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INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Decision No 466/2014/EU granting an EU guarantee to the European Investment Bank against losses under financing operations supporting investment projects outside the Union. - Outcome of the European Parliament's First Reading (Strasbourg, 5 to 8 February 2018)

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.

In this context, the rapporteur, Eider GARDIAZABAL RUBIAL (S&D, ES) presented one compromise amendment (amendment 64) to the proposal for a Decision, on behalf of the Committee on Budgets. This amendment had been agreed during the informal contacts referred to above.

¹ OJ C 145, 30.6.2007, p.5

II. VOTE

When it voted on 8 February 2018, the plenary adopted one compromise amendment (amendment 64) to the proposal for a Decision. 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.

EU guarantee to the European Investment Bank against losses under financing operations supporting investment projects outside the Union *I**

European Parliament legislative resolution of 8 February 2018 on the proposal for a decision of the European Parliament and of the Council amending Decision No 466/2014/EU granting an EU guarantee to the European Investment Bank against losses under financing operations supporting investment projects outside the Union (COM(2016)0583 – C8-0376/2016 – 2016/0275(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2016)0583),
 - having regard to Article 294(2) and Articles 209 and 212 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0376/2016),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the report from the Commission to the European Parliament and the Council on the mid-term review of the application of the Decision No 466/2014/EU as regards the EU guarantee to the European Investment Bank against losses under financing operations supporting investment projects outside the Union (COM(2016)0584),
 - having regard to the provisional agreement approved by the committee responsible under Rule 69f(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 1 December 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,
 - having regard to the report of the Committee on Budgets and the opinions of the Committee on Development, the Committee on Foreign Affairs, the Committee on International Trade and the Committee on the Environment, Public Health and Food Safety (A8-0135/2017),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. 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 8 February 2018 with a view to the adoption of Decision (EU) .../... of the European Parliament and of the Council amending Decision No 466/2014/EU granting an EU guarantee to the European Investment Bank against losses under financing operations supporting investment projects outside the Union

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 209 and 212 thereof,

Having regard to the proposal from the European Commission,

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

Acting in accordance with the ordinary legislative procedure³,

³ Position of the European Parliament of 8 February 2018.

Whereas:

- (1) The international community faces an unprecedented **migration and** refugee crisis, which requires solidarity and the efficient mobilisation of financial resources and calls for the existing challenges to be confronted and surmounted in a concerted manner. All actors need to work together to apply sustained medium- and long-term policies and make efficient use of existing programmes in order **to develop and** support initiatives which contribute to **the United Nations (UN) sustainable development goals and to addressing the political, social, economic and environmental factors that constitute the root causes of migration, including, but not limited to, poverty, inequality, demographic growth, lack of employment, limited access to education and economic opportunities, instability, conflict, climate change and the long-term consequences of forced displacement.**
- (2) **While providing resources to address the root causes of migration is of paramount importance, the Union remains fully committed to policies in other areas of key strategic priority as outlined in the Global Strategy for the European Union's Foreign and Security Policy.**

- (3) A new results-oriented partnership framework with third countries which takes account of all Union policies and instruments has been developed. As part of that new partnership framework, the Union's External Investment Plan has been established in order to support investments in regions outside the Union while contributing to the achievement of the UN sustainable development ***goals and addressing the root causes of migration***. It should also ***contribute to fulfilling*** the objectives of the UN 2030 Agenda for Sustainable Development ***and of the Paris Agreement adopted under the UN Framework Convention on Climate Change ('the Paris Agreement')***, as well as the objectives pursued by other financing instruments for external action.
- (4) On 28 June 2016, the European Council endorsed the proposal of the European Investment Bank (EIB) to contribute to the External Investment Plan through the EIB Resilience Initiative, which is ***designed to foster investments*** in the Southern Neighbourhood and Western ***Balkans***.
- (5) A key component of the EIB Resilience Initiative is the expansion, in both quantitative and qualitative terms, of the EIB External Lending Mandate. This should enable the EIB to rapidly contribute to the objectives of the External Investment Plan, in particular by providing additional financing to private-sector beneficiaries, ***with a view to crowding in private investments and boosting long-term investment***.

