State aid assessments*, the Commission has announced that it will formulate a set of core principles, (...) which a project will have to meet *in order* to be eligible for support under the EFSI. If a project meets *those* criteria and receives support from the EFSI, the Commission has announced that any national complementary support, will be assessed under a simplified and accelerated State aid assessment whereby the only additional issue to be verified by the Commission will be the proportionality of public support (absence of overcompensation). The Commission has also announced that it will provide further guidance on the set of core principles with a view to ensuring an efficient use of public funds. **The requirement for consistency with State aid principles should contribute to the effective use of EFSI resources.**
- (23) Given the need for urgent action within the Union, the EIB and the EIF may have financed additional projects, outside of their usual profile, in the course of 2015 before the entry into force of this Regulation, **the conclusion of the EFSI agreement and the appointment of members of the Investment Committee and the Managing Director.** In order to maximise the benefit of the measures provided for in this Regulation, it should be possible for such additional projects to be included within the EU guarantee coverage in the event that they fulfil the substantive criteria set out in this Regulation.
- (24) EIB financing and investment operations supported by the EFSI should be managed in accordance with the EIB's own rules and procedures, including appropriate control measures and measures taken to avoid tax evasion, as well as with the relevant rules and procedures concerning the European Anti-Fraud Office (OLAF) and the Court of Auditors, including the Tripartite agreement between the European Commission, the European Court of Auditors and the European Investment Bank.
- (25) The EIB should regularly evaluate activities supported by the EFSI with a view to assessing their relevance, performance and impact, and to identifying aspects that could improve future activities. Such evaluations should contribute to accountability and analysis of sustainability.

- (26) Alongside the financing *and investment* operations that will be conducted through the EFSI, a European Investment Advisory Hub ('EIAH') should be created. The EIAH should provide strengthened support for project development and preparation across the Union, by building on the expertise of the Commission, the EIB, national promotional banks **and institutions** and the managing authorities of the European Structural and Investment Funds. *A single point of entry for questions related to technical assistance for investments within the Union should be established and technical assistance provided to project promoters at local level should be enhanced. The new services provided by EIAH should be provided in addition to those already available under other Union programmes, thus, in no way affecting the level and the capacity of the support provided under those programmes. Adequate funding should be foreseen for the additional services provided by the EIAH.*
- (27) In order to cover the risks related to the EU guarantee to the EIB, a guarantee fund (*'guarantee fund'*) should be established. The guarantee fund should be constituted by a gradual payment from the *general budget of the Union*. The guarantee fund should subsequently also receive revenues (...) from projects that benefit from EFSI support and amounts recovered from defaulting debtors where the guarantee fund has already honoured the guarantee to the EIB.
- (28) The guarantee fund is intended to provide a liquidity cushion for the *general budget of the Union* against losses incurred by the EFSI in pursuit of its objectives. Experience on the nature of investments to be supported by the EFSI indicates that **the provisioning of the guarantee fund at 50% of the Union's total guarantee (...)** would be adequate.
- (28a) **All payments to the guarantee fund and budget decisions otherwise associated with the operation of the EFSI should be fully consistent with the terms of the multiannual financial framework and authorised by the European Parliament and the Council through the annual budgetary procedure.**
- (29) [*Moved to recital (36a)*]

- (30) Given the nature of their constitution, neither the EU guarantee to the EIB nor the guarantee fund are 'financial instruments' within the meaning of Regulation (EU) No 966/2012 of the European Parliament and of the Council<sup>5</sup>.
- (31) Within the Union, there *is* a significant number of *potential economically and technically* viable projects that are not being financed due to a lack of certainty and transparency with respect to such projects. Often, this is because private investors are not aware of the projects or have insufficient information to make an assessment of the investment risks. The Commission and the EIB (...) should promote the creation of a transparent **directory** of current and future (...) projects in the Union *which are* suitable for investment. This 'project **directory**' should ensure that information (...) regarding investment projects *is made publicly available* on a regular and structured basis *so as* to ensure that investors have **access to that information**.
- (32) **Member States should be able to participate in the creation of the European investment directory including by providing information on investment projects in their territory to the Commission and the EIB. Before launching the directory, the Commission and the EIB should carry out appropriate consultations with Member States, experts and stakeholders, regarding the principles and guidelines for projects to be listed in the directory, including mechanisms to prevent the publication of projects which could undermine national security, and regarding the template for publishing information about individual projects.**

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<sup>5</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

