



Brussels, 12 December 2017
(OR. en)

15642/17

Interinstitutional File:
2016/0276 (COD)

CODEC 2059	SOC 808
ECOFIN 1114	EMPL 615
POLGEN 169	EF 339
COMPET 866	AGRI 694
RECH 417	TELECOM 356
ENER 510	UEM 345
TRANS 552	JAI 1193
ENV 1060	PE 105
EDUC 452	

INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulations (EU) No 1316/2013 and (EU) 2015/1017 as regards the extension of the duration of the European Fund for Strategic Investments as well as the introduction of technical enhancements for that Fund and the European Investment Advisory Hub. - Outcome of the European Parliament's first reading, (Strasbourg, 11 to 14 December 2017)

I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the joint declaration on practical arrangements for the codecision procedure ¹, a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this dossier at first reading, thereby avoiding the need for second reading and conciliation.

¹ OJ C 145, 30.6.2007, p.5

In this context, the rapporteur, José Manuel FERNANDES (S&D, PT) presented a compromise amendment (amendment 3) to the proposal for a Regulation of the European Parliament and of the Council amending Regulations (EU) No 1316/2013 and (EU) 2015/1017 as regards the extension of the duration of the European Fund for Strategic Investments as well as the introduction of technical enhancements for that Fund and the European Investment Advisory Hub, on behalf of the Committee on Budgets. This amendment had been agreed during the informal contacts referred to above.

II. VOTE

When it voted on 12 December 2017, the plenary adopted the compromise amendment (amendment 3) to the proposal for a Regulation. The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto².

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

² The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in ***bold and italics***. The symbol "■" indicates deleted text.

Extension of the duration of the European Fund for Strategic Investments *I**

European Parliament legislative resolution of 12 December 2017 on the proposal for a regulation of the European Parliament and of the Council amending Regulations (EU) No 1316/2013 and (EU) 2015/1017 as regards the extension of the duration of the European Fund for Strategic Investments as well as the introduction of technical enhancements for that Fund and the European Investment Advisory Hub (COM(2016)0597 – C8-0375/2016 – 2016/0276(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2016)0597),
- having regard to Article 294(2) and Articles 172 and 173, the third paragraph of Article 175 and Article 182(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0375/2016),
- having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
- having regard to the opinion of the European Economic and Social Committee of 15 December 2016³,
- having regard to the opinion of the Committee of the Regions of 7 December 2016⁴,
- having regard to the provisional agreement approved by the committees responsible under Rule 69f(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 8 November 2017 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
- having regard to Rule 59 of its Rules of Procedure,

³ OJ C 75, 10.3.2017, p. 57.

⁴ OJ C 185, 9.6.2017, p. 62.

- having regard to the joint deliberations of the Committee on Budgets and the Committee on Economic and Monetary Affairs under Rule 55 of the Rules of Procedure,
 - having regard to the report of the Committee on Budgets and the Committee on Economic and Monetary Affairs and the opinions of the Committee on Industry, Research and Energy, the Committee on Transport and Tourism, the Committee on Budgetary Control, the Committee on Employment and Social Affairs and the Committee on Regional Development (A8-0198/2017),
1. Adopts its position at first reading hereinafter set out;
 2. Takes note of the Commission statement annexed to this resolution;
 3. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 4. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Position of the European Parliament adopted at first reading on 12 December 2017 with a view to the adoption of Regulation (EU) 2017/... of the European Parliament and of the Council amending Regulations (EU) No 1316/2013 and (EU) 2015/1017 as regards the extension of the duration of the European Fund for Strategic Investments as well as the introduction of technical enhancements for that Fund and the European Investment Advisory Hub

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 and 173, the third paragraph of Article 175 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 opinion of the European Economic and Social Committee⁵,

Having regard to the opinion of the Committee of the Regions⁶,

Acting in accordance with the ordinary legislative procedure⁷,

⁵ OJ C 75, 10.3.2017, p. 57.

⁶ OJ C 185, 9.6.2017, p. 62.

⁷ Position of the European Parliament of 12 December 2017.

Whereas:

- (1) Since the Commission communication ‘An Investment Plan for Europe’ (the ‘Investment Plan’) was presented on 26 November 2014, the conditions for an uptake in investment have improved and confidence is returning in Europe’s economy and growth. The Union is now in its fourth year of moderate recovery, with Gross Domestic Product growing at 2% in 2015, **but unemployment rates remain above their pre-crisis levels**. The comprehensive efforts initiated with the Investment Plan are already delivering concrete results, despite the fact that **it is not yet possible to estimate the full impact that the European Fund for Strategic Investments (EFSI) has had on growth as the** macroeconomic effects of larger investment projects cannot be immediate. Investment has been picking up gradually throughout 2017 **but the pace is still rather slow and** remains below historical levels.
- (2) That positive investment momentum should be maintained and efforts should be continued to bring investment back to a long-term sustainable trend in such a way that it **reaches the real economy**. The mechanisms of the Investment Plan work, and should be reinforced to continue the mobilisation of private investments **in such a way as to generate a substantive macroeconomic impact and to contribute to the creation of jobs** in sectors that are important to the Union's future and where market failures or sub-optimal investment situations remain.
- (3) On 1 June 2016, the Commission issued a Communication entitled ‘Europe investing again – Taking stock of the Investment Plan for Europe and next steps’ outlining the achievements of the Investment Plan and the envisaged next steps, including the extension of the EFSI beyond its initial three-year period, the scaling-up of the small and medium-sized enterprises (SME) window within the existing framework and the enhancement of the European Investment Advisory Hub (EIAH).

- (4) *On 11 November 2016, the European Court of Auditors adopted an opinion concerning the proposal for a Regulation of the European Parliament and of the Council amending Regulations (EU) No 1316/2013 and (EU) 2015/1017 and the accompanying Commission evaluation, in accordance with Article 18(2) of Regulation (EU) 2015/1017, entitled “EFSI: an early proposal to extend and expand”.*
- (5) The EFSI, implemented and co-sponsored by the European Investment Bank (EIB) Group, is **■** on track, *from a quantitative perspective*, to deliver the objective of mobilising at least EUR 315 000 000 000 in additional investments in the real economy by mid-2018. The market *response and* absorption have been particularly quick under the SME window where the EFSI is delivering well beyond expectations and *building on the initial use of the existing European Investment Fund (EIF) facilities and mandates (InnovFin SME Guarantee Facility, COSME Loan Guarantee Facility (LGF) and the EIB Risk Capital Resources (RCR) mandate) to have an accelerated kick start*. In July 2016, the SME window was therefore scaled-up by EUR 500 000 000 within the existing parameters of Regulation (EU) 2015/1017 of the European Parliament and of the Council⁸. Given the exceptional market demand for SME financing under the EFSI, a larger share of financing is to be targeted at SMEs. In this regard, 40 % of the increased risk-bearing capacity of the EFSI should be targeted at increasing access to financing for SMEs.