- (6) ***The Strategic Board of the European Fund for Sustainable Development, where the EIB is represented, will provide guidance on complementarity between the EIB Resilience Initiative and the components of the External Investment Plan in line with its rules of procedure and without prejudice to the EIB's internal governance rules.***
- (7) A budgetary guarantee for financing operations carried out outside the Union (the ‘EU guarantee’) was granted to the EIB by means of Decision No 466/2014/EU of the European Parliament and of the Council⁴.
- (8) In accordance with Decision No 466/2014/EU, the Commission, in cooperation with the EIB, prepared a mid-term review report evaluating the application of that Decision on the basis of an independent external evaluation.
- (9) ***The long-term economic resilience of refugees, migrants, host and transit communities, and communities of origin as a strategic response to addressing root causes of migration should be added as a new objective supported by the EU guarantee (‘the new objective’).***
- (10) ***Operations supported under the new objective should be distinct from Union efforts in the area of border control.***

⁴ Decision No 466/2014/EU of the European Parliament and of the Council of 16 April 2014 granting an EU guarantee to the European Investment Bank against losses under financing operations supporting investment projects outside the Union (OJ L 135, 8.5.2014, p. 1).

- (11) In order to allow the External Lending Mandate to respond to potential upcoming challenges and Union priorities, as well as to *fulfil the new objective*, the maximum ceiling for the EIB financing operations under the EU guarantee should be increased to EUR 32 300 000 000.
- (12) Under the general mandate, EUR 1 400 000 000 should be earmarked for projects in the public sector directed towards *fulfilling the new objective*.
- (13) Under a new private-sector lending mandate, a maximum amount of EUR 2 300 000 000 should be dedicated to projects *directed towards fulfilling the new objective* within the maximum increased ceiling and should benefit from the Comprehensive Guarantee by the Union.

- (14) *The success of one of the EIB's main objectives under the External Lending Mandate, namely support for local private-sector development, in particular support to micro, small and medium-sized enterprises (SMEs), hinges on factors such as SMEs' access to finance, credit and technical assistance, on the promotion of entrepreneurship and on efforts to stimulate the transition from the volatile informal economy to the formal sector. In that context, the EIB financing operations should seek to support small investment projects run by SMEs, as well as investment projects in remote rural areas and in the fields of drinking-water treatment, wastewater disposal and renewable energy.*
- (15) Complementarity and coordination with Union initiatives addressing root causes of migration should be ensured, including through Union support for the sustainable reintegration of returned migrants in the countries of origin.

- (16) Following the Paris Agreement, the EIB should *endeavour* to sustain *a high level of climate-relevant operations, the volume of which should represent at least 25 % of the total EIB financing operations outside the Union. EIB financing operations covered by Decision No 466/2014/EU should be consistent with reaching the target of at least 35% of total EIB financing operations in emerging economies and developing countries outside the Union by 2020. The EIB should take into account the European Council conclusions of 22 May 2013 on phasing out environmentally or economically harmful subsidies, including those for fossil fuels.*
- (17) The risk to the general budget of the Union associated with EIB financing operations under the private-sector lending mandate should be priced. *The* revenues generated from *such* risk pricing should be paid into the Guarantee Fund for external actions established by Council Regulation (EC, Euratom) No 480/2009⁵ in order to cover the commercial risk and to avoid market distortions.

⁵ Council Regulation (EC, Euratom) No 480/2009 of 25 May 2009 establishing a Guarantee Fund for external actions (OJ L 145, 10.6.2009, p. 10).

- (18) The EIB should develop and implement a set of indicators in its Results Measurement framework for projects *directed towards fulfilling the new objective*. Therefore, an assessment of the contribution of EIB financing operations *towards the new objective, including, where applicable, the contribution to the UN sustainable development goals, the involvement of local civil society, and alignment with Union external policy priorities and budget priorities*, should be included in the Commission's annual reporting to the European Parliament and to the Council on EIB financing operations.
- (19) *The visibility and transparency of EIB financing operations covered by Decision No 466/2014/EU, in particular with regard to projects financed through financial intermediaries, should be ensured by improving access to information for the Union's institutions and for the general public, taking into account the need to protect confidential and commercially sensitive information.*
- (20) *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.*

- (21) *Due diligence on EIB financing operations covered by Decision No 466/2014/EU should include a thorough check of compliance with applicable Union legislation and agreed international and Union standards on anti-money laundering, the fight against the terrorism financing, tax fraud and tax avoidance. Moreover, in the context of the External Lending Mandate reporting, the EIB should provide information, on a country-by-country basis, on the compliance of EIB financing operations with its policy on non-cooperative jurisdictions and the list of intermediaries with which the EIB cooperates.*
- (22) *On 12 October 2016, the EIB approved the implementation of the EIB Resilience Initiative. It should be possible for projects under the EIB Resilience Initiative which were approved after that date and before the entry into force of this Decision and the conclusion of the guarantee agreement to be included within the EU guarantee coverage, subject to confirmation by the Commission that they are in line with the new objective and respect the terms of the guarantee agreement.*