- (33) Although the projects identified under the project **directory** may be used by the EIB in the identification and selection of EFSI supported projects, the project **directory** should have a broader scope of identifying projects across the Union. This scope may include projects that are capable of being fully financed by the private sector or with the assistance of other instruments provided at European or national level. (...) **Inclusion of a project on the project directory should neither imply nor exclude any public financial support, either at EU or national level.**
- (34) *In order to* ensure accountability to European citizens, the EIB should regularly report to the European Parliament and the Council on the **operations** and impact of the EFSI. **The Commission should regularly report on the situation of the guarantee fund.**
- (35) (...)
- (36) Since the objectives of this Regulation, namely to support investments in the Union and to ensure increased access to financing for **entities**, cannot – **as far as financial constraints to investment are concerned** - be sufficiently achieved by the Member States (...) but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

(36a) *[moved from recital (29)]*

*In order to partially finance the contribution from the general budget of the Union, the available envelopes of (...) Horizon 2020 – the Framework Programme for Research and Innovation 2014-2020, provided by Regulation (EU) No 1291/2013 of the European Parliament and of the Council<sup>6</sup>, and of the Connecting Europe Facility, provided by Regulation (EU) No 1316/2013 of the European Parliament and of the Council<sup>7</sup>, should be reduced. Those programmes serve purposes that are not replicated by the EFSI. However, the reduction of both programmes to finance the guarantee fund **should ensure a higher level of funding** in certain areas of their respective mandates than *would be* possible through the existing programmes, **including energy interconnections, transport and digital infrastructure as well as innovation, and research and development**. The EFSI should be able to leverage the EU guarantee to multiply the financial effect within those areas of research, development and innovation and transport, telecommunications and energy infrastructure *when* compared to *spending* the resources (...) via grants within the planned Horizon 2020 and Connecting Europe Facility programmes. (...)*

(36b) *Regulation (EU) No 1291/2013 and Regulation (EU) No 1316/2013 should therefore be amended accordingly.*

**(36c) The Commission and the EIB should conclude an Agreement that specifies the conditions laid down in this Regulation for their management of the EFSI. That Agreement should not encroach upon the competences of the Union legislator, (...) of the budgetary authority, and of the EIB, as laid down in the Treaties and should, therefore, be confined to elements which are mainly technical and administrative in nature and which, whilst not being essential, are necessary for the effective implementation of the EFSI,**

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<sup>6</sup> Regulation (EU) No 1291/2013 of the European Parliament and of the Council of 11 December 2013 establishing Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020) and repealing Decision No 1982/2006/EC (OJ L 347, 20.12.2013, p. 104).

<sup>7</sup> Regulation (EU) No 1316/2013 of the European Parliament and of the Council of 11 December 2013 establishing the Connecting Europe Facility, amending Regulation (EU) No 913/2010 and repealing Regulations (EC) No 680/2007 and (EC) No 67/2010 (OJ L 348, 20.12.2013, p. 129).

HAVE ADOPTED THIS REGULATION:

## **CHAPTER - I - Introductory provisions**

### **Article - 1a**

#### **Purpose and subject matter**

**This Regulation establishes a European Fund for Strategic Investments (EFSI), an EU guarantee and an EU guarantee fund. In addition, this Regulation establishes a European Investment Advisory Hub (EIAH) and a transparent directory of current and potential future investment projects of the Union.**

*[Moved from article 1]*

The purpose of the EFSI shall be **to support in the Union through the supply of risk bearing capacity to the EIB (...):**

*a) (...)* investments; *(...)*

*b) (...)* increased access to financing for companies **as well as other entities** having up to 3000 employees, with a particular focus on small and medium-sized enterprises. (...)

**To that effect, this Regulation provides rules for the Commission to conclude an Agreement with the EIB for the management of the EFSI and an agreement with the EIB for the implementation of the EIAH.**

**Article - 1b**

**Definitions**

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

- (a) ‘national promotional banks or institutions’ means legal entities carrying out financial activities on a professional basis which are conferred a mandate by a Member State, whether at central, regional or local level, to carry out public development or promotional activities;**
- (b) ‘investment platforms’ means special purpose vehicles, managed accounts, contract-based co-financing or risk sharing arrangements or arrangements established by any other means via which entities channel a financial contribution in order to finance a number of investment projects;**
- (c) ‘small and medium-sized enterprises’ or ‘SMEs’ means micro, small and medium-sized enterprises as defined in Recommendation 2003/361/EC.**
- (d) ‘mid-cap companies’ means legal entities having up to 3000 employees which are not SMEs.**
- (e) ‘EFSI Agreement’ means the legal instrument whereby the Commission and the EIB specify the conditions laid down in this Regulation for the management of the EFSI.**
- (f) ‘EIAH Agreement’ means the legal instrument whereby the Commission and the EIB specify the conditions laid down in this Regulation for the implementation of EIAH.**



(g) 'additionality' means the support by the EFSI of operations which address market failures or sub-optimal investment situations and which could not have been carried out in that period under normal EIB instruments without EFSI support or to the same extent during that period under EIF and EU instruments. The projects supported by the EFSI, while striving to create jobs and growth, shall typically have a higher risk profile than projects supported by normal EIB operations and the EFSI portfolio shall have overall a higher risk profile than the current portfolio of investments supported by the EIB under its normal investment policies.

