

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the European Fund for Strategic Investments and amending Regulations (EU) No 1291/2013 and (EU) No 1316/2013

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

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

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The economic and financial crisis has led to a lowering of the level of investments within the Union. Investment has fallen by approximately 15% since its peak in 2007. The Union suffers in particular from a lack of investment as a consequence of market uncertainty regarding the economic future and the fiscal constraints on Member States. This lack of investment slows economic recovery and negatively affects job creation, long-term growth prospects and competitiveness.
- (2) Comprehensive action is required to reverse the vicious circle created by a lack of investment. Structural reforms and fiscal responsibility are necessary preconditions for stimulating investment. Along with a renewed impetus towards investment financing, these preconditions can contribute to establishing a virtuous circle, where investment projects help support employment and demand and lead to a sustained increase in growth potential.
- (3) Throughout the economic and financial crisis, the Union has made efforts to promote growth, in particular through initiatives set out in the Europe 2020 strategy that put in place an approach for smart, sustainable and inclusive growth. The European Investment Bank ('EIB') has also strengthened its role in instigating and promoting investment within the Union, partly by way of an increase in capital in January 2013. Further action is required to ensure that the investment needs of the Union are addressed and that the liquidity available on the market is used efficiently and channelled towards the funding of viable investment projects.
- (4) The European Commission presented a communication entitled "An Investment Plan for Europe" that envisaged the creation of a European Fund for Strategic Investments ('EFSI'), a transparent pipeline of investment projects at European level, the creation of an advisory hub (European Investment Advisory Hub – 'EIAH') and an ambitious agenda to remove obstacles to investment and complete the Single Market.
- (5) The European Council concluded that "fostering investment and addressing market failure in

Europe is a key policy challenge" and that "The new focus on investment, coupled with Member States' commitment to intensifying structural reforms and to pursuing growth-friendly fiscal consolidation, will provide the foundation for growth and jobs in Europe and calls for setting up a European Fund for Strategic Investments (EFSI) in the EIB Group with the aim to mobilise 315 billion euros in new investments in the next two years".

- (6) The EFSI is part of a comprehensive approach to address uncertainty surrounding public and private investments. The strategy has three pillars: mobilising finance for investment, making investment reach the real economy, and improving the investment environment in the Union.
- (7) The investment environment within the Union should be improved by removing barriers to investment, reinforcing the Single Market and by enhancing regulatory predictability. The work of the EFSI, and investments across Europe generally, should benefit from this accompanying work.
- (8) The purpose of the EFSI should be to help resolve the difficulties in financing and implementing productive investments in the Union and to ensure increased access to financing. It is intended that increased access to financing should be of particular benefit to small and medium enterprises. It is also appropriate to extend the benefit of such increased access to financing to mid-cap companies, which are companies having up to 3000 employees. Overcoming Europe's current investment difficulties should contribute to strengthening the Union's economic, social and territorial cohesion.
- (9) Many small and medium enterprises, as well as mid-cap companies, across the Union require assistance to attract market financing, especially as regards investments that carry a greater degree of risk. The EFSI should help these businesses to overcome capital shortages by allowing the EIB and the European Investment Fund ('EIF') to provide direct and indirect equity injections, as well as to provide guarantees for high-quality securitisation of loans, and other products that are granted in pursuit of the aims of the EFSI.
- (10) The EFSI should be established within the European Investment Bank ('EIB') in order to benefit from its experience and proven track record and in order for its operations to start to have a positive impact as quickly as possible. The work of the EFSI on providing finance to small and medium enterprises and small mid-cap companies should be channelled through the European Investment Fund ('EIF') to benefit from its experience in these activities.
- (11) The EFSI should target projects delivering high societal and economic value. In particular, the EFSI should target projects that promote job creation, long-term growth and competitiveness. The EFSI should support a wide range of financial products, including equity, debt or guarantees, to best accommodate the needs of the individual project. This wide range of products should allow the EFSI to adapt to market needs whilst encouraging private investment in the projects. The EFSI should not be a substitute for private market finance but should instead catalyse private finance by addressing market failures so as to ensure the most effective and strategic use of public money. The requirement for consistency with State aid principles should contribute to such effective and strategic use.
- (12) The EFSI should target projects with a higher risk-return profile than existing EIB and Union instruments to ensure additionality over existing operations. The EFSI should finance projects across the Union, including the countries most affected by the financial crisis. The EFSI should only be used where financing is not available from other sources on reasonable terms.
- (13) The EFSI should target investments that are expected to be economically and technically viable, which may entail a degree of appropriate risk, whilst still meeting the particular requirements for

EFSI financing.