- (23) *EIB financing operations with corporates should only benefit from the private-sector comprehensive guarantee if they promote inclusive growth and enhanced job creation and are not adequately served by local financial markets.*
- (24) *EIB financing operations should be consistent with the principles set out in the Commission communication of 25 October 2011 entitled ‘A renewed EU strategy 2011-14 for Corporate Social Responsibility’, including with regard to financial intermediaries.*
- (25) Where *the Union external policy priorities change, or in cases of urgency* and crisis situations that could arise within the mandate period, *and in accordance with relevant European Parliament resolutions and Council decisions and conclusions*, the ceiling for reallocation between the regions by the EIB in the course of the mandate should be increased from 10 % to 20 %. The *Commission should regularly inform the European Parliament and the Council of such reallocations.*

- (26) *Given the importance of the EIB Resilience Initiative in the Union strategy to address the root causes of migration and the needs of transit and host communities, it remains of the utmost importance that the amounts earmarked under the External Lending Mandate ceilings for projects directed to the new objective be absorbed completely. Nevertheless, if due to unforeseen circumstances the earmarked amounts cannot be absorbed completely, some increased flexibility should also be allowed. Therefore, if by 30 June 2019 the EIB concludes that it is not in a position to absorb its forecasted target under the EIB Resilience Initiative, it should be possible for up to 20 % of the EUR 1 400 000 000 under the general mandate earmarked for public-sector projects and of the EUR 2 300 000 000 under the private-sector lending mandate to be reallocated within and/or between pre-accession countries and beneficiaries and Neighbourhood and Partnership countries. Any such reallocation should be subject to prior agreement between the Commission and the EIB.*
- (27) The *lists* of eligible regions and countries and potentially eligible regions and countries should be modified in order to exclude high-income *regions and* countries with high credit ratings, *namely* Brunei, *Chile*, Iceland, Israel, Singapore, South Korea *and Taiwan*. In addition, Iran *should* be added to the list of potentially eligible regions and countries.
- (28) Decision No 466/2014/EU should therefore be amended accordingly,

HAVE ADOPTED THIS DECISION:

Article 1

Decision No 466/2014/EU is amended as follows:

- (1) Article 2 is replaced by the following:

‘Article 2

Ceilings for EIB financing operations under EU guarantee

1. The maximum ceiling of the EIB financing operations under EU guarantee throughout the period 2014-20 shall be EUR 32 300 000 000. Amounts initially earmarked for financing operations but subsequently cancelled shall not count against the ceiling.

This maximum ceiling shall be broken down into:

- (a) a maximum amount of EUR 30 000 000 000 under a general mandate, of which EUR 1 400 000 000 is earmarked for projects in the public sector directed *towards the long-term economic resilience of refugees, migrants, host and transit communities, and communities of origin as a strategic response to addressing root causes of migration;*

- (b) a maximum amount of EUR 2 300 000 000 under a private-sector lending mandate for projects ***directed towards the long-term economic resilience of refugees, migrants, host and transit communities, and communities of origin as a strategic response to*** addressing root causes of migration.

- 2. The maximum amounts referred to in paragraph 1 shall be broken down into regional ceilings and sub-ceilings as laid down in Annex I. Within the regional ceilings ***and over the period covered by this Decision***, the EIB shall ensure a country distribution within the regions covered by the EU guarantee, ***balanced in line with Union external policy priorities which shall be reflected in the regional technical operational guidelines referred to in Article 5.***

- (2) Article 3 is replaced by the following:

"Article 3

General objectives and principles

- 1. The EU guarantee shall be granted only for EIB financing operations which have added value on the basis of the EIB's own assessment, and support any of the following general objectives:

- (a) ***local private-sector development, in particular support to micro, small and medium-sized enterprises (SMEs);***
- (b) development of social and economic infrastructure, including transport, energy, environmental infrastructure, and information and communication technology;