## CHAPTER I -European Fund for Strategic Investments

### *Article 1*

#### *European Fund for Strategic Investments*

*[deleted : first sub- paragraph of paragraph 1 moved to Article 2, second sub- paragraph of paragraph 1 moved to Article -1a ]*

### *Article 2*

#### *(...) EFSI Agreement*

**- 1. The Commission shall conclude an agreement with the EIB concerning the management of the EFSI.**

**1. The EFSI Agreement shall contain (...) the following:**

**(a) Arrangements concerning the establishment of the EFSI as well as the amount and terms of the financial contribution to be provided by the EIB, including,**

**(i) provisions governing the establishment of the EFSI as a distinct, clearly identifiable and transparent facility and separate account managed by the EIB, whose operations are clearly distinguished from other operations of the EIB;**

- (ii) the amount and terms of the financial contribution which shall be provided by the EIB through the EFSI, which shall not be inferior to 5.000 000 000 euros in guarantees or cash;
  - (iii) the terms of the funding or guarantees which are to be provided by the EIB through the EFSI to the European Investment Fund ('EIF');
  - (iv) provision that the pricing of operations under the EU guarantee shall be in line with the EIB's general pricing policy.
- (b) Governance arrangements concerning the EFSI, in accordance with Article 3, without prejudice to Protocol (No 5) on the Statute of the European Investment Bank, including,
- (i) the composition and number of members of the Steering Board, which will not be more than four;
  - (ii) the procedure for the appointment of the Managing Director and of the Deputy Managing Director, their remuneration and working conditions, that shall follow the provisions on staff of the EIB, the rules and procedures on his/her replacement in his/her function and on accountability;
  - (iii) the procedure for the appointment and dismissal of the members of the Investment Committee, their remuneration and working conditions, the voting modalities within the Investment Committee, specifying the quorum and the allocation of votes to each member;
  - (iv) the requirement that the Steering Board and the Investment Committee adopt each their respective rules of procedure;
  - (v) the requirement that financing and investment operations supported by the EFSI are ultimately approved by the EIB governing bodies, pursuant to the provisions laid down in Protocol (No 5) on the Statute of the European Investment Bank.

- (c) The arrangements concerning the EU guarantee, that shall be unconditional, irrevocable, first demand guarantee in favour of the EIB, including,**
- (i) detailed rules on the provision of the EU guarantee, in accordance with Article 7, among which its modalities of coverage, its defined coverage of portfolios of specific types of instruments;**
  - (ii) requirements that remuneration for risk taking be allocated amongst contributors in proportion with their respective share in risk taking. Remuneration to the Union and payments on the EU guarantee shall be made in timely manner and only occur after remuneration and losses from operations have been netted;**
  - (iii) requirements governing the use of the EU guarantee in accordance with Article 5 of this Regulation, among which payment conditions, such as specific time frames, interest on due amounts and the necessary liquidity arrangements;**
  - (iv) provisions and procedures relating to recovery of claims, that shall be entrusted to the EIB, in line with Article 7(4).**
- (d) The modalities for the approval by the Investment Committee of the use of the EU guarantee for individual projects or through investment platforms, or national promotional banks or institutions in line with this Regulation and in particular Article 2a;**
- (e) The procedures for the submission of investment proposals and approval of proposals for the use of the EU guarantee, including,**
- (i) the procedure for the transmission to the Investment Committee of projects;**
  - (ii) the requirement that the procedure for submission and approval of proposals for the use of the EU guarantee is without prejudice to the EIB decision making rules laid down under Protocol (No 5) on the Statute of the European Investment Bank, and in particular Article 19 thereof;**

- (iii) rules further detailing the transitional provisions under Article 20, and in particular the manner how operations signed by the EIB during the period referred to in Article 20 will be included under the EU guarantee coverage.
- (f) Arrangements for the reporting, monitoring and accountability concerning the EFSI, including,

  - (i) the operational reporting obligations incumbent on the EIB and, as appropriate, in cooperation with the EIF, in line with Article 10 of this Regulation;
  - (ii) the financial reporting obligations stemming from the EFSI;
  - (iii) rules on auditing and anti-fraud, in accordance with Articles 14 and 15 of this Regulation;
  - (iv) key performance indicators, as regards, in particular, the use of the EU guarantee, the fulfilment of the general objectives laid down in Article 2a, the mobilisation of private capital, and the macroeconomic impact of the EFSI, including its effect on supporting investment.
- (g) The procedures and conditions for the Agreement to be amended, that may take place upon the initiative of the Commission or of the EIB, and that shall include the obligation to report to the Council and to the European Parliament on the amendment;
- (h) Any other conditions of an administrative or organisational character necessary for the management of the EFSI in so far as they permit the proper use of the EU guarantee.

