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Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**  
**amending Regulation (EU) 2015/1017 as regards creation of a Solvency Support**  
**Instrument**

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE PROPOSAL**

#### **• Reasons for and objectives of the proposal**

The Commission is proposing to harness the full power of the EU budget to mobilise investment and frontload financial support in the crucial first years of recovery. These proposals are based on three pillars:

- an increase of the ceilings under the 2014-2020 Multi-Annual Financial Framework to enable the immediate implementation of measures within the Union and beyond in response of the impact of the COVID-19 pandemic;
- an emergency European Recovery Instrument as an exceptional measure, based on Article 122 of TFEU, the financing of which will be based on an empowerment provided in the proposal for the Own Resources Decision. The funds will enable implementation of fast-acting measures to protect livelihoods, increase prevention and strengthen resilience and recovery in response to the crisis;
- a reinforced Multi-Annual Financial Framework for 2021-2027.

In this context, the Commission is proposing to address the negative socio-economic consequences of the Covid-19 pandemic for workers, households and companies in the Union. Many European companies are already facing solvency difficulties because of the crisis and the problems will accentuate as restrictions on economic and social activities remain in place and the distancing rules will continue to impact business activities across many sectors. The difficulties may be long-lasting even beyond the current lockdown and deepen existing economic disparities between and within Member States.

It is difficult to put an exact number on the equity repair needs resulting from the economic impact of the Covid-19 pandemic. Commission estimates derived from firm-level data suggest that these needs could be in the region of EUR 720 billion in 2020 in case the baseline scenario underlying the Spring Forecast were to materialise. These needs would go significantly higher in case the lockdown measures stay in place longer than assumed in the Spring Forecast, or will have to be re-imposed due to a resurgence of the outbreak. In a stress scenario, in which 2020 GDP growth would be projected at -15.5%, the direct impact on equity of all incorporated companies (listed and non-listed) in the EU27 could rise to EUR 1.2 trillion. If left unaddressed these capital shortfalls may lead to a prolonged period of lower investment and higher unemployment. The impact of the capital shortfall will be uneven across sectors, regions, industrial ecosystems and Member States, leading to divergences in the Single Market. In general, most European industrial ecosystems rely on complex supply chains spread across Member States in the Single Market.

This is compounded by the fact that the capacity of Member States to provide state aid differs greatly.

This proposal puts forward a temporary equity-based instrument, for which the investment period in relation to the solvency support window runs in general until end-2024 in terms of approvals by the Investment Committee and the governing bodies of EIB/EIF and until end-2026 in terms of signature of the operations. Companies to be supported under the proposal are those with an otherwise viable business model but which are solvency constrained due to the Covid-19 crisis. The purpose is to help them weather this difficult period so that they are in a position to carry the recovery when the time comes.

Another objective of the proposal is to counter-balance the expected distortions in the Single Market, given that certain Member States may not have sufficient budgetary means available to provide adequate support to companies in need. The availability of national solvency support measures for companies may therefore differ substantially across Member States and lead to an unlevelled playing field. Further, as there is a considerable risk that the impact of COVID-19 will be long-lasting, this lack of capacity to help viable companies can lead to systemic distortions, creating new or cementing existing disparities. Given the strong interconnectedness of the European economy, an economic downturn in one part of the EU would have negative spill-over effects on cross-border supply chains and the whole EU economy. Conversely, for the same reason, support in one part of the EU would also have positive spill-over effects on cross-border supply chains and the whole EU economy.

In the context of the economic slowdown induced by Covid-19 where public finances are becoming constrained, it is also important to mobilise private resources to support the solvency of viable companies in the Union to the maximum extent possible.

Those objectives will be implemented by providing a Union guarantee to the European Investment Bank (EIB) under the EFSI Regulation<sup>1</sup>. Solvency support will form a third window under the EFSI – a solvency support window – in order to mobilise private capital to support the solvency of eligible companies. The EIB Group will use the EU guarantee to invest mainly through intermediaries or reduce the risk for private investors of investing in eligible companies, thereby mobilising private resources to their support. The EIB Group will do so by investing in, guaranteeing or financing equity funds, special purpose vehicles, investment platforms, national promotional banks or institutions or, where necessary, through direct investments or other relevant arrangements.

This proposal is part of the overall recovery initiative announced by the Commission. It is essential that such an instrument is put in place as soon as possible in 2020, at the latest by the start of October 2020, and that it can be deployed at full capacity quickly in the course of 2021.

The Solvency Support Instrument will be open to all Member States and to all the sectors covered by the EFSI Regulation, with a focus on those Member States whose economies have been most affected by the effects of the Covid-19 pandemic and/or where the availability of State solvency support is more limited. The purpose is to help restore the viability of companies and unlock their growth potential, whilst contributing towards Union priorities, such as the green and digital transition or the support to cross-border activity in the Union as well as strengthening the social dimension and convergence of the Union. The support will be available to benefit all the objectives of the Regulation.