- (c) climate change mitigation and adaptation;
 - (d) ***the long-term economic resilience of refugees, migrants, host and transit communities, and communities of origin as a*** strategic response to addressing root causes of migration.
2. Whilst preserving the EIB's distinct character as an investment bank, EIB financing operations carried out under this Decision shall contribute to the general EU interest, in particular the principles guiding Union external action, as referred to in Article 21 TEU and shall contribute to the implementation of international environmental agreements to which the Union is a party. The EIB governing bodies are encouraged to take the necessary measures to adapt the EIB activity to contribute to the Union external policies in an effective manner, and to adequately meet the requirements set out in this Decision.
3. Regional integration among countries, including in particular economic integration between pre-accession countries and beneficiaries, Neighbourhood and Partnership countries and the Union, shall be an underlying objective for EIB financing operations within areas covered by the general objectives set out in paragraph 1. The EIB shall undertake financing operations in beneficiary countries within areas covered by the general objectives by supporting foreign direct investments that promote economic integration with the Union.
4. ***In developing countries, as defined in the Organisation for Economic Co-operation and Development list of official development assistance recipients, the EIB financing operations shall contribute, in accordance with Articles 208 and 209 TFEU, to the objectives of the Union's development cooperation policy, in particular towards reducing poverty through inclusive growth and sustainable economic, environmental and social development.***

5. To ensure that private-sector investments have the greatest development impact, the EIB shall endeavour *to contribute to creating favourable conditions for private enterprise and investment and shall ensure as a priority that* the local private sector in beneficiary countries, *including cooperatives and social enterprises, is strengthened* through support to local investment as provided for in point (a) of paragraph 1. EIB financing operations supporting the general objectives set out in paragraph 1 shall endeavour to also enhance its support for investment projects run by SMEs from the *recipient country and from the Union, enabling access to finance for new investment projects run by SMEs. EIB financing operations shall allow SMEs to take advantage of, inter alia, market access for SMEs in the eligible countries and their integration into global value chains and shall further contribute to enhancing competitiveness of Union companies.*

In order to effectively monitor *and evaluate* the use of funds for the benefit of the SMEs concerned, the EIB shall *carry out thorough due diligence and* establish and maintain adequate contractual provisions imposing standard reporting obligations on both the financial intermediaries and the *final* beneficiaries. *The EIB shall endeavour to identify and contribute to addressing the obstacles to funding faced by SMEs.*

The EIB shall cooperate with financial intermediaries that can support the specific needs of SMEs in the countries of operation and that comply with the requirements of Article 13, as transposed into agreements under the third subparagraph of paragraph 1 of that Article.

6. *EIB financing operations supporting the general objective set out in point (b) of paragraph 1 shall support investment projects predominantly in the areas of transport, energy, environmental infrastructure, information and communication technology, health and education. This includes production and integration of energy from renewable sources, energy-efficiency measures, energy systems transformation enabling a switch to lower carbon-intensive technologies and fuels, sustainable energy security and energy infrastructure, including for gas production and transportation to Union energy market, as well as electrification of rural areas, environmental infrastructure such as water and sanitation and green infrastructure, telecommunications and broadband network infrastructure.*

7. EIB financing operations supporting the general objectives set out in point (c) of paragraph 1 shall support investment projects in climate-change mitigation and adaptation that contribute to the overall objectives of the United Nations Framework Convention on Climate Change and of the Paris Agreement adopted under that Convention, in particular by avoiding or reducing greenhouse-gas emissions *and reducing the carbon footprint* in the areas of renewable energy, energy efficiency and sustainable transport, or by increasing resilience to the adverse impacts of climate change on vulnerable countries, sectors and communities.

The eligibility criteria for climate action projects are defined in the EIB Climate Strategy. On the basis of the methodologies for the assessment of project greenhouse-gas emissions and emission variations drawn up by the EIB, an analysis of the carbon footprint shall be included in the environmental assessment procedure to determine whether project proposals optimise energy-efficiency improvements.

Over the period covered by this Decision, the EIB shall endeavour to sustain *a* high level of climate-relevant operations, the volume of *which* shall represent at least 25 % of the total EIB financing operations *outside the Union*. *EIB financing under this Decision shall be consistent with reaching the target of at least 35% of total EIB financing operations in emerging economies and developing countries outside the Union by 2020.*

EIB financing operations shall, inter alia, integrate concrete actions to phase out financing projects detrimental to the achievement of Union's climate objectives and step up efforts to support renewable energy sources and energy efficiency.

The EIB shall enhance the *climate-change* adaptation elements in its contribution to projects *across EIB financing operations within the EIB External Lending Mandate*.

8. EIB financing operations supporting the general objectives set out in point (d) of paragraph 1 shall support investment projects that address root causes of migration and contribute to long-term economic resilience *and to the United Nations sustainable development goals* and safeguard sustainable development in beneficiary countries.