**2. The EFSI Agreement shall also provide that:**

- (a) EFSI activities conducted by the EIF are to be governed by the EIF governing bodies;
- (b) remuneration attributable to the Union from EFSI supported operations is to be provided following the deduction of payments due to calls on the EU guarantee and, subsequently, costs in accordance with Article 5(3) and with the EIAH agreement.

Article 2a

Eligibility criteria for the use of the EU guarantee

1. The EFSI Agreement shall provide that EFSI is to support projects which:
  - (a) are consistent with Union policies,
  - (b) are economically and technically viable,
  - (c) provide additionality, and
  - (d) maximise where possible the mobilisation of private sector capital.
  
2. In addition, the EFSI Agreement shall provide that the EFSI is to support projects pursuing any of the following general objectives:
  - (a) development of infrastructure
  - (b) research and development and innovation
  - (c) investment in education and training, health, information and communications technology
  - (d) development of the energy sector
  - (e) provision of financial support for companies as well as other entities having up to 3000 employees, with a particular focus on SMEs.
  
3. When establishing the investment policy and risk policy for the EFSI support, the Steering Board shall take into account the need to avoid an excessive exposure within a given sector or geographic area.

*Article 3*

***Governance of the EFSI***

**- 1. When carrying out the tasks conferred on them by this Regulation, the governing bodies referred to in this Article shall pursue only the objectives set by this Regulation.**

1. The EFSI Agreement shall provide that the EFSI *is to* be governed by a Steering Board, which, *for the purpose of the use of the EU guarantee, is to* determine the strategic orientation, the strategic asset allocation and operating policies and procedures, including the investment policy of projects that EFSI can support, **the treatment of investment platforms** and the risk profile of the EFSI, in conformity with the objectives under Article 2a(2). **The Steering Board shall adopt investment guidelines for the use of the EU guarantee to be implemented by the Investment Committee. The investment guidelines shall be made publicly available.**

**1a. The number of Members of the Steering Board shall be allocated between the Commission and the EIB based on the respective size of contributions of the EU budget and of the EIB in the form of cash or guarantees.**

The Steering Board shall elect one of its members to be Chairperson. **The Steering Board shall take decisions by consensus.**

2. (...)

3. (...)

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

The Managing Director shall report every quarter on the activities of the EFSI to the Steering Board.

**Following an open and transparent selection process in line with EIB procedures, the Managing Director and the deputy Managing Director shall be appointed by the President of the EIB for a once renewable fixed term of three years, upon a proposal from the Steering Board.**

5. The EFSI Agreement shall provide that the EFSI *is to* have an Investment Committee, which *is to* be responsible for examining **any** potential operations, **without prejudice to Article 6(5)**, in line with the EFSI investment policies and approving the support of the EU guarantee for operations **under this Regulation**.

The Investment Committee shall be composed of **eight** independent experts and the Managing Director. Independent experts shall have a high level of relevant market experience (...) and be appointed by the Steering Board for a renewable fixed term of **up to three years and not exceeding 6 years in total**. **The experts of the Investment Committee shall be appointed following an open and transparent selection procedure. In appointing the experts to the Investment Committee, the Steering Board shall ensure that the composition of the Investment Committee is diversified, so as to ensure that it has a wide knowledge of the sectors covered in Article 2a and geographic markets within the Union.**

**The Steering Board of the EFSI shall supervise the fulfilment of the EFSI's objectives.**

**When participating in the activities of the Investment Committee its members shall perform their duties impartially and in the interests of the EFSI. When implementing the guidelines adopted by the Steering Board and taking decisions on the use of the EU guarantee, they shall not seek nor take instructions from the EIB, the Union institutions, the Member States or any other public or private body. Adequate organisational arrangements shall be in place to ensure operational independence of the Investment Committee, without prejudice to the provision of analytical, logistical and administrative support by the staff of the EIB to the Investment Committee.**

Decisions of the Investment Committee shall be taken by simple majority.