To aid the roll-out of the Instrument, Member States can (i) establish national special purpose vehicles that could apply for support under the solvency support window; (ii) invest in line with State aid rules alongside the EIB Group guarantee or investment either directly or via a national promotional bank or institution into funds or special purpose vehicles; and (iii) facilitate the creation of equity funds or special purpose vehicles by engaging with institutional investors.

The Commission should be able to participate in a possible capital increase (in one or more rounds) of the European Investment Fund (EIF), which will play a key role in supporting the

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<sup>1</sup> 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 Regulation (EU) No 1291/2013 and (EU) No 1316/2013 – the European Fund for Strategic Investments (OJ L 169, 1.7.2015, p. 1).

economic recovery through issuing guarantees, undertaking securitisation operations and supporting equity investments throughout the Union. A financial envelope of up to EUR 500 000 000 should be reserved in the revised Multiannual Financial Framework for the current period for this purpose so that the Union, represented by the Commission, will be able to maintain its overall share in the EIF capital.

The governance structure of the EFSI will be maintained and will apply to the third window. Under the solvency support window, the Investment Committee will approve each EIB financing or investment operation, i.e. it will decide on the granting of the EU guarantee to financing, guarantee or investment in a fund, special purpose vehicle, national promotional bank or institution or other vehicle. For operations to be conducted by the EIF, the Investment Committee is consulted on the financial products that the Steering Board and the Managing Director have approved under which the EIF will conclude the individual operations. Individual decisions to select the companies, which will receive intermediated support will be made by the fund or vehicle manager in line with the criteria established in the EFSI Regulation and the relevant contractual arrangements signed with the EIB. The Investment Committee may also retain the right to approve underlying sub-operations in line with the EFSI Regulation in case of EIB financing or investment operations. Member States are not involved in the decision-making over the granting of the EU guarantee. Once the Investment Committee under the proposed InvestEU Regulation<sup>2</sup> has taken up its functions, the tasks of the Investment Committee under the EFSI Regulation shall be performed by the former.

In line with the current EFSI Regulation, no geographical quotas will be established. The climate action target is maintained.

However, the Steering Board shall define specific geographical concentration limits for the solvency support window, in line with the principles set out under this Regulation in order to ensure, respectively, that the majority of the EU guarantee under the solvency support instrument supports eligible companies in Member States and sectors which have been economically most adversely affected by the Covid-19 pandemic and that the majority of that guarantee supports eligible companies in Member States, where the availability of State solvency support is more limited. This would ensure that the EU guarantee is steered as needed in a flexible manner. The limits can be updated over time in view of the Covid-19 impacts, whilst avoiding that support from the Instrument would be concentrated in a limited number of Member States.

The Solvency Support Instrument will support companies in the Union which, while viable, would face solvency risks due to the economic crisis caused by the Covid-19 pandemic (excluding those considered to have been in difficulty in State aid terms<sup>3</sup> at the end of 2019) with a view to bringing them back to and enhancing a sustainable and profitable business track. Further criteria on equity and hybrid financing will be set out in the investment guidelines or will be established in the guarantee agreement. To avoid that companies with access to equity financing benefit from the Instrument and ensure its additionality, the equity financing should be provided on commercial terms or according to terms similar to the State Aid Temporary Framework<sup>4</sup> (such as remuneration and exit strategy), while paying due

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<sup>2</sup> Commission proposal for a Regulation of the European Parliament and of the Council establishing the InvestEU Programme (COM(2018)439), partial agreement on the legislative proposal by the European Parliament and the Council in April 2019.

<sup>3</sup> As defined in Article 2(18) of Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 187, 26.6.2014, p. 1).

<sup>4</sup> C(2020)1863 final, as amended by C(2020)3156 final.

regard to the European nature of the Instrument and to the funds' and other vehicles' independent management, and take into account the disparity of equity markets across the Union. The due diligence on the funds or other intermediary vehicles will be done by the EIB or EIF in line with their rules and procedures and the objectives of the Solvency Support Window, with the due diligence on the underlying companies done by the funds or other vehicles.

The intermediary funds or vehicles would be established in the Union.

- **Consistency with existing policy provisions in the policy area**

The proposal complements the investment support and access to finance available under the EFSI Regulation and the proposed InvestEU Regulation for the Multiannual Financial Framework 2021-2027 by providing support to companies, which have a viable business model but may face solvency issues due to the Covid-19 crisis. The Solvency Support Instrument allows such companies to weather the impact of the crisis via temporary solvency support.

The Solvency Support Instrument is complementary to other Union programmes that are focused on mitigating the impacts of the Covid-19 crisis or relaunching the economy as the Covid-19 crisis eases. It complements in particular support to SMEs that will be provided through (i) the recovery assistance for cohesion (REACT-EU), which will provide frontloaded support also for SMEs; and (ii) the Pan-European Guarantee Fund in response to Covid-19 crisis being established by the EIB underpinned by a guarantee from the Member States. Also, the SME window being reinforced under InvestEU will provide additional support from 2021.

- **Consistency with other Union policies**

The Solvency