While ensuring the full respect of human, labour and social rights, fundamental freedoms and gender equality by implementing a rights-based approach encompassing all human and social rights in line with the principles of transparency, participation, non-discrimination and accountability, EIB financing operations shall:

- a) address increased needs for infrastructure and related services to cater *directly or indirectly* for the influx of migrants *while also benefitting the local population;*
- b) boost employment opportunities for host and refugee communities;
- c) foster economic integration and enable refugees to become self-reliant; *or*
- d) *strengthen humanitarian action and support for creation of decent jobs.*

EIB financing operations shall support the following:

- (a) the private sector in the areas of SMEs ***and mid-caps***, corporate finance and microfinance;
- (b) the public sector, including municipalities and public-sector entities, in terms of infrastructure and services, ***including healthcare and special facilities for children, sanitation services and school education***, to address significantly increased needs.

8a. EIB financing operations supporting the general objectives set out in paragraph 1 shall recognise that gender equality is a cross-cutting issue which is crucial to achieving sustainable development and an important element for project due diligence. A gender perspective shall be applied to all such financing operations. The EIB shall ensure that all EIB financing operations comply with the commitments set out in its Gender Strategy and Gender Action Plan.

- 8b. *The EIB shall seek to ensure that companies participating in projects co-financed by the EIB adhere to the principles of pay transparency and gender equality and to the principle of equal pay as set out in Directive 2006/54/EC of the European Parliament and of the Council^{*}. EIB decisions on project financing shall take into account action by potential beneficiary companies with regard to equal pay and corporate social responsibility.*
9. *The EU guarantee shall cover only EIB financing operations carried out in eligible countries that have concluded a framework agreement with the EIB establishing the legal conditions under which such operations are to be carried out and which shall be compatible with the EIB's Statement of Environmental and Social Principles and Standards and its Environmental and Social Handbook.*

^{*} *Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (OJ L 204, 26.7.2006, p. 23).'*

(3) *Article 5 is amended as follows:*

(a) *in paragraph 1, the third subparagraph is replaced by the following:*

'In updating the regional technical operational guidelines, the Commission and the EIB shall take into account relevant European Parliament resolutions and Council decisions and conclusions, as well as internationally recognised principles and guidelines on corporate social responsibility. The regional technical operational guidelines shall be consistent with the priorities contained in the national or regional programmes, where available, drawn up by the beneficiary countries, taking due account of any consultation with local civil society in the process of drawing up those programmes.'

(b) *the following paragraph is inserted:*

'1a. The Commission is empowered to adopt delegated acts in accordance with Article 18 concerning amendments to Annex IV.'

(4) Article 8 is amended as follows:

(a) in paragraph 1, the following subparagraph is added:

'The Comprehensive Guarantee shall also cover EIB financing operations under the private-sector lending mandate referred to in point (b) of Article 2(1), ***which on average shall have a higher risk profile than the portfolio covered under the Political Risk Guarantee referred to in paragraph 3 of this Article in pre-accession countries and beneficiaries and Neighbourhood and Partnership countries.***!';

(b) paragraphs 5 and 6 are replaced by the following:

'5. Financing agreements with individual promoters relating to EIB financing operations shall also include appropriate procurement, environmental, climate and social provisions in accordance with the EIB's own rules and procedures, including requirements to make the EU guarantee and EIB involvement visible to the end beneficiary.

6. *The Commission and the EIB shall set out in the guarantee agreement referred to in Article 14 a clear and transparent allocation policy allowing the EIB to identify, within its external activity, the operations to be financed under this Decision in order to ensure the most effective use of the EU guarantee. The allocation policy shall be based on the creditworthiness of EIB financing operations as assessed by the EIB, the ceilings as defined in Annex I, the nature of the counterparty, whether a sovereign State or a sub-sovereign entity falling under paragraph 1 of this Article or a private entity, EIB risk-absorption capacity and other relevant criteria, including added value of the EU guarantee. The European Parliament and the Council shall receive the allocation policy in accordance with Article 14.'.*

(5) *Article 9 is amended as follows:*

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

'1. The EIB shall carry out thorough due diligence and, where appropriate in accordance with its Statement of Environmental and Social Principles and Standards and its Environmental and Social Handbook, shall require project promoters to carry out local public consultation, in line with Union social and environmental principles, with the relevant national and local stakeholders, as well as with civil society, at the project-planning and implementation stages on social, human rights, gender equality, environmental, economic and development-related aspects of investment projects covered by the EU guarantee, and to provide information relevant for the assessment of the contribution to the fulfilment of Union external policy and strategic objectives.