## CHAPTER II -EU Guarantee and EU Guarantee Fund

### *Article 4*

#### *EU Guarantee*

The Union shall provide a guarantee to the EIB for financing or investment operations carried out within the Union, **or operations between a Member State and a country falling within the scope of the European Neighbourhood Policy including the Strategic Partnership, the Enlargement Policy, and the European Economic Area or the European Free Trade Association, or between a Member State and an Overseas Country or Territory, as set out in Annex II of the Treaty on the Functioning of the European Union, covered by this Regulation and the EFSI agreement ('EU guarantee'). (...)**

### *Article 5*

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

1. The granting of the EU guarantee shall be subject to the entry into force of the EFSI Agreement.
2. The EU guarantee shall be granted for EIB financing and investment operations approved by the Investment Committee referred to in Article 3(5) or funding to the EIF in order to conduct EIB financing and investment operations in accordance with Article 7(2). (...)
- 2a. **The EU guarantee may be granted for EIB financing and investment operations approved by the Investment Committee by [PO insert date 4 years after of entry into force of this regulation] and for which a contract between the EIB and the beneficiary or financial intermediary has been signed by 30 June 2020.**
- 2b. **The EU guarantee may be granted for funding or guarantees to the EIF in order to conduct EIB financing and investment operations in accordance with Article 7(2) approved by the EIF Board of Directors by [PO insert date: 4 years after of entry into force of this Regulation] and for which a contract between the EIF and the financial intermediary has been signed by 30 June 2020.**



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

The EIB may **utilise** the EU guarantee within a cumulated maximum limit corresponding to 1% of the total outstanding EU guarantee obligations to cover expenses that **would have been** charged to beneficiaries of the financing *and investment* operations **but**, have not been recovered **as of default**.

**In addition, the EIB may use the EU guarantee to cover the relevant share of possible recovery costs, unless deducted from recovery proceeds and possible costs linked to liquidity management.**

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

4. (...) Member States may use **any type of Union financing, including instruments established under the trans-european networks, industry and structural policies of the Union** to contribute to the financing of eligible projects in which the EIB, **itself, or through the EIF**, is investing with the support of the EU guarantee, **provided that both the eligibility criteria of the relevant instruments and of the EFSI are fulfilled**.

## Article 6

### **Eligible Instruments**

1. For the purposes of Article 2a(2), the EIB shall use the EU Guarantee towards risk coverage for instruments **referred to in the second paragraph of this Article and in line with Article 7.**
2. *The following instruments shall be eligible for coverage by the EU guarantee (...):*
  - (a) EIB loans, guarantees, counter-guarantees, capital market instruments, any other form of funding or credit enhancement instrument, equity or quasi-equity participations, **including through national promotional banks or institutions, investment platforms or funds.** These Instruments shall be granted, acquired or issued for the benefit of operations carried out in the Union, (...) in compliance with this Regulation and where EIB financing has been granted in accordance with a **financing agreement or transaction signed or entered into by the EIB** which has neither expired nor been cancelled;
  - (b) EIB funding to the EIF enabling it to undertake loans, guarantees, counter-guarantees, any other form of credit enhancement instrument, capital market instruments and equity or quasi-equity participations, **including through national promotional banks or institutions, investment platforms or funds.** These instruments shall be granted, acquired or issued for the benefit of operations carried out in the Union, in compliance with this Regulation and where EIF financing has been granted in accordance with a **financing agreement or transaction signed or entered into by the EIF** which has neither expired nor been cancelled.
3. **The EIB may also grant a guarantee to a national promotional bank or institution under a counter-guarantee of the Union.**

4. **The EIB may invest with the support of the EFSI in an investment platform. The EIB may also grant a guarantee under this Regulation to an investment platform under the counter guarantee of the Union.**
5. **The use of the EU guarantee in respect of operations referred to in paragraphs 2(a), 3 and 4 shall be subject to the prior approval of the Investment Committee. Underlying projects of financing or investment operations by the EIB itself or implemented through a national promotional bank or institution or an investment platform that consist of several underlying projects shall as a rule be submitted to the Investment Committee approval jointly, except where the Investment Committee otherwise decides. The Investment Committee shall decide whether new operations implemented through a national promotional bank or institution or an investment platform for which it has already approved the use of the EU guarantee by the EIB are to be submitted for its approval.**
6. **Within its operations under EFSI, the EIF may also grant a guarantee to a national promotional bank or institution or investment platform or invest in an investment platform.**

#### *Article 7*

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

1. The EU guarantee (...) shall be of an amount equal to **no more than** EUR 16 000 000 000 **at any point in time**, of which a maximum amount of EUR 2 500 000 000 may be allocated for EIB funding **or guarantees** to the EIF in accordance with paragraph 2. (...) **Aggregate net** payments from the Union's **general budget** under the *EU* guarantee (...) shall not exceed the amount of **EUR 16 000 000 000**.