⁸ Regulation (EU) 2015/1017 of the European Parliament and of the Council of 25 June 2015 on the European Fund for Strategic Investments, the European Investment Advisory Hub and the European Investment Project Portal and amending Regulations (EU) No 1291/2013 and (EU) No 1316/2013 — the European Fund for Strategic Investments (OJ L 169 1.7.2015, p. 1).

- (6) On 28 June 2016, the European Council concluded that the Investment Plan, in particular the EFSI, had already delivered concrete results and had been a major step in helping mobilise private investment while making smart use of scarce budgetary resources. The European Council noted that the Commission intended to put forward proposals soon on the future of the EFSI, which would need to be examined as a matter of urgency by the European Parliament and the Council.
- (7) The EFSI was established for an initial period of three years and with the aim of mobilising at least EUR 315 000 000 000 in investments, *thereby supporting the objective of fostering growth and jobs. However, the drive to meet the headline target should not prevail over the additionality of the projects selected.* The *Union* is *therefore* committed *not only to extending the investment period and financial capacity of the EFSI, but also to increasing the focus on additionality.* The extension covers the period of the current multiannual financial framework and should provide at least EUR 500 000 000 000 of investments by 2020. In order to enhance the firepower of the EFSI even further and to achieve the aim of doubling the investment target, Member States should also contribute as a matter of priority.

- (8) *The EFSI and its implementation cannot fully realise their potential without the implementation of activities aimed at strengthening the single market, creating a favourable business environment and the implementation of socially balanced and sustainable structural reforms. In addition, well-structured projects, as part of investment and development plans at Member States level, are of key importance for the success of the EFSI.*
- (9) For the period after 2020, the Commission intends to put forward the necessary proposals to ensure that strategic investment will continue at a sustainable level. *Any legislative proposal should be based on the conclusions of a Commission report and an independent evaluation including a macroeconomic assessment of the usefulness of maintaining a scheme to support investment. That report and independent evaluation should also examine, to the extent applicable, the application of Regulation (EU) 2015/1017 as amended by this Regulation, over the extended period of the implementation of the EFSI.*

- (10) The EFSI, as extended by this Regulation, should address remaining market failures and sub-optimal investment situations and continue to mobilise with strengthened additionality private sector financing in investments crucial for Europe's future job creation, including for youth, growth and competitiveness. Such investments include investments in the areas of energy, environment and climate action, social and human capital and related infrastructure, healthcare, research and innovation, cross-border and sustainable transport, as well as the digital transformation. In particular, the contribution of operations supported by the EFSI to achieving the ambitious Union targets set at the 21st Conference of the Parties to the United Nations Framework Convention on Climate Change (COP21) *and the Union commitment to reduce greenhouse gas emissions by 80 to 95 %* should be reinforced. *In order to reinforce the climate action element under the EFSI, the EIB should build on its experience as one of the largest providers of climate finance worldwide and use its state-of-the-art internationally agreed methodology to credibly identify climate action project components or cost shares. Projects should not be artificially structured with a view to falling under the definitions of SMEs and small mid-cap companies.* Energy interconnection priority projects and energy efficiency projects should also be increasingly targeted. In addition, EFSI support for motorways should be *limited to supporting private and/or public* investment in transport in cohesion countries, in *less developed regions* or in cross-border transport projects *or if it is necessary to upgrade, maintain or improve road safety, develop intelligent transportation system (ITS) devices, guarantee the integrity and standards of existing motorways on the trans-European transport network, in particular safe parking areas, alternative clean fuels stations and electric charging systems, or contribute to the completion of the trans-European transport network by 2030 in accordance with Regulations (EU) No 1316/2013⁹ and (EU) No 1315/2013¹⁰ of the European Parliament and of the Council.* *In the digital sector, and within the scope of the ambitious Union policy on the Digital Economy, new digital infrastructure targets should be set in order to ensure that the digital divide will be bridged and that the Union will be a global pioneer in the new age*

⁹ *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).*

¹⁰ *Regulation (EU) No 1315/2013 of the European Parliament and of the Council of 11 December 2013 on Union guidelines for the development of the trans-European transport network and repealing Decision No 661/2010/EU (OJ L 348, 20.12.2013, p. 1).*

of the so-called internet of things, blockchain technology, cybersecurity and network security. For reasons of clarity, although they are already eligible, it should be explicitly laid down that projects in the fields of agriculture, *forestry*, fishery and aquaculture *and other elements of a wider bioeconomy* fall within the general objectives eligible for EFSI support.

- (11) *Cultural and creative industries play a key role in re-industrialising Europe, are a driver for growth and are in a strategic position to trigger innovative spill-overs in other industrial sectors, such as tourism, retail, and digital technologies. In addition to the Creative Europe Programme established by Regulation (EU) No 1295/2013 of the European Parliament and of the Council¹¹ and the Cultural and Creative Sectors Guarantee Facility established pursuant to that Regulation, the EFSI should help to overcome capital shortages in those sectors by providing additional support which should be complementary to the support provided under the Creative Europe Programme and the Cultural and Creative Sectors Guarantee Facility, so that a higher volume of these high-risk projects could be financed.*
- (12) *Operations involving entities located in the Union and extending outside it should also be supported by the EFSI, when they promote investment in the Union, in particular when they include cross-border elements. The EIAH should provide proactive support to promote and encourage such operations.*

¹¹ *Regulation (EU) No 1295/2013 of the European Parliament and of the Council of 11 December 2013 establishing the Creative Europe Programme (2014 to 2020) and repealing Decisions No 1718/2006/EC, No 1855/2006/EC and No 1041/2009/EC (OJ L 347, 20.12.2013, p. 221).*

- (13) Additionality, which is a key feature of the EFSI, should be strengthened in the selection of projects. In particular, operations should only be eligible for EFSI support if they address clearly identified market failures or sub-optimal investment situations. Operations in ***physical*** infrastructure under the infrastructure and innovation window linking two or more Member States, including e-infrastructure and ***in particular broadband infrastructure, as well as services necessary for the construction, implementation, maintenance or functioning of such infrastructure***, should be considered to ***be strong indications of additionality*** given their inherent difficulty and their high added value for the Union.
- (14) ***The EFSI should typically target projects with a higher risk profile than projects supported by EIB normal operations and the EFSI Investment Committee (the 'Investment Committee') should, when assessing additionality, have regard to risks which hinder investment, such as country-, sector- or region-specific risks and the risks associated with innovation, in particular in growth-, sustainability- and productivity-enhancing unproven technologies.***