- (14)** Decisions on the use of the EFSI support for infrastructure and large mid-cap projects should be made by an Investment Committee. The Investment Committee should be composed of independent experts who are knowledgeable and experienced in the areas of investment projects. The Investment Committee should be accountable to a Steering Board of the EFSI, who should supervise the fulfillment of the EFSI's objectives. To effectively benefit from the experience of the EIF, the EFSI should support funding to the EIF to allow the EIF to undertake individual projects in the areas of small and medium enterprises and small mid-cap companies.
- (15)** In order to allow further increase in its resources, participation in the EFSI should be open to third parties, including Member States, national promotional banks or public agencies owned or controlled by Member States, private sector entities and entities outside the Union subject to the consent of existing contributors. Third parties may contribute directly to the EFSI and take part in the EFSI governance structure.
- (16)** At the level of projects, third parties may co-finance together with EFSI on a project-by-project basis or in investment platforms related to specific geographic or thematic sectors.
- (17)** Provided that all relevant eligibility criteria are fulfilled, Member States may use European Structural Investment Funds to contribute to the financing of eligible projects that are supported by the EU guarantee. The flexibility of this approach should maximise the potential to attract investors to the areas of investment targeted by the EFSI.
- (18)** In accordance with the Treaty on the Functioning of the European Union, Infrastructure and project investments supported under EFSI should be consistent with State aid rules. To that end, the Commission has announced that it will formulate a set of core principles, for the purpose of State aid assessments, which a project will have to meet to be eligible for support under the EFSI. If a project meets these criteria and receives support from the EFSI, as the Commission has announced, any national complementary support, will be assessed under a simplified and accelerated State aid assessment whereby the only additional issue to be verified by the Commission will be the proportionality of public support (absence of overcompensation). The Commission has also announced that it will provide further guidance on the set of core principles with a view to ensuring an efficient use of public funds.
- (19)** EIB financing and investment operations supported by the EFSI should be managed in accordance with the EIB's own rules and procedures, including appropriate control measures and measures taken to avoid tax evasion, as well as with the relevant rules and procedures concerning the European Anti-Fraud Office (OLAF) and the Court of Auditors, including the Tripartite agreement between the European Commission, the European Court of Auditors and the European Investment Bank.
- (20)** The EIB should regularly evaluate activities supported by the EFSI with a view to assessing their relevance, performance and impact and to identifying aspects that could improve future activities. Such evaluations should contribute to accountability and analysis of sustainability.
- (21)** Alongside the financing operations that will be conducted through the EFSI, a European Investment Advisory Hub ('EIAH') should be created. The EIAH should provide strengthened support for project development and preparation across the Union, by building on the expertise of the Commission, the EIB, national promotional banks and the managing authorities of the European Structural and Investment Funds. This should establish a single point of entry for questions related to technical assistance for investments within the Union.

- (22) In order to cover the risks related to the EU guarantee to the EIB, a guarantee fund should be established. The guarantee fund should be constituted by a gradual payment from the Union budget. The guarantee fund should subsequently also receive revenues and repayments from projects that benefit from EFSI support and amounts recovered from defaulting debtors where the guarantee fund has already honoured the guarantee to the EIB.
- (23) Within the Union, there are a significant number of potentially viable projects that are not being financed due to a lack of certainty and transparency with respect to such projects. Often, this is because private investors are not aware of the projects or have insufficient information to make an assessment of the investment risks. The Commission and the EIB, with support from the Member States, should promote the creation of a transparent pipeline of current and future investment projects in the Union suitable for investment. This 'project pipeline' should ensure that information is made publicly available regarding investment projects on a regular and structured basis to ensure that investors have reliable information on which to base their investment decisions.
- (24) Member States have also begun work at national level on establishing and promoting project pipelines for projects of national significance. The information prepared by the Commission and the EIB should provide links to the accompanying national project pipelines.
- (25) Although the projects identified under the project pipeline may be used by the EIB in the identification and selection of EFSI supported projects, the project pipeline should have a broader scope of identifying projects across the Union. This scope may include projects that are capable of being fully financed by the private sector or with the assistance of other instruments provided at European or national level. The EFSI should be able to support financing and investment to projects identified by the project pipeline, but there should be no automaticity between inclusion on the list and access to EFSI support and the EFSI be conferred with discretion to select and support projects that are not included on the list.
- (26) To ensure accountability to European citizens, the EIB should regularly report to the European Parliament and the Council on the progress and impact of the EFSI.
- (27) In order to ensure an appropriate coverage of the EU guarantee obligations and to ensure the continued availability of the EU guarantee, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission with respect to the adjustment of the amounts to be paid in from the general budget of the Union and to amend Annex I accordingly. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (28) Since the objectives of this Regulation, namely to support investments in the Union and to ensure increased access to financing for companies having up to 3000 employees, cannot be sufficiently achieved by the Member States by reason of the disparities in their fiscal capacity to act but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives,