The EIB shall ensure that the principle of free prior informed consent is implemented prior to financing operations affecting land and natural resources.

This appraisal shall include an assessment of whether the capacities of the beneficiaries of EIB financing should be reinforced throughout the project cycle with technical assistance and, if so, how this should be done. The EIB's own rules and procedures shall include the necessary provisions on the assessment of the environmental and social impact of investment projects and of aspects related to human rights and conflict prevention, to ensure that investment projects supported under this Decision are environmentally and socially sustainable and that EIB financing operations under the EIB Resilience Initiative, and in particular the private-sector lending mandate, improve the economic resilience of refugees, migrants, host and transit communities, and communities of origin.

As part of its available internal guidance on the application of due diligence, the EIB shall improve, as necessary, practical guidance on the assessment of aspects related to all basic human rights through its Environmental and Social Handbook, to be used during the ex ante assessment and ongoing monitoring on a project-by-project basis, including for projects involving financial intermediaries, based on the existing frameworks, in particular the EU Strategic Framework and Action Plan on human rights and democracy, and taking into account existing human rights benchmarks provided by the Union, relevant United Nations bodies and human rights organisations.'

(b) paragraph 3 is replaced by the following:

'3. The EIB monitoring shall cover the implementation of intermediated operations and the performance of financial intermediaries in support of SMEs.'

(c) paragraph 5 is replaced by the following:

'5. The results of monitoring shall be disclosed, subject to confidentiality requirements and the agreement of relevant parties.'

(6) in Article 10, the following *paragraph* is added:

'The risk for the Union budget associated with EIB financing operations under the private-sector lending mandate referred to in point (b) of Article 2(1) shall be priced and the revenues generated from the *commercial* risk pricing shall be paid into the Guarantee Fund.'

(7) Article 11(1) is amended as follows:

(a) *points (b) and (c) are replaced by the following:*

'(b) an assessment of the added value, the estimated outputs, outcomes and development impact of EIB financing operations at an aggregated basis, drawing on the EIB's Results Measurement framework annual report. To that end, the EIB shall use outcome indicators in relation to development, environmental and social aspects, including human right and gender equality aspects, of projects funded, taking into account the relevant indicators under the 2005 Paris Declaration for Aid Effectiveness.'

Indicators for gender equality shall be developed in line with the EIB's Gender Strategy and gender action plan; they shall reflect the promotion of equality between women and men, and, where possible, shall be evaluated ex post by disaggregating data by sex. Indicators for environmental aspects of projects shall include criteria for clean technology which are oriented in principle towards energy efficiency and technologies for reducing emissions. The EIB shall develop indicators for projects providing strategic response addressing root causes of migration and building long-term economic resilience of host and transit communities, taking into account the views of stakeholders, civil society, affected communities and non-governmental organisations;

(c) *an assessment of the contribution of EIB financing operations to the fulfilment of Union external policy and strategic objectives, taking into account compliance with the principles guiding Union external action as referred to in Article 21 TEU, the regional technical operational guidelines referred to in Article 5 of this Decision and the EU Strategic Framework and Action Plan on human rights and democracy;';*

(b) *point (e) is replaced by the following:*

'(e) an assessment of the quality of EIB financing operations, in particular the extent to which the EIB has taken into account environmental and social sustainability in the due diligence for and monitoring of the investment projects financed as well as measures to maximise local engagement by promoting the involvement of affected communities, civil society organisations and non-governmental organisations;';

(c) *the following point is added:*

'(j) an assessment of the contribution of EIB financing operations to the long-term economic resilience of refugees, migrants, host and transit communities, and communities of origin as a strategic response to addressing root causes of migration.'

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

(a) *paragraph 1 is amended as follows:*

(i) *point (a) is replaced by the following:*

'(a) all EIB financing operations carried out under this Decision, after the project-approval stage, in particular indicating whether an investment project is covered by the EU guarantee and how it contributes to the goals of the Union external action, noting in particular its economic, social and environmental, climate and gender-specific impact.'