- (15) *With a view to ensuring a wider geographical coverage of the EFSI and to increasing the efficiency of the EFSI intervention, combination and/or blending operations combining non-reimbursable forms of support and/or financial instruments from the general budget of the Union, such as **European Structural and Investment Funds** or those available under the Connecting Europe Facility (CEF) established by Regulation (EU) No 1316/2013 and **Horizon 2020 - the Framework Programme for Research and Innovation established by Regulation (EU) No 1291/2013 of the European Parliament and of the Council**¹², and financing from the EIB Group, including EIB financing under the EFSI, as well as other investors should be encouraged. **Combination and/or blending** aim to enhance the added value of Union spending by attracting additional resources from private investors and to ensure that the supported actions become economically and financially viable. **To that end, EUR 1 000 000 000 of appropriations were transferred in parallel with the presentation of the Commission proposal for this Regulation from the CEF financial instruments to the grant part of the CEF with a view to facilitating blending with the EFSI. A blending call to that effect was successfully launched in February 2017. Another EUR 145 000 000 is being transferred to other relevant instruments, in particular those dedicated to energy efficiency. Further action is necessary to ensure that Union funds and EFSI support can be easily combined. Although the Commission has already published concrete guidance on this matter, the approach on the issue of combining Union funds and the EFSI should be further developed aiming to increase the investments benefiting from the leverage provided by combining Union funds and the EFSI, taking into account possible legislative developments. In order to ensure economic efficiency and adequate leverage such combination of finances should, in principle, not exceed 90% of total project costs for the less developed regions and 80% for all other regions.***

¹² *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).*

- (16) In order to reinforce the take-up of the EFSI in less developed regions and transition regions, the scope of the general objectives eligible for EFSI support should be enlarged. *Projects would remain subject to examination by the Investment Committee and need to adhere to the same eligibility criteria for the use of the guarantee established pursuant to Regulation (EU) 2015/1017 (the ‘EU guarantee’) including the principle of additionality. Given the fact that there should be no restriction on the size of the projects eligible for EFSI support, small-scale projects should not be deterred from applying for EFSI financing. Moreover, further action to strengthen technical assistance and the promotion of the EFSI in less developed regions and transition regions is necessary.*
- (17) *Investment platforms are an essential tool to deal with market failures, especially in the financing of multiple, regional, or sectorial projects, including energy efficiency projects and cross-border projects. It is also important to encourage partnerships with national promotional banks or institutions, including with a view to setting up investment platforms. Cooperation with financial intermediaries can also play an important role in this respect. In that context, the EIB should, where appropriate, delegate the appraisal, selection and monitoring of small-scale sub-projects to financial intermediaries or approved eligible vehicles.*

- (18) *In the case of delegation of the appraisal, selection and monitoring of small-scale projects to financial intermediaries or approved eligible vehicles, the Investment Committee should not retain the right to approve the use of the EU guarantee for sub-projects under such EIB financing and investment operations where the EFSI contribution to such small-scale sub-projects is below a defined threshold. The EFSI Steering Board (the 'Steering Board') should, where appropriate, provide guidance on the procedure to be used by the Investment Committee for evaluating sub-projects above that threshold.*
- (19) For the full investment period, the Union should provide the EU guarantee which should not, at any time, exceed EUR 26 000 000 000 in order to enable the EFSI to support investments, of which a maximum of EUR 16 000 000 000 should be available before 6 July 2018.
- (20) It is expected that when the EU guarantee is combined with the amount of EUR 7 500 000 000 to be provided by the EIB, the EFSI support should generate EUR 100 000 000 000 in additional investment by the EIB and the EIF. The amount of EUR 100 000 000 000 supported by the EFSI is expected to generate at least EUR 500 000 000 000 in additional investment in the real economy by the end of 2020.

- (21) In order to partly finance the contribution from the general budget of the Union to the EU guarantee fund for the additional investments to be made, a transfer should be made from the available envelope of the CEF, provided for in Regulation (EU) No 1316/2013, *as well as from the revenues and repayments from the CEF Debt Instrument and from the 2020 European Fund for Energy, Climate Change & Infrastructure ('Marguerite Fund'). The transfers from revenues and repayments require a derogation from the second and third subparagraphs of Article 140(6) of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council¹³ in order to authorise their use by another instrument.*
- (22) On the basis of the experience acquired from the investments supported by the EFSI, the target amount of the guarantee fund should be brought to 35 % of the total EU guarantee obligations, thus ensuring an adequate level of protection.
- (23) In line with the exceptional market demand for SME financing under the EFSI which is expected to continue, the EFSI SME window should be enhanced. Particular attention should be paid to social enterprises *and social services*, including through the development and deployment of new instruments *that are adequate for the needs and specificities of the* social enterprises *and social services sector*.

¹³ *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).*

- (24) The EIB and the EIF should ensure that the final beneficiaries, including SMEs, are ***aware*** of the existence of EFSI support, so as to enhance the visibility of the EU guarantee. ***A clear reference to the EFSI should be made visible in agreements which provide EFSI support.***
- (25) With a view to enhancing the transparency of EFSI operations, the Investment Committee should explain in its decisions, which are made public and accessible, the reasons why it deems that an operation should be granted the EU guarantee, with particular focus on compliance with the additionality criterion. The scoreboard of indicators should be made public once an operation under the EU guarantee is signed. ***The publication should not contain commercially sensitive information.***
- (26) ***The scoreboard should be used in strict conformity with this Regulation, and with Commission Delegated Regulation (EU) 2015/1558¹⁴ and the Annex thereto, as an independent and transparent assessment tool for the Investment Committee to prioritise the use of the EU guarantee for operations that display higher scores and added value. The EIB should calculate the scores and indicators ex ante and monitor the results upon project completion.***

¹⁴ ***Commission Delegated Regulation (EU) 2015/1558 of 22 July 2015 supplementing Regulation (EU) 2015/1017 of the European Parliament and of the Council by the establishment of a scoreboard of indicators for the application of the EU guarantee (OJ L 244, 19.9.2015, p. 20).***

- (27) *With a view to enhancing the assessment of projects, the Steering Board should, in the strategic orientation of the EFSI, establish a minimum score for each pillar in the scoreboard.*
- (28) *The relevant Union policy on non-cooperative jurisdictions for tax purposes is laid down in the legal acts of the Union and in Council Conclusions, in particular in the Annex to those of 8 November 2016, and any subsequent updates.*
- (29) *Due diligence on EIB investment and financing operations under this Regulation should include a thorough check of compliance with applicable Union legislation and agreed international and Union standards on anti-money laundering, the fight against terrorism financing, tax fraud and tax avoidance. Moreover, in the context of EFSI reporting, the EIB should provide information, country-by-country, on the compliance of the EFSI operations with EIB and EIF policy on non-cooperative jurisdictions, as well as the list of intermediaries with which the EIB and the EIF cooperate.*
- (30) It is appropriate to make certain technical clarifications in relation to the content of the agreement on the management of the EFSI, on the granting of the EU guarantee and on the instruments covered by the agreement, including coverage for currency exchange rate risk in certain situations. The agreement with the EIB on the management of the EFSI and on the granting of the EU guarantee should be adapted in line with this Regulation.