2. **In accordance with Article 2(1)(c)(ii), the remuneration for risk-taking of a portfolio shall be allocated amongst contributors in proportion with their respective risk share in risk-taking.** The EU guarantee shall be eligible to provide either first loss guarantees on a portfolio basis or a full guarantee. The EU guarantee may be granted on a *pari passu* basis with other contributors.

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

3. Where the EIB calls the EU guarantee in accordance with the EFSI Agreement, the Union shall pay on demand in accordance with the terms of that Agreement.
4. Where the Union makes any payment under the EU guarantee, the EIB shall pursue the recovery of claims for the amounts paid and reimburse the Union from the sums recovered.
5. **The EU guarantee shall be granted as a guarantee on demand in respect of instruments referred to in Article 6 to cover:**

**- for debt instruments referred to in Article 6(2)(a): the principal and all interest and all amounts due to the EIB but not received by it in accordance with the terms of the financing operations up until the point of default;**

**- for equity investments referred to in Article 6(2)(a): the amounts invested and their associated funding cost;**

**- for operations referred to in Article 6(2) (b): the amounts used and their associated funding costs.**

**The EU guarantee shall also cover the amounts referred to in the second and third sub-paragraph of Article 5 (3).**

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

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

The target amount shall initially be met by the gradual payment of resources referred to in *point (a) of paragraph 2(...)*. If there have been calls on the guarantee during the initial constitution of the guarantee fund, endowments to the guarantee fund provided for in points (b), (c) and (d) of paragraph 2 shall (...) contribute to *meeting* the target amount up to an amount equal to the calls on the guarantee.

6. (...)
7. Following an (...) assessment on the adequacy of the level of the guarantee fund in accordance with the **report** provided for in **Article 10(6)**:
  - (a) any surplus shall be paid in one transaction to a special heading in the statement of revenue in the general budget of the (...) Union *in* the year  $n+1$ ,
  - (b) any replenishment of the guarantee fund shall be paid in annual tranches during a maximum period of three years starting *in* year  $n+1$ .
8. From 1 January 2019, if as a result of calls on the guarantee, the level of the guarantee fund falls below 50% of the target amount, the Commission shall submit a report on exceptional measures that may be required to replenish it.
9. Subsequent to a call on the EU guarantee, endowments to the guarantee fund provided for in points (b), (c) and (d) of paragraph 2 over and above the target amount shall be used **until [PO insert date: 4 years after the entry into force of the Regulation]** to restore the EU guarantee up to its initial amount.

## **CHAPTER IIA – European investment advisory hub**

### **Article 8a**

#### **EIAH agreement**

1. **The Commission shall conclude an agreement with the EIB for the implementation of a European Investment Advisory Hub within the EIB.**

**The EIAH Agreement shall contain, in particular provisions on the financing necessary for the EIAH in accordance with paragraph 5.**

- 2. The EIAH shall have as its objective to build upon existing EIB and Commission advisory services in order to provide advisory support for investment project identification, preparation and development and act as a single technical advisory hub for project financing within the Union. Such support shall include support on the use of technical assistance for project structuring, use of innovative financial instruments, use of public-private partnerships and advice, as appropriate, on relevant issues of Union legislation. EIAH shall also provide targeted support taking into account the specificities and needs of Member States with less advanced financial markets.**
- 3. The EIAH shall provide services in addition to those already available under other Union programmes. Services provided by EIAH shall include:**

  - (a) providing a single point of entry for technical assistance for authorities and project promoters;**
  - (b) assisting project promoters, where appropriate, in developing their projects to fulfil the project eligibility criteria under this Regulation;**
  - (c) leveraging local knowledge to facilitate EFSI support in the whole Union;**
  - (d) providing a platform for peer-to-peer exchange and sharing of know-how regarding project development.**
- 4. In order to meet the objective referred to in paragraph 2, the EIAH shall seek to use the expertise of the EIB, the Commission, national promotional banks or institutions and the managing authorities of the European Structural and Investment Funds.**
- 5. The cooperation between the EIAH and a national promotional bank or institution, or an equivalent institution or managing authority that may act as a national advisor may take the form of a contractual partnership.**

6. **The Union shall contribute up to a maximum amount of EUR 20 000 000 per year towards covering costs of the EIAH operations during the period ending on 31 December 2020 for the services provided for by the EIAH.**
7. **The EIB shall report by 1 September 2016 and every year thereafter to the European Parliament, the Council and the Commission on the services provided by EIAH under paragraph 5 of this Article, and its budget execution.**

## **CHAPTER III- European investment project directory**

### *Article 9*

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

1. The Commission and the EIB (...) shall **create** a transparent **directory** of current and potential (...) investment projects in the Union. **Member States may contribute to its establishment and management.**
2. **The projects displayed on the European investment project directory shall be for visibility to investors and information purposes only, and shall be without prejudice to decisions on the final projects selected for support under this Regulation or under any other EU instrument or public funding.**
3. (...)