HAVE ADOPTED THIS REGULATION:

Chapter 1

European Fund for Strategic Investments

Article 1

European Fund for Strategic Investments

1. The Commission shall conclude an agreement with the European Investment Bank (EIB) on the establishment of a European Fund for Strategic Investments ('EFSI'). The purpose of the EFSI shall be to support investments in the Union and to ensure increased access to financing for companies having up to 3000 employees, with a particular focus on small and medium enterprises, through the supply of risk bearing capacity to the EIB ('EFSI Agreement').
2. The EFSI Agreement shall be open to accession by Member States. Subject to the consent of existing contributors, the EFSI Agreement shall also be open to accession by other third parties, including national promotional banks or public agencies owned or controlled by Member States, and private sector entities.

Article 2

Terms of the EFSI Agreement

1. The EFSI Agreement shall contain, in particular, the following:
 - (a) provisions governing the establishment of the EFSI as a distinct, clearly identifiable and transparent guarantee facility and separate account managed by the EIB;
 - (b) the amount and terms of the financial contribution which shall be provided by the EIB through the EFSI;
 - (c) the terms of the funding which shall be provided by the EIB through the EFSI to the European Investment Fund ('EIF');
 - (d) the governance arrangements concerning the EFSI, in accordance with Article 3, without prejudice to the Statute of the European Investment Bank;
 - (e) detailed rules on the provision of the EU guarantee, in accordance with Article 7, including its capped coverage of portfolios of specific types of instruments, calls on the EU guarantee, that – with the exception of possible losses on equity - shall only occur once a year after profits and losses from operations have been netted, and its remuneration and the requirement that remuneration for risk-taking be allocated amongst contributors in proportion with their respective risk share;

- (f) provisions and procedures relating to recovery of claims;
- (g) requirements governing the use of the EU guarantee, including within specific time frames and key performance indicators;
- (h) provisions on the financing necessary for the EIAH in accordance with the third subparagraph of paragraph 2;
- (i) provisions governing the manner in which third parties may co-invest with EIB financing and investment operations supported by the EFSI;
- (j) the modalities of the EU guarantee coverage.

The EFSI Agreement shall provide that EFSI activities conducted by the EIF are to be governed by the EIF governing bodies.

2. The EFSI Agreement shall provide for the creation of a European Investment Advisory Hub ('EIAH') within the EIB. The EIAH shall have as its objective to build upon existing EIB and Commission advisory services in order to provide advisory support for investment project identification, preparation and development and act as a single technical advisory hub for project financing within the Union. This shall include support on the use of technical assistance for project structuring, use of innovative financial instruments, use of public-private partnerships and advice, as appropriate, on relevant issues of EU legislation.

To meet that objective, the EIAH shall use the expertise of the EIB, the Commission, national promotional banks and the managing authorities of the European Structural and Investment Funds.

The EIAH shall be partially financed by the Union up to a maximum amount of EUR 50 000 000 per year during the period ending on 31 December 2020 for the additional services provided for by the EIAH over existing EIB technical assistance. For the years after 2020 the financial contribution from the Union shall be directly linked to the provisions included in the future multi-annual financial frameworks.

3. Member States that become parties to the EFSI Agreement shall be able to provide their contribution, in particular, in the form of cash or a guarantee acceptable to the EIB. Other third parties shall be able to provide their contribution only in cash.

Article 3 ***Governance of the EFSI***

1. The EFSI Agreement shall provide that the EFSI shall be governed by a Steering Board, which shall determine the strategic orientation, the strategic asset allocation and operating policies and procedures, including the investment policy of projects. The Steering Board shall elect one of its members to be Chairperson.