- (31) *Notwithstanding the EIAH's objective of building upon existing advisory services of the EIB and the Commission, and in order for it to act as a single technical advisory hub for project financing within the Union, the EIAH should be enhanced and its activities should also focus on contributing actively to the sectorial and geographical diversification of the EFSI, supporting the EIB and national promotional banks or institutions in originating and developing operations, in particular in less developed regions and transition regions, and, where necessary, helping to structure demand for EFSI support. The EIAH should endeavour to conclude at least one cooperation agreement with a national promotional bank or institution per Member State. In Member States where national promotional banks or institutions do not exist, the EIAH should provide, where appropriate, and at the request of the Member State concerned, pro-active advisory support on the establishment of such bank or institution. The EIAH should pay particular attention to supporting the preparation of projects involving two or more Member States and projects that contribute to achieving the objectives of COP21. ■ It should also actively contribute to the establishment of investment platforms and provide advice on the combination of other sources of Union funding with the EFSI. A local presence of the EIAH should be ensured where necessary, taking into account existing support schemes, with a view to providing tangible, pro-active, tailor-made assistance on the ground.*

- (32) *The European Semester for economic policy coordination is based on a detailed analysis of Member States' plans for budgetary, macroeconomic and structural reforms and provides them with country-specific recommendations. Against that background, the EIB should inform the Commission of its findings on barriers and bottlenecks to investment in Member States, identified when carrying out investment operations covered by this Regulation. The Commission is invited to factor those findings, among others, into the work it undertakes in the context of the third pillar of the Investment Plan.*
- (33) *In order to address market failures and gaps, to stimulate adequate additional investments and to promote the geographic and regional balance of EFSI-backed operations, an integrated and streamlined approach with the aim of promoting growth, jobs and investments is necessary. The cost of EFSI financing should contribute to the achievement of those goals.*
- (34) *To promote the investment goals set out in Regulation (EU) 2015/1017, blending with existing funds should be encouraged, where appropriate, in order to provide adequate concessionality in the financing terms and conditions, including cost, of EFSI operations.*

- (35) *In cases where stressed financial market conditions would prevent the realisation of a viable project or where necessary to facilitate the establishment of investment platforms or the funding of projects in sectors or areas experiencing a significant market failure or sub-optimal investment situation, the EIB and the Commission should implement changes, in particular to the remuneration of the EU guarantee, to contribute to a reduction in the financing cost of the operation borne by the beneficiary of the EIB financing under EFSI so as to facilitate its implementation. Similar efforts should be undertaken where necessary to ensure that EFSI supports small-scale projects. Where the use of local or regional intermediaries permits a reduction in the cost of EFSI financing to the small-scale projects, such a form of deployment should also be considered.*
- (36) *In keeping with the need for financial sustainability of EFSI, the efforts to reduce the financing cost of EFSI operations in periods of stressed financial market conditions or to facilitate the establishment of investment platforms or the funding of projects in sectors or areas experiencing a significant market failure or suboptimal investment situation, should be coordinated with other available Union financial resources and instruments deployed by the EIB Group.*
- (37) Regulations (EU) No 1316/2013 and (EU) 2015/1017 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EU) 2015/1017 is amended as follows:

(1) In Article 2(4), point (b) is replaced by the following:

'(b) cross-border, multi-country, regional or macro-regional platforms that group together partners from several Member States, regions or third countries interested in projects in a given geographic area;'

(2) Article 4(2) is amended as follows:

(a) point (a) is amended as follows:

(i) point (ii) is replaced by the following:

'(ii) the amount, of no less than EUR 7 500 000 000 in guarantees or cash, and the terms of the financial contribution which is to be provided by the EIB through the EFSI;'

(ii) point (iv) is replaced by the following:

'(iv) the pricing of operations under the EU guarantee which is to be in line with the EIB's pricing policy;'

(iii) the following point is added:

'(v) the procedures to contribute, without prejudice to Protocol No 5 on the Statute of the European Investment Bank annexed to the TEU and to the TFEU and the EIB prerogatives set out therein, to a reduction of the financing cost of the operation borne by the beneficiary of the EIB financing under EFSI, in particular by modulating the remuneration of the EU guarantee, where necessary in particular in situations where stressed financial market conditions would prevent the realisation of a viable project or where necessary to facilitate the establishment of investment platforms or the funding of projects in sectors or areas experiencing a significant market failure or suboptimal investment situation, to the extent it does not significantly impact the necessary financing of the provisioning of the Guarantee Fund;';

(b) in point (b), point (iii) is replaced by the following:

'(iii) a provision that the Steering Board is to take decisions in accordance with the procedure laid down in Article 7(3);';

(c) in point (c), point (i) is replaced by the following:

'(i) in accordance with Article 11, detailed rules on the provision of the EU guarantee, including its arrangements on coverage, its defined coverage of portfolios of specific types of instruments and the respective events triggering possible calls on the EU guarantee;';

(3) ■ Article 5(1) *is replaced by the following:*

'1. For the purposes of this Regulation, 'additionality' means support by the EFSI for operations which address market failures or sub-optimal investment situations and which could not have been carried out during the period in which the EU guarantee can be used, or not to the same extent, by the EIB, the EIF or under existing Union financial instruments, without EFSI support. Projects supported by the EFSI shall support the general objectives laid down in Article 9(2), shall strive to create employment and sustainable growth and shall typically have a higher risk profile than projects supported by normal EIB operations. Overall, the EFSI portfolio shall have a higher risk profile than the portfolio of investments supported by the EIB under its normal investment policies before the entry into force of this Regulation.

To better address market failures or sub-optimal investment situations, and to facilitate, in particular, the use of investment platforms for small-scale projects, thereby ensuring complementarity and thus avoiding crowding out participants in the same market, EIB special activities supported by the EFSI shall, as a preferred way and if duly justified:

- (a) have features of subordination, including the taking of junior positions vis-à-vis other investors;*
- (b) participate in risk-sharing instruments;*
- (c) demonstrate cross-border characteristics;*
- (d) be exposed to specific risks; or*
- (e) have other aspects as further described in point (d) of Section 3 of Annex II.*

Without prejudice to the requirement to meet the definition of additionality as set out in the first subparagraph, the following elements are strong indications of additionality:

- *projects that carry a risk corresponding to EIB special activities, as defined in Article 16 of the EIB Statute, especially if such projects present country-, sector- or region-specific risks, in particular those experienced in less developed regions and transition regions and/or if such projects present risks associated with innovation, in particular in growth-, sustainability- and productivity-enhancing unproven technologies;*
- *projects that consist of physical infrastructure, including e-infrastructure, linking two or more Member States or of the extension of such infrastructure or services linked to such infrastructure from one Member State to one or more Member States.’;*