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

### *Article 10*

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

1. The EIB, in cooperation with the EIF as appropriate, shall report semi-annually to the Commission on EIB financing and investment operations under this Regulation.



The report shall include an assessment of compliance with the requirements on the use of the EU guarantee and *with* the key performance indicators established pursuant to Article 2(1)(f)(iv). The report shall also include statistical, financial and accounting data on each EIB financing and investment operation and on an aggregated basis.

2. The EIB, in cooperation with the EIF as appropriate, shall report annually to the European Parliament and to the Council on EIB financing and investment operations **under this Regulation**. The report shall be made public and include:

- (a) an assessment of EIB financing and investment operations at operation, sector, country and regional levels and their compliance with this Regulation, together with an assessment of the allocation of EIB financing and investment operations between the objectives in Article **2a**;
- (b) an assessment of the added value, the mobilisation of private sector resources, the estimated and actual outputs, *the* outcomes and impact of EIB financing and investment operations *on* an aggregated basis;
- (c) (...) the financial **amount** transferred to beneficiaries **and the assessment** of EIB financing and investment operations on an aggregated basis;
- (d) an assessment of the **value added** of EIB financing and investment operations;
- (e) detailed information on calls on the EU guarantee;
- (f) the **accounts concerning** the EFSI.

3. For the purposes of the Commission's accounting and reporting of the risks covered by the EU guarantee and *its* management of the guarantee fund, the EIB, in cooperation with the EIF as appropriate, shall provide the Commission every year *with*:
- (a) the EIB's and EIF's risk assessment and grading information concerning EIB financing and investment operations **under this Regulation**;
  - (b) the outstanding financial obligation for the EU concerning the guarantees provided towards EIB financing and investment operations **under this Regulation** broken down by the individual operations;
  - (c) the total profits or losses deriving from the EIB financing and investment operations within the portfolios provided by the EFSI Agreement pursuant to Article 2(1)(c)(i).
4. The EIB shall provide to the Commission upon request any additional information necessary to fulfil the Commission's obligations in relation to this Regulation.
5. The EIB, and EIF as appropriate, shall provide the information referred to in paragraphs 1 to 4 at their own expense.
6. The Commission shall, by 30 June of each year, send to the European Parliament, *to* the Council and *to* the Court of Auditors an annual report on the situation of the guarantee fund and the management thereof in the previous calendar year, **including an assessment of the adequacy of the target amount, of the level of the guarantee fund and of the need for replenishment of the guarantee fund. The annual report shall contain the presentation of the financial position of the guarantee fund at the end of the previous year, the financial flows during the previous calendar year as well as the significant transactions and any relevant information on the financial accounts. The report will also include information about the financial management, the performance and the risk of the fund at the end of the previous year.**

*Article 11*

***Accountability to the European Parliament and the Council***

1. At the request of the European Parliament **or the Council**, the Managing Director shall **report on the performance of the EFSI to both institutions, including by participating** in a hearing *before* the European Parliament (...).
2. The Managing Director shall reply orally or in writing to questions addressed to the EFSI by the European Parliament **or the Council**, in any event within five weeks of *the* receipt of a question.
3. At the request of the European Parliament **or the Council**, the Commission shall report (...) on the application of this Regulation.

## *Article 12*

### *Evaluation and Review*

-1. By [PO insert date: 3 years after the entry into force of this Regulation], the Commission shall submit to the European Parliament and the Council a report containing an independent evaluation of the application of this Regulation. If appropriate, the report shall be accompanied by a proposal for the amendment of this Regulation, in particular with respect to the dates referred to in Article 5(2a) and (2b) and Article 8(9).

1. (...)

2. (...)

3. (...)

4. The EIB and EIF shall on a regular basis provide the European Parliament, the Council and the Commission with all their independent evaluation reports which assess the practical results achieved by the specific activities of the EIB and EIF under this Regulation.

5. (...)

## **CHAPTER V-General provisions**

### *Article 13*

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

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

*Article 14*

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

The EU guarantee and the payments and recoveries under it that are attributable to the general budget of the Union shall be audited by the Court of Auditors.

*Article 15*

***Anti-fraud measures***

1. The EIB shall *promptly* notify OLAF (...) and provide it with the necessary information when, at any stage of the preparation, implementation or closure of operations subject to the EU guarantee, it has grounds to suspect that there is a potential case of fraud, corruption, money laundering or other illegal activity that may affect the financial interests of the Union.
2. OLAF 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<sup>(8)</sup>, Council Regulation (Euratom, EC) No 2185/96<sup>(9)</sup> and Council Regulation (EC, Euratom) No 2988/95<sup>(10)</sup> 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 operations **financed under this Regulation**. OLAF may transmit *information obtained in the course of investigations* to the competent authorities of the Member States concerned (...).