(ii) *point (c) is replaced by the following:*

'(c) where possible and appropriate, existing framework agreements between the EIB and a recipient country. When signing new agreements or amending existing ones, the EIB shall ensure that it is possible for such agreements to be disclosed;'

(b) *the following paragraphs are added:*

- '3. *The EIB shall ensure that information about planned and approved operations or any significant change thereto is published and readily available to local civil society.*
4. *Upon request, the EIB shall provide the European Parliament with Results Measurement sheets for investment projects covered by the EU guarantee, taking into account the protection of confidential and commercially sensitive information and subject to their respective internal rules governing the treatment of confidential information.'*

(9) *Articles 13 and 14 are replaced by the following:*

'Article 13

Prevention of money laundering, the fight against the financing of terrorism, taxation and non-cooperative jurisdictions

1. In its financing operations covered by this Decision, the EIB shall comply with applicable Union legislation and agreed international and Union standards and, therefore, shall not support projects under this Decision that contribute to money laundering, terrorism financing, tax avoidance, tax fraud or tax evasion.

In addition, the EIB 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. The EIB may derogate from this principle only if the project is physically implemented in one of those jurisdictions, and does not present any indication that the relevant operation contributes to money laundering, the terrorism financing, tax avoidance, tax fraud or tax evasion.*

When concluding agreements with financial intermediaries, the EIB 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 shall review its 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 shall submit a report to the European Parliament and to the Council on the implementation of its policy on non-cooperative jurisdictions in relation to its financing operations, including country-by-country information and a list of intermediaries with which it cooperates.

*2. In its financing operations covered by this Decision, the EIB shall apply the principles and standards set out in Union law on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, in particular Regulation (EU) 2015/847 of the European Parliament and of the Council** and Directive (EU) 2015/849. In particular, the EIB shall make both direct funding and funding via intermediaries under this Decision contingent upon the disclosure of beneficial ownership information in accordance with Directive (EU) 2015/849.*

Article 14

Guarantee agreement

The Commission and the EIB shall sign a guarantee agreement laying down the detailed provisions and procedures relating to the EU guarantee as set out in Article 8. That guarantee agreement shall be communicated to the European Parliament and to the Council subject to their respective internal rules governing the treatment of confidential information.

** 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).*

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

(10) *Article 18 is amended as follows:*

(a) *the following paragraph is inserted:*

'2a. *The delegation of power referred to in Article 5 shall be conferred on the Commission for an indeterminate period of time from ... [date of entry into force of this amending Decision].';*

(b) *paragraph 3 is replaced by the following:*

'3. The delegation of power referred to in Articles 4 and 5 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.'

(c) *paragraph 5 is replaced by the following:*

'5. A delegated act adopted pursuant to Articles 4 and 5 shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.'

(11) Article 20 is replaced by the following:

'Article 20

Reporting

By 30 June 2019, the Commission shall submit to the European Parliament and to the Council a report evaluating the application of this Decision and providing input for a possible new decision on the coverage of the EIB financing operations within the EIB External Lending Mandate by the EU guarantee.

By 31 December 2021, the Commission shall present to the European Parliament and to the Council a report on the application of this Decision.'

(12) *the following Article is inserted:*

'Article 20a

Transitional provision

The EIB may finance projects that were approved after 12 October 2016 and before ... [entry into force of this amending Decision] and the conclusion of a guarantee agreement between the Commission and the EIB. Such projects may be covered by the EU guarantee, subject to confirmation by the Commission that they are in line with the objective defined in point (d) of Article 3(1) and respect the terms of the guarantee agreement.'

(13) Annexes I, II and III are replaced by the text set out in the Annex to this Decision.

(14) *In Annex IV, the first paragraph is replaced by the following:*

'EIB activity in partners participating in the pre-accession process takes place in the framework established in the Accession and European Partnerships which set out the priorities for pre-accession countries and beneficiaries with a view to making progress in moving closer to the Union, and which provide a framework for Union assistance. The Stabilisation and Association Process is the Union policy framework for the Western Balkans. It is based on progressive partnership, in which the Union offers trade concessions, economic and financial assistance and contractual relationships through Stabilisation and Association Agreements. Pre-accession financial assistance helps the pre-accession countries and beneficiaries prepare for the obligations and challenges of membership of the Union. This assistance supports the reform process, including preparations for eventual membership. It focuses on institution-building, alignment with the acquis of the Union, preparation for Union policies and instruments and promotion of measures to achieve economic convergence.'