(4) ■ Article 6 *is amended as follows:*

(a) *in paragraph 1*, the introductory wording is replaced by the following:

'The EFSI Agreement shall provide that the EFSI is to support projects which address market failures or sub-optimal investment situations and which:';

(b) *paragraph 2 is replaced by the following:*

‘2. There shall be no restriction on the size of projects eligible for EFSI support for the operations conducted by the EIB or the EIF via financial intermediaries. In order to ensure that EFSI support also covers small-scale projects, the EIB and the EIF shall, where necessary and to the extent possible, extend cooperation with national promotional banks or institutions and support the possibilities provided, including through facilitating the creation of investment platforms.’;

(5) Article 7 is amended as follows:

(a) *the following paragraph is inserted:*

'1a. All institutions and bodies involved in EFSI governing structures shall endeavour to ensure gender balance in relevant EFSI governing bodies.';

(b) *in paragraph 3, the first and second subparagraphs are replaced by the following:*

'3. The Steering Board shall comprise five members: three appointed by the Commission, one by the EIB and one expert appointed as a non-voting member by the European Parliament. That expert shall not seek or take instructions from Union institutions, bodies, offices or agencies, from any Member State government or from any other public or private body, and shall act in full independence. The expert shall perform his or her duties impartially and in the interest of the EFSI.'

The Steering Board shall elect a Chairperson from among its voting members for a fixed term of three years, renewable once. The Steering Board shall discuss and take the utmost possible account of the positions of all members. If the members cannot converge in their position, the Steering Board shall take its decisions by unanimous vote among its voting members. The minutes of Steering Board meetings shall provide a substantive account of the positions of all members.

The detailed minutes of Steering Board meetings shall be published as soon as they have been approved by the Steering Board. The European Parliament shall be immediately notified of their publication.';

(c) *in paragraph 5, the second subparagraph is replaced by the following:*

'The Managing Director shall be assisted by a deputy managing director. The Managing Director and the Deputy Managing Director shall participate in the meetings of the Steering Board as observers. The Managing Director shall report every quarter on the activities of the EFSI to the Steering Board.'

(d) in paragraph 8, the third subparagraph is amended as follows:

(i) point (e) is replaced by the following:

'(e) climate action, environmental protection and management;'

(ii) the following point ■ is added:

'(l) sustainable agriculture, forestry, fishery, aquaculture and other elements of the wider bioeconomy.'

- (e) in paragraph 10, the second sentence is replaced by the following:

'Each member of the Investment Committee shall communicate without delay to the Steering Board, the Managing Director and the Deputy Managing Director all information needed to check, on an ongoing basis, the absence of any conflict of interest.';

- (f) in paragraph 11, the following sentence is added:

'The Managing Director shall be responsible for informing the Steering Board of any such breach that comes to his or her knowledge and ***be responsible for*** proposing ***and following up on*** appropriate action. ***The Managing Director shall exercise his or her duty of care regarding potential conflicts of interest of any member of the Investment Committee.***';

(g) ■ paragraph 12 *is amended as follows:*

(i) in the second subparagraph, the second sentence is replaced by the following:

'Decisions approving the use of the EU guarantee shall be public and accessible, and shall include the rationale for the decision, with particular focus on compliance with the additionality criterion. ***They shall also refer to the global assessment stemming from the scoreboard of indicators referred to in paragraph 14.*** The publication shall not contain commercially sensitive information. In reaching its decision, the Investment Committee shall be supported by the documentation provided by the EIB.

The scoreboard, which is a tool for the Investment Committee to prioritise the use of the EU guarantee for operations that display higher scores and added value, shall be publicly available after the signature of a project. The publication shall not contain commercially sensitive information.

Commercially sensitive parts of the decisions of the Investment Committee shall be forwarded by the EIB to the European Parliament upon request subject to strict confidentiality requirements.'

(ii) *the third subparagraph is replaced by the following:*

'Twice a year, the EIB shall submit to the European Parliament, to the Council and to the Commission a list of all decisions of the Investment Committee as well as the scoreboards relating to all those decisions. That submission shall be subject to strict confidentiality requirements.'

(h) *paragraph 14 is replaced by the following:*

'14. The Commission shall be empowered to adopt delegated acts in accordance with Article 23(1) to (3) and (5) to supplement this Regulation by establishing a scoreboard of indicators to be used by the Investment Committee to ensure an independent and transparent assessment of the potential and actual use of the EU guarantee. Such delegated acts shall be prepared in close dialogue with the EIB.

The Steering Board shall, as part of the strategic orientation of the EFSI, establish a minimum score for each pillar in the scoreboard with a view to enhancing the assessment of projects.

The Steering Board may, upon request from the EIB, allow the Investment Committee to examine a project whose score in any of the pillars is below the minimum score when the global assessment contained in the scoreboard concludes that the operation related to that project would either address a significant market failure or present a high level of additionality.'

(6) Article 9 is amended as follows:

(a) **■** paragraph 2 *is amended as follows:*

(i) *the introductory part is replaced by the following:*

'2. The EU guarantee shall be granted for EIB financing and investment operations approved by the Investment Committee or for funding or guarantees to the EIF in order to conduct EIB financing and investment operations in accordance with Article 11(3).

The EIB shall, where appropriate, delegate the appraisal, selection and monitoring of small-scale sub-projects to financial intermediaries or approved eligible vehicles, in particular investment platforms and national promotional banks or institutions as a means to increase and facilitate the access to finance for small-scale projects. Notwithstanding the third subparagraph of paragraph 5 of this Article, the Investment Committee shall not retain the right to approve the use of the EU guarantee for sub-projects delegated to financial intermediaries or approved eligible vehicles where the EFSI contribution to such sub-projects is below EUR 3 000 000. Where necessary, the Steering Board shall provide guidance on the procedure by which the Investment Committee is to decide on the use of the EU guarantee for sub-projects for which the EFSI contribution is equal to or above EUR 3 000 000.

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

(ii) in point (c), the following point is added:

'(iv) railway infrastructure, other rail projects, and maritime ports;';

(iii) in point (e), the following points are inserted:

'(ia) blockchain technology;

(ib) internet of things;

(ic) cybersecurity and network protection infrastructures;';

(iv) point (g) is amended as follows:

– point (ii) is replaced by the following:

'(ii) cultural and creative industries, for which sector-specific financial mechanisms are to be authorised in interaction with the Creative Europe Programme established by Regulation (EU) No 1295/2013 of the European Parliament and of the Council* and the Cultural and Creative Sectors Guarantee Facility established pursuant to that Regulation ,in order to provide fit-for-purpose loans for those industries;

*** Regulation (EU) No 1295/2013 of the European Parliament and of the Council of 11 December 2013 establishing the Creative Europe Programme (2014 to 2020) and repealing Decisions No 1718/2006/EC, No 1855/2006/EC and No 1041/2009/EC (OJ L 347, 20.12.2013, p. 221).';**

– point (v) is replaced by the following:

'(v) social infrastructures, social services, social and solidarity economy;';

(v) the following points **■** are added:

- '(h) *sustainable* agriculture, *forestry*, fishery, aquaculture *and other elements of the wider bioeconomy*;
- (i) *within the requirements of this Regulation* for less developed regions and transition regions as listed respectively in Annexes I and II to Commission Implementing Decision 2014/99/EU*, other industry and services eligible for EIB support.