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<sup>8</sup> Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

<sup>9</sup> Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

<sup>10</sup> Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p. 1).

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

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

#### *Article 16*

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

1. In its financing and investment operations **under this Regulation**, the EIB shall not support any activities carried out for illegal purposes, including money laundering, financing of terrorism, tax fraud and tax evasion, corruption, or fraud affecting the financial interests of the Union. In particular, the EIB shall not participate in any financing or investment operation through a vehicle located in a non-cooperative jurisdiction, in line with its policy towards weakly regulated or non-cooperative jurisdictions based on policies of the Union, the Organisation for Economic Cooperation and Development or the Financial Action Task Force.
2. In its financing and investment operations **under this Regulation**, the EIB shall apply the principles and standards set out in Union law on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, including a requirement to take (...) measures to identify the beneficial owners where applicable.

*Article 17*  
***Exercise of the delegation***

[deleted]

## **CHAPTER VI- Amendments**

*Article 18*  
***Amendments to Regulation (EU) No 1291/2013***

Regulation (EU) No 1291/2013 is hereby amended as follows:

(1) In Article 6, paragraphs 1, 2 and 3 are replaced by the following:

'1. The financial envelope for the implementation of Horizon 2020 is set at EUR 74 328,3 million in current prices, of which a maximum of EUR 71 966,9 million shall be allocated to activities under Title XIX TFEU.

The annual appropriations shall be authorised by the European Parliament and by the Council within the limits of the multiannual financial framework.

2. The amount for activities under Title XIX TFEU shall be distributed among the priorities set out in Article 5(2) of this Regulation as follows:

- (a) Excellent science, EUR 23 897,0 million in current prices;
- (b) Industrial leadership, EUR 16 430,5 million in current prices;
- (c) Societal challenges, EUR 28 560,7 million in current prices.

The maximum overall amount for the Union financial contribution from Horizon 2020 to the specific objectives set out in Article 5(3) and to the non-nuclear direct actions of the JRC shall be as follows:

(i) Spreading excellence and widening participation, EUR 782,3 million in current prices;

(ii) Science with and for society, EUR 443,8 million in current prices;

(iii) Non-nuclear direct actions of the JRC, EUR 1 852,6 million in current prices.

The indicative breakdown for the priorities and specific objectives set out in Article 5(2) and (3) is set out in Annex II.

3. The EIT shall be financed through a maximum contribution from Horizon 2020 of EUR 2 361,4 million in current prices as set out in Annex II.'

(2) Annex II is replaced by the text set out in Annex I to this Regulation.



**Amendment to Regulation (EU) No 1316/2013**

**Regulation (EU) No 1316/2013 is amended as follows:**

**(1)** In Article 5 (...), paragraph 1 is replaced by the following:

'1. The financial envelope for the implementation of the CEF for the period 2014 to 2020 is set at EUR 29 942 259 000 (\*) in current prices. That amount shall be distributed as follows:

(a) transport sector: EUR 23 550 582 000, of which EUR 11 305 500 000 shall be transferred from the Cohesion Fund to be spent in line with this Regulation exclusively in Member States eligible for funding from the Cohesion Fund;

(b) telecommunications sector: EUR 1 041 602 000;

(c) energy sector: EUR 5 350 075 000.

*Those amounts are without prejudice to the application of the flexibility mechanism provided for under Council Regulation (EU, Euratom) No 1311/2013(\*).*

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(\*) Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the years 2014-20 (OJ L 347, 20.12.2013, p. 884).'

**(2) In the second subparagraph of Article 7(3), the words 'and Article 21(4)' are deleted;**

**(3) Article 21(4) is deleted.**

## CHAPTER VII-Transitional and final provisions

### *Article 20*

#### ***Transitional provisions***

Financing and investment operations signed by the EIB or EIF, during the period from 1 January 2015 *until the (...) EFSI agreement has been concluded and the initial appointments following the entry into force of this Regulation of all the members of the Investment Committee and the Managing Director have been made* , may be submitted by the EIB or the EIF to the Commission for coverage under the EU guarantee.

The Commission shall assess those operations and, where they comply with the (...) requirements set out in Article **2a** *of this Regulation (...)* , decide that the EU guarantee coverage extends to them.

### *Article 21*

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

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

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

Done at Strasbourg,

*For the European Parliament*  
(2) *The President*

*For the Council*  
*The President*