2. For as long as the only contributors to the EFSI are the Union and the EIB, the number of members and votes within the Steering Board shall be allocated based on the respective size of contributions in the form of cash or guarantees. The Steering Board shall take decisions by a simple majority vote.
3. When other parties accede to the EFSI Agreement in accordance with Article 1(2), the number of members and votes within the Steering Board shall be allocated based on the respective size of contributions from contributors in the form of cash or guarantees. No decision of the Steering Board shall be adopted if the Commission or the EIB votes against it.
4. The EFSI Agreement shall provide that the EFSI shall have a Managing Director, who shall be responsible for the day-to-day management of the EFSI and the preparation and chairing of meetings of the Investment Committee referred to in paragraph 5. The Managing Director shall be assisted by a Deputy Managing Director. The Managing Director and the Deputy Managing Director shall be appointed by the Steering Board on a joint proposal of the Commission and the EIB for a renewable fixed term of three years.
5. The EFSI Agreement shall provide that the EFSI shall have an Investment Committee, which shall be responsible for examining potential operations in line with the EFSI investment policies. The Investment Committee shall be composed of six independent experts and the Managing Director. Independent experts shall be appointed by the Steering Board for a renewable fixed term of three years.

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

Chapter II

EU Guarantee and EU Guarantee Fund

Article 4

EU Guarantee

The Union shall provide a guarantee to the EIB for financing or investment operations carried out within the Union covered by this Regulation ('EU guarantee'). The EU guarantee shall be granted as a guarantee on demand in respect of instruments referred to in Article 6.

Article 5

Requirements for use of the EU guarantee

1. The granting of the EU guarantee shall be subject to the entry into force of the EFSI Agreement.
2. The EU guarantee shall be granted for EIB financing and investment operations approved by the Investment Committee referred to in Article 3(5) or funding to the EIF in order to conduct EIB financing and investment operations in accordance with Article 7(2). The operations concerned shall be consistent with Union policies and support any of the following general objectives:
 - (a) development of infrastructure, including in the areas of transport, particularly in industrial centers; energy, in particular energy interconnections; and digital infrastructure;

- (b) investment in education and training, health, research and development, information and communications technology and innovation;
 - (c) expansion of renewable energy and energy and resource efficiency;
 - (d) infrastructure projects in the environmental, natural resources, urban development and social fields;
 - (e) providing financial support for the companies referred to in Article 1(1), including working capital risk financing.
3. Provided that all relevant eligibility criteria are fulfilled, Member States may use European Structural and Investment Funds to contribute to the financing of eligible projects in which the EIB is investing with the support of the EU guarantee.

Article 6
Eligible Instruments

For the purposes of Article 5(2), the EIB shall use the EU Guarantee towards risk coverage for instruments as a rule on a portfolio basis.

Individual instruments eligible for coverage or portfolios may be composed of the following Instruments:

- (a) EIB loans, guarantees, counter-guarantees, capital market instruments, any other form of funding or credit enhancement instrument, equity or quasi-equity participations. These Instruments shall be granted, acquired or issued for the benefit of operations carried out in the Union, including cross-border operations between a Member State and a third country, in compliance with this Regulation and where EIB financing has been granted in accordance with a signed agreement which has neither expired nor been cancelled;
- (b) EIB funding to the EIF enabling it to undertake loans, guarantees, counter-guarantees, any other form of credit enhancement instrument, capital market instruments and equity or quasi-equity participations. These Instruments shall be granted, acquired or issued for the benefit of operations carried out in the Union, in compliance with this Regulation and where EIF financing has been granted in accordance with a signed agreement which has neither expired nor been cancelled.

Article 7
Coverage and terms of the EU guarantee

1. The EU guarantee to the EIB shall be of an amount equal to EUR 20 000 000 000, of which a maximum amount of EUR 3 000 000 000 may be allocated for EIB funding to the EIF in accordance with paragraph 2. Aggregate payments from the Union under the guarantee to the EIB shall not exceed the amount of the guarantee.
2. The coverage of the guarantee over a particular type of instrument portfolio, referred to in Article 6, shall be determined by the risk of that portfolio. The EU guarantee shall be eligible to provide either first loss guarantees on a portfolio basis or a full guarantee. The EU guarantee may be granted on a *pari passu* basis with other contributors. Where the EIB

provides funding to the EIF in order to conduct EIB financing and investment operations, the EU guarantee shall provide for a full guarantee on funding by the EIB provided that an equal amount of funding is provided by the EIB without EU guarantee. The amount covered by the EU guarantee shall not exceed EUR 3 000 000 000.