* Commission Implementing Decision 2014/99/EU of 18 February 2014 setting out the list of regions eligible for funding from the European Regional Development Fund and the European Social Fund and of Member States eligible for funding from the Cohesion Fund for the period 2014-2020 (OJ L 50, 20.2.2014, p. 22).';

(vi) **■** the following subparagraph is added:

'While recognising the demand-driven nature of the EFSI, the EIB shall target that at least 40 % of EFSI financing under the infrastructure and innovation window support project components that contribute to climate action, in line with the commitments made at the 21st Conference of the Parties to the United Nations Framework Convention on Climate Change (COP21). EFSI financing for SMEs and small mid-cap companies shall not be included in that computation. The EIB shall use its internationally agreed methodology to identify those climate action project components or cost shares. The Steering Board shall, where necessary, provide detailed guidance to that end.'

(b) paragraph 3 is replaced by the following:

'3. The investment period during which the EU guarantee may be granted for supporting financing and investment operations covered by this Regulation shall last until:

(a) 31 December 2020, for EIB operations for which a contract between the EIB and the beneficiary or financial intermediary has been signed by 31 December 2022;

(b) 31 December 2020, for EIF operations for which a contract between the EIF and the financial intermediary has been signed by 31 December 2022.';

(c) paragraph 4 is replaced by the following:

'4. The EIB shall, where necessary and to the extent possible, cooperate with national promotional banks or institutions and investment platforms.'

(d) in paragraph 5, the third subparagraph is replaced by the following:

'The Investment Committee may decide to retain the right to approve new projects put forward by financial intermediaries or within approved eligible vehicles.';

(7) In Article 10(2), point (a) is replaced by the following:

'(a) EIB loans, guarantees, counter-guarantees, capital market instruments, any other form of funding or credit enhancement instrument, including subordinated debt, equity or quasi-equity participations, including in favour of national promotional banks or institutions, investment platforms or funds;';

(8) Article 11 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. The EU guarantee shall not, at any time, exceed EUR 26 000 000 000, of which a part may be allocated for EIB funding or guarantees to the EIF in accordance with paragraph 3. Aggregate net payments from the general budget of the Union under the EU guarantee shall not exceed EUR 26 000 000 000 and not exceed EUR 16 000 000 000 before 6 July 2018.';

(b) paragraph 3 is replaced by the following:

'3. 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 such funding or guarantees ***up to an initial limit of EUR 6 500 000 000***, provided that an amount of at least EUR 4 000 000 000 of funding or guarantees is ***gradually*** provided by the EIB without coverage by the EU guarantee ■ . Without prejudice to paragraph 1, ***the limit of EUR 6 500 000 000*** may, where appropriate, be adjusted by the Steering Board ***up to a maximum of EUR 9 000 000 000, without an obligation on the EIB to match the amounts above EUR 4 000 000 000.***;

(c) in paragraph 6, points (a) and (b) are replaced by the following:

'(a) for debt instruments referred to in Article 10(2)(a):

(i) the principal and all interest and amounts due to the EIB but not received by it in accordance with the terms of the financing operations until the event of default; for subordinated debt a deferral, reduction or required exit shall be considered to be an event of default;

(ii) losses arising from fluctuations of currencies other than the euro in markets where possibilities for long-term hedging are limited;

(b) for equity or quasi-equity investments referred to in Article 10(2)(a), the amounts invested and their associated funding cost and losses arising from fluctuations of currencies other than the euro;';

(9) Article 12 is amended as follows:

(a) paragraph 5 is replaced by the following:

'5. Endowments to the guarantee fund referred to in paragraph 2 shall be used to reach an appropriate level (target amount) to reflect the total EU guarantee obligations. The target amount shall be set at 35 % of the total EU guarantee obligations.';

(b) paragraphs 7 to 10 are replaced by the following:

- '7. From 1 July 2018, if as a result of calls on the EU guarantee, the level of the guarantee fund falls below 50 % of the target amount, or it could fall below that level within a year according to a risk assessment by the Commission, the Commission shall submit a report on any exceptional measures that could be required.
8. After a call on the EU guarantee, endowments to the guarantee fund provided for in points (b) and (d) of paragraph 2 of this Article above the target amount shall be used within the limits of the investment period provided for in Article 9 to restore the EU guarantee to its full amount.
9. Endowments to the guarantee fund provided for in point (c) of paragraph 2 shall be used to restore the EU guarantee to its full amount.
10. In the event that the EU guarantee is fully restored to an amount of EUR 26 000 000 000, any amount in the guarantee fund in excess of the target amount shall be paid to the general budget of the Union as internal assigned revenue in accordance with Article 21(4) of Regulation (EU, Euratom) No 966/2012 for any budget lines which could have been used as a source of redeployment to the guarantee fund.';

(10) Article 14 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) in the first subparagraph, the second sentence is replaced by the following:

'Such support shall include ***the provision of*** targeted support on the use of technical assistance for project structuring, on the use of innovative financial instruments, on the use of public-private partnerships ***and on the provision of information, as appropriate, on relevant issues relating to Union law,*** taking into account the specificities and needs of Member States with less developed financial markets, ***as well as the situation in different sectors.***';

(ii) in the second subparagraph, the following sentence is added:

'It shall also support the preparation of climate action and circular economy projects or components thereof, in particular in the context of COP21, the preparation of projects in the digital sector, as well as the preparation of projects referred to in the second indent of the third subparagraph of Article 5(1).';

(b) paragraph 2 is amended as follows:

(i) point (c) is replaced by the following:

'(c) leveraging local knowledge to facilitate EFSI support across the Union and contributing ***actively*** where possible to the objective of sectorial and geographical diversification of the EFSI referred to in Section 8 of Annex II by supporting the EIB ***and national promotional banks or institutions*** to originate ***and develop*** operations, ***in particular in less developed regions and transition regions, and, where necessary, by helping to structure demand for EFSI support;***';

(ii) point (e) is replaced by the following:

'(e) providing pro-active, ***advisory*** support, ***where necessary by means of local presence***, on the establishment of investment platforms, ***in particular cross-border and macroregional investment platforms involving several Member States and/or regions;***';

(iii) ***the following points are added:***

'(f) ***using the potential of attracting and financing small-scale projects, including through investment platforms;***

(g) providing advice on the combination of other sources of Union funding, such as the European Structural and Investment Funds, Horizon 2020 and the Connecting Europe Facility established by Regulation (EU) No 1316/2013, with the EFSI *with a view to resolving practical problems linked to the use of such combined sources of funding*;

(h) *providing pro-active support to promote and encourage the operations referred to in point (b) of the first paragraph of Article 8.*';

(c) paragraph 5 is replaced by the following:

'5. In order to achieve the objective referred to in paragraph 1 and to facilitate the provision of advisory support at local level, 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.'