Article 2

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

Done at ...,

For the European Parliament

For the Council

The President

The President

ANNEX

'ANNEX I

REGIONAL CEILINGS

- A. Pre-accession countries *and beneficiaries*: EUR **8 075 000 000**, of which EUR **7 635 000 000** under the general mandate and EUR 440 000 000 under the private-sector lending mandate.
- B. Neighbourhood and Partnership countries: EUR **19 680 000 000**, broken down into the following sub-ceilings:
- (i) Mediterranean countries: EUR **13 030 000 000**, of which EUR **11 170 000 000** under the general mandate and EUR 1 860 000 000 under the private-sector lending mandate;
 - (ii) Eastern Europe, Southern Caucasus and Russia: EUR **6 650 000 000**;
- C. Asia and Latin America: EUR **4 083 000 000**, broken down into the following sub-ceilings:
- (i) Latin America: EUR **2 694 000 000**;
 - (ii) Asia: EUR **1 165 000 000**;
 - (iii) Central Asia: EUR **224 000 000**;

D. South Africa: EUR 462 000 000.

Within the overall ceiling, the EIB governing bodies may decide, after consulting the Commission, to reallocate an amount of up to 20 % of the sub-regional ceilings within regions and up to 20% of the regional ceilings between regions. ***In the event that, by 30 June 2019, the EIB governing bodies conclude that the EIB is not in a position to absorb its forecasted target under the EIB Resilience Initiative, up to 20 % of the EUR 1 400 000 000 under the general mandate earmarked for public-sector projects and of the EUR 2 300 000 000 under the private-sector lending mandate may be reallocated within and/or between regions referred to in points A and B of this Annex.***

Any reallocation under the EIB Resilience Initiative shall be subject to prior agreement between the Commission and the EIB.

EIB governing bodies shall in particular use such possibility of reallocation to allow for a continued focus of the EU guarantee on projects with a higher risk profile in priority regions. The Commission shall regularly inform the European Parliament and the Council of such reallocations.

ANNEX II

POTENTIALLY ELIGIBLE REGIONS AND COUNTRIES

A. Pre-accession countries *and beneficiaries*

Albania, ***Bosnia and Herzegovina***, former Yugoslav Republic of Macedonia, ***Kosovo****, Montenegro, Serbia, Turkey⁶

B. Neighbourhood and Partnership countries

1. Mediterranean countries

Algeria, Egypt, Jordan, Lebanon, Libya, Morocco, Palestine, Syria, Tunisia

2. Eastern Europe, Southern Caucasus and Russia

Eastern Europe: Belarus, Republic of Moldova, Ukraine

Southern Caucasus: Armenia, Azerbaijan, Georgia

Russia

* ***This designation is without prejudice to positions on status, and is in line with UNSCR 1244(1999) and the ICJ Opinion on the Kosovo declaration of independence.***

⁶ ***The EIB Resilience Initiative does not include Turkey, which is covered by a separate EU-Turkey agreement.***

C. Asia and Latin America

1. Latin America

Argentina, Bolivia, Brazil, Colombia, Costa Rica, Cuba, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay, Venezuela

2. Asia

Afghanistan, Bangladesh, Bhutan, Cambodia, China, India, Indonesia, Iran, Iraq, Laos, Malaysia, Maldives, Mongolia, Myanmar/Burma, Nepal, Pakistan, Philippines, Sri Lanka, Thailand, Vietnam, Yemen

3. Central Asia

Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan

D. South Africa

South Africa

ANNEX III

ELIGIBLE REGIONS AND COUNTRIES

A. Pre-accession countries *and beneficiaries*

Albania, ***Bosnia and Herzegovina***, former Yugoslav Republic of Macedonia, ***Kosovo***^{*}, Montenegro, Serbia, Turkey⁷

B. Neighbourhood and Partnership countries

1. Mediterranean countries

Algeria, Egypt, Jordan, Lebanon, Libya, Morocco, Palestine, Tunisia

2. Eastern Europe, Southern Caucasus and Russia

Eastern Europe: Belarus, Republic of Moldova, Ukraine

Southern Caucasus: Armenia, Azerbaijan, Georgia

Russia

^{*} ***This designation is without prejudice to positions on status, and is in line with UNSCR 1244(1999) and the ICJ Opinion on the Kosovo declaration of independence.***

⁷ ***The EIB Resilience Initiative does not include Turkey, which is covered by a separate EU-Turkey agreement.***

C. Asia and Latin America

1. Latin America

Argentina, Bolivia, Brazil, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay, Venezuela

2. Asia

Bangladesh, Bhutan, Cambodia, China, India, Indonesia, Iraq, Laos, Malaysia, Maldives, Mongolia, Myanmar/Burma, Nepal, Pakistan, Philippines, Sri Lanka, Thailand, Vietnam, Yemen

3. Central Asia

Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan

D. South Africa

South Africa'