3. Where the EIB calls the EU guarantee in accordance with the EFSI Agreement, the Union shall pay on demand in accordance with the terms of that Agreement.
4. Where the Union makes any payment under the EU guarantee, the EIB shall pursue the recovery of claims for the amounts paid and reimburse the Union from the sums recovered.

Article 8
EU guarantee fund

1. An EU guarantee fund ('guarantee fund') shall be established from which the EIB may be paid in the event of a call on the EU guarantee.
2. The guarantee fund shall be endowed by:
 - (a) payments from the general budget of the Union,
 - (b) returns on guarantee fund resources invested,
 - (c) amounts recovered from defaulting debtors in accordance with the recovery procedure laid down in the EFSI Agreement as provided for in Article 2(1)(f),
 - (d) any other payments received by the Union in accordance with the EFSI Agreement.
3. The resources of the guarantee fund provided to it under paragraph 2 shall be directly managed by the Commission and invested in accordance with the principle of sound financial management and follow appropriate prudential rules.
4. Endowments to the guarantee fund referred to in paragraph 2 shall be used to reach an appropriate level to reflect the total EU guarantee obligations ('target amount'). The target amount shall be set at 50% of the Union's total guarantee obligations. The target amount shall initially be met by the gradual payment of resources referred to in paragraph 2(a). If there have been calls on the guarantee during the initial constitution of the guarantee fund, endowments to the guarantee fund provided for in points (b), (c) and (d) of paragraph 2 shall also contribute to meet the target amount up to an amount equal to the calls on the guarantee.
5. By 31 December 2018, and every year thereafter, the Commission shall review the adequacy of the level of the guarantee fund taking into account any reduction of resources resulting from the activation of the guarantee and the EIB's assessment submitted in accordance with

Article 10(3).

The Commission shall be empowered to adopt delegated acts in accordance with Article 17 adjusting the target amount provided for in paragraph 5 by a maximum of 10% to better reflect the potential risk of the EU guarantee being called.

6. From 1 January 2019, if as a result of calls on the guarantee, the level of the guarantee fund falls below 50% of the target amount, the Commission shall submit a report on exceptional measures that may be required to replenish it.
7. Subsequent to a call on the EU guarantee, endowments to the guarantee fund provided for in points (b), (c) and (d) of paragraph 2 over and above the target amount shall be used to restore the EU guarantee up to its initial amount.

Chapter III **European investment project pipeline**

Article 9 ***European investment project pipeline***

1. The Commission and the EIB, with support from the Member States, shall promote the creation of a transparent pipeline of current and potential future investment projects in the Union. The pipeline is without prejudice to the final projects selected for support according to Article 3(5).
2. The Commission and the EIB shall develop, update and disseminate, on a regular and structured basis, information on current and future investments which significantly contribute to achieving EU policy objectives.
3. Member States shall develop, update and disseminate, on a regular and structured basis, information on current and future investment projects in their territory.

Chapter IV **Reporting, accountability and evaluation**

Article 10 ***Reporting and accounting***

1. The EIB, in cooperation with the EIF as appropriate, shall report semi-annually to the Commission on EIB financing and investment operations under this Regulation. The report shall include an assessment of compliance with the requirements on the use of the EU guarantee and the key performance indicators established pursuant to Article 2(1)(g). The report shall also include statistical, financial and accounting data on each EIB financing and investment operation and on an aggregated basis.

2. The EIB, in cooperation with the EIF as appropriate, shall report annually to the European Parliament and to the Council on EIB financing and investment operations. The report shall be made public and include:
 - (a) an assessment of EIB financing and investment operations at operation, sector, country and regional levels and their compliance with this Regulation, together with an assessment of the allocation of EIB financing and investment operations between the objectives in Article 5(2);
 - (b) an assessment of the added value, the mobilisation of private sector resources, the estimated and actual outputs, outcomes and impact of EIB financing and investment operations at an aggregated basis;
 - (c) an assessment of the financial benefit transferred to beneficiaries of EIB financing and investment operations on an aggregated basis;
 - (d) an assessment of the quality of EIB financing and investment operations;
 - (e) detailed information on calls on the EU guarantee;
 - (f) the financial statements of the EFSI.