(d) *the following paragraph is inserted:*

'5a. The EIB shall propose to project promoters applying for EIB financing, including in particular small-scale projects, to refer their projects to the EIAH in order to enhance, where appropriate, the preparation of their projects and/or to allow for the assessment of the possibility of bundling projects through investment platforms. It shall also inform promoters of projects for which EIB financing has been denied, or which are experiencing a financing gap in spite of possible EIB financing, of the possibility of listing their projects on the European Investment Project Portal.'

(e) in paragraph 6, the second sentence is replaced by the following:

*'Cooperation between, on the one hand, the EIAH and, on the other hand, a national promotional bank or institution, an international **financial** institution or an institution or a managing authority, including those acting as a national advisor, having expertise relevant for the purposes of the EIAH, may take the form of a contractual partnership. **The EIAH shall endeavour to conclude at least one cooperation agreement with a national promotional bank or institution per Member State. In Member States where national promotional banks or institutions do not exist, the EIAH shall provide, where appropriate, and at the request of the Member State concerned, pro-active advisory support on the establishment of such bank or institution.***

(f) *the following paragraph is inserted:*

'6a. In order to develop a wide geographic outreach of the advisory services across the Union and to successfully leverage local knowledge about the EFSI, a local presence of the EIAH shall be ensured where necessary, taking into account existing support schemes, with a view to providing tangible, proactive, tailor-made assistance on the ground. It shall be established in particular in Member States or regions that face difficulties in developing projects under the EFSI. The EIAH shall assist in the transfer of knowledge to the regional and local level with a view to building-up regional and local capacity and expertise.'

(g) *paragraph 7 is replaced by following:*

'7. An annual reference amount of EUR 20 000 000 shall be made available from the general budget of the Union to contribute towards covering the costs of EIAH operations until 31 December 2020 for the services referred to in paragraph 2, insofar as those costs are not covered by the remaining amount from fees referred to in paragraph 4.'

(11) *Article 16(1) is replaced by the following:*

'1. The EIB, in cooperation with the EIF where appropriate, shall submit every six months a report to the Commission on EIB financing and investment operations covered by 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 referred to in Article 4(2)(f)(iv). The report shall also include statistical, financial and accounting data on each EIB financing and investment operation and on an aggregated basis. Once a year, the report shall also include information on barriers to investment encountered by the EIB when carrying out investment operations covered by this Regulation.'

(12) *Article 17 is amended as follows:*

(a) *paragraph 1 is replaced by the following:*

'1. At the request of the European Parliament or of the Council, the Chairperson of the Steering Board and the Managing Director shall report on the performance of the EFSI to the requesting institution, including, where the European Parliament makes such a request, by participating in a hearing before the European Parliament. In addition, at the request of the European Parliament or of the Council, the Managing Director shall report on the work of the Investment Committee to the requesting institution.'

(b) paragraph 2 is replaced by the following:

'2. The Chairperson of the Steering Board and the Managing Director shall reply orally or in writing to questions addressed to the EFSI by the European Parliament or by the Council, in any event within five weeks of the date of receipt of a question. In addition, the Managing Director shall reply orally or in writing to the European Parliament or to the Council to questions regarding the work of the Investment Committee.';

(13) Article 18 is amended as follows:

(a) paragraph 6 is replaced by the following:

'6. Both before the tabling of any new proposal in the framework of the multiannual financial framework starting in 2021 and at the end of the investment period, the Commission shall submit to the European Parliament and to the Council a report containing an independent evaluation of the application of this Regulation, which shall include:

(a) an assessment of the functioning of the EFSI, the use of the EU guarantee and the functioning of the EIAH;

- (b) an assessment of whether the EFSI consists of a good use of resources of the general budget of the Union, mobilises a sufficient level of private capital, and crowds-in private investment;*
 - (c) an assessment of whether maintaining a scheme for supporting investment is useful from a macro-economic point of view;*
 - (d) at the end of the investment period, an assessment of the application of the procedure referred to in Article 4(2)(a)(v).';*
- (b) paragraph 7 is replaced by the following:*
- '7. Taking due account of the first report containing an independent evaluation as referred to in paragraph 6, the Commission shall, if appropriate, put forward a legislative proposal together with an appropriate financing under the multiannual financial framework starting in 2021.';*

(c) *paragraph 8 is replaced by the following:*

'8. The reports referred to in paragraph 6 of this Article shall include an evaluation concerning the use of the scoreboard referred to in Article 7(14) and Annex II, in particular with regard to the consideration of the appropriateness of each pillar and their respective roles in the assessment. The report shall, if appropriate and duly justified by its findings, be accompanied by a proposal for a revision of the delegated act referred to in Article 7(14).';

(14) In Article 19, the following paragraph is added:

'The EIB and the EIF shall inform, or shall oblige financial intermediaries to inform, the final beneficiaries, including SMEs, of the existence of EFSI support *by making that information visible, particularly in the case of SMEs, in the relevant agreement providing EFSI support, thereby increasing public awareness and improving visibility.*';

(15) *Article 20(2) is replaced by the following:*

- '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 full access to any document or information necessary to carry out its task.'*

(16) *Article 22(1) is replaced by the following:*

- '1. In their financing and investment operations covered by this Regulation, the EIB *and* the EIF *shall comply with applicable Union legislation and agreed international and Union standards and, therefore,* shall not support *projects under this Regulation that contribute to* money laundering, *terrorism* financing, *tax avoidance*, tax fraud or tax evasion ■ .

In *addition*, the EIB and the EIF shall not *enter into new or renewed operations with entities incorporated or established in jurisdictions listed under the relevant Union policy on non-cooperative jurisdictions, or that are identified as high-risk third countries pursuant to Article 9(2) of Directive (EU) 2015/849 of the European Parliament and of the Council**, or that do not effectively comply with *Union or* internationally agreed tax standards on transparency and exchange of information.

When concluding agreements with financial intermediaries, the EIB and the EIF shall transpose the requirements referred to in this Article into the relevant agreements and shall request the financial intermediaries to report on their observance.

The EIB and the EIF shall review their policy on non-cooperative jurisdictions at the latest following the adoption of the Union list of non-cooperative jurisdictions for tax purposes.

Every year thereafter, the EIB and the EIF shall submit a report to the European Parliament and to the Council on the implementation of their policy on non-cooperative jurisdictions in relation to EFSI financing and investment operations including country-by-country information and a list of intermediaries with which they cooperate.

** 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).';*

- (17) In Article 23(2), the first and second sentences of the first subparagraph are replaced by the following:

'The power to adopt delegated acts referred to in Article 7(13) and (14) shall be conferred on the Commission for a period of five years from 4 July 2015. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of that five-year period.';

- (18) Annex II is amended as set out in the Annex to this Regulation.

Article 2

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 **30 192 259 000** in current prices. That amount shall be distributed as follows:

(a) transport sector: EUR **24 050 582 000**, 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 **066 602 000**;

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

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

* 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 Article 14, the following paragraphs are added:*

- '5. *By way of derogation from the second and third subparagraphs of Article 140(6) of Regulation (EU, Euratom) No 966/2012, revenues and repayments from the financial instruments established under this Regulation and from the financial instruments established under Regulation (EC) No 680/2007 which have been merged with financial instruments established under this Regulation in accordance with paragraph 3 of this Article shall, up to a maximum of EUR 125 000 000, constitute internal assigned revenue within the meaning of Article 21(4) of Regulation (EU, Euratom) No 966/2012 for the European Fund for Strategic Investments established by Regulation (EU) 2015/1017 of the European Parliament and of the Council*^{*}.
6. *By way of derogation from the second and third subparagraphs of Article 140(6) of Regulation (EU, Euratom) No 966/2012, revenues and repayments from the 2020 European Fund for Energy, Climate Change & Infrastructure ('Marguerite Fund'), established in accordance with Regulation (EC) No 680/2007, shall, up to a maximum of EUR 25 000 000, constitute internal assigned revenue within the meaning of Article 21(4) of Regulation (EU, Euratom) No 966/2012 for the European Fund for Strategic Investments established by Regulation (EU) 2015/1017.*

^{*} *Regulation (EU) 2015/1017 of the European Parliament and of the Council of 25 June 2015 on the European Fund for Strategic Investments, the European Investment Advisory Hub and the European Investment Project Portal and amending Regulations (EU) No 1291/2013 and (EU) No 1316/2013 — the European Fund for Strategic Investments (OJ L 169, 1.7.2015, p. 1).'*

Article 3

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

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

Done at ...,

For the European Parliament

For the Council

The President

The President

ANNEX

Annex II to Regulation (EU) 2015/1017 is amended as follows:

(1) Section 2 is amended as follows:

(a) in point (b), *the following paragraphs are* added:

'EFSI support to motorways shall be *limited to* private *and/or public* investment *as concerns*:

- transport in cohesion countries, *in less developed regions* or in cross-border transport projects ■ ;
- *upgrading, maintaining or improving road safety, development of intelligent transport systems' (ITS) devices or guaranteeing the integrity and standards of existing motorways on the trans-European transport network, in particular safe parking areas, alternative clean fuels stations and electric charging systems;*
- *contributing to the completion of the trans-European transport network by 2030.*

EFSI support shall also be explicitly possible for maintaining and upgrading existing transport infrastructure.'

- (b) in point (c), the second sentence is replaced by the following:

'In this context, it is expected that the EIB will provide financing under the EFSI with a view to reach an overall target of at least EUR 500 000 000 000 of public or private investment, including financing mobilised through the EIF under EFSI operations relating to the instruments referred to in Article 10(2)(b), national promotional banks or institutions and through increased access to financing for entities having up to 3 000 employees.';

- (2) In Section 3, the following point is added:

'(d) the presence of one or more of the following features would typically lead to the classification of operations as EIB special activities:

- subordination in relation to other lenders, including national promotional banks or institutions and private lenders;
- participation in risk-sharing instruments where the position taken exposes the EIB to high-risk levels;
- exposure to specific risks, such as *country-, sector- or region-specific risks, particularly those experienced in less developed regions and transition regions, and/or risks associated with innovation, in particular in growth-, sustainability- and productivity-enhancing unproven technologies;*

- equity type characteristics, such as performance-linked payments; or
- other identifiable aspects leading to higher risk exposure as per the credit risk **■** guidelines of the EIB *such as counterparty risk, limited security and recourse only to project assets for repayment.*';

(3) In Section 5, the following sentence is added:

'The scoreboard shall be made public as soon as an operation under the EU guarantee is signed, with the exclusion of commercially sensitive information.';

(4) Section 6 is amended as follows:

(a) point (b) is amended as follows:

(i) in the first indent, the first and second sentences are replaced by the following:

'For debt-type operations, the EIB or the EIF shall carry out its standard risk assessment, involving the computation of the probability of default and the recovery rate. Based on these parameters, the EIB or the EIF shall quantify the risk for each operation.';

- (ii) in the second indent, the first sentence is replaced by the following:

'Each debt-type operation shall receive a risk classification (the Transaction Loan Grading) as per the EIB's or the EIF's system of loan gradings.';

- (iii) in the third indent, the first sentence is replaced by the following:

'Projects shall be economically and technically viable and the EIB's financing shall be structured in line with sound banking principles and comply with the high-level risk management principles set by the EIB or the EIF in its internal guidelines.';

- (iv) *the fourth indent is replaced by the following:*

'Debt-type products shall be priced in line with Article 4(2)(a)(iv).';

- (b) point (c) is amended as follows:

- (i) in the first indent, the second sentence is replaced by the following:

'The determination whether an operation bears equity-type risks or not, irrespective of its legal form and nomenclature, shall be based on the EIB's or the EIF's standard assessment.';

- (ii) in the second indent, the first sentence is replaced by the following:

'The EIB's equity-type operations shall be carried out in accordance with the EIB's or the EIF's internal rules and procedures.';

- (iii) *the third indent is replaced by the following:*

'Equity-type investments shall be priced in line with Article 4(2)(a)(iv).';

- (5) In Section 7 point (c), the word 'initial' is deleted;
- (6) Section 8 is amended as follows:
- (a) in the second sentence of the first subparagraph, the word 'initial' is deleted;
- (b) in the first sentence of the first subparagraph of point (a), the word 'initial' is deleted;
- (c) in the first sentence of point (b), the word 'initial' is deleted.

ANNEX TO THE LEGISLATIVE RESOLUTION

Statement by the Commission on the EUR 225 million increase of the Connecting Europe Facility programme

As a result of the political agreement between the European Parliament and the Council on the financing of EFSI 2.0 an amount of EUR 275 million will be redeployed from CEF financial instruments, which represents a reduction of EUR 225 million in comparison with the Commission proposal.

The Commission confirms that the financial programming will be revised to reflect the corresponding EUR 225 million increase of the CEF programme.

In the framework of the annual budgetary procedures for the years 2019-2020 the Commission will make the appropriate proposals to ensure an optimal allocation of this amount within the CEF programme.