3. For the purposes of the Commission's accounting and reporting of the risks covered by the EU guarantee and management of the guarantee fund, the EIB, in cooperation with the EIF as appropriate, shall provide the Commission every year:
 - (a) the EIB's and EIF's risk assessment and grading information concerning EIB financing and investment operations;
 - (b) the outstanding financial obligation for the EU concerning the guarantees provided towards EIB financing and investment operations broken down by the individual operations;
 - (c) the total profits or losses deriving from the EIB financing and investment operations within the portfolios provided by the EFSI Agreement pursuant to Article 2(1)(e).

4. The EIB shall provide to the Commission upon request any additional information necessary to fulfill the Commission's obligations in relation to this Regulation.

5. The EIB, and EIF as appropriate, shall provide the information referred to in paragraphs 1 to 4 at their own expense.

6. The Commission shall, by 30 June of each year, send to the European Parliament, the Council and the Court of Auditors an annual report on the situation of the guarantee fund and

the management thereof in the previous calendar year.

Article 11
Accountability

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

Article 12
Evaluation and Review

1. At the latest [PO insert date: 18 months after the entry into force of this Regulation] the EIB shall evaluate the functioning of the EFSI. The EIB shall submit its evaluation to the European Parliament, the Council and the Commission;

At the latest [PO insert date: 18 months after the entry into force of this Regulation] the Commission shall evaluate the use of the EU guarantee and the functioning of the guarantee fund, including the use of endowments according to Article 8(9). The Commission shall submit its evaluation to the European Parliament and the Council.

2. By 30 June 2018 and every three years thereafter:
 - (a) the EIB shall publish a comprehensive report on the functioning of the EFSI;
 - (b) the Commission shall publish a comprehensive report on the use of the EU guarantee and the functioning of the guarantee fund.
3. The EIB, in cooperation with the EIF as appropriate, shall contribute to and provide the necessary information for the Commission evaluation and report under paragraph 1 and 2 respectively.
4. The EIB and EIF shall on a regular basis provide the European Parliament, the Council and the Commission with all their independent evaluation reports which assess the practical results achieved by the specific activities of the EIB and EIF under this Regulation.

Chapter V
General Provisions

Article 13
Transparency and public disclosure of information

In accordance with its own transparency policies on access to documents and information, the EIB shall make publicly available on its website information relating to all EIB financing and investment operations and how they contribute to the general objectives referred to in Article 5(2).

Article 14
Auditing by the Court of Auditors

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

Article 15
Anti-fraud measures

1. The EIB shall notify the European Anti-fraud Office (“OLAF”) promptly and provide it with the necessary information when, at any stage of the preparation, implementation or closure of operations subject to the EU guarantee, it has grounds to suspect that there is a potential case of fraud, corruption, money laundering or other illegal activity that may affect the financial interests of the Union.

2. OLAF may carry out investigations, including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council, Council Regulation (Euratom, EC) No 2185/96 and Council Regulation (EC, Euratom) No 2988/95 in order to protect the financial interests of the Union, with a view to establishing whether there has been fraud, corruption, money laundering or any other illegal activity affecting the financial interests of the Union in connection with any operations supported by the EU guarantee. OLAF may transmit to the competent authorities of the Member States concerned information obtained in the course of investigations.

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

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

Article 16
Excluded activities and non-cooperative jurisdictions

1. In its financing and investment operations, the EIB shall not support any activities carried out

for illegal purposes, including money laundering, financing of terrorism, tax fraud and tax evasion, corruption, or fraud affecting the financial interests of the Union. In particular, the EIB shall not participate in any financing or investment operation through a vehicle located in a non-cooperative jurisdiction, in line with its policy towards weakly regulated or non-cooperative jurisdictions based on policies of the Union, the Organisation for Economic Cooperation and Development or the Financial Action Task Force.

2. In its financing and investment operations, the EIB shall apply the principles and standards set out in Union law on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, including a requirement to take reasonable measures to identify the beneficial owners where applicable.

Chapter VI **Transitional and final provisions**

Article 17 ***Transitional provision***

Financing and investment operations signed by the EIB or EIF, during the period from 1 January 2015 to the conclusion of the EFSI Agreement, may be submitted by the EIB or the EIF to the Commission for coverage under the EU guarantee.

The Commission shall assess those operations and, where they comply with the substantive requirements set out in Article 5 and in the EFSI Agreement, decide that the EU guarantee coverage extends to them.

Article 18 ***Entry into force***

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

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

Done at Belgrade,

For the European Parliament
The President

For the Council
The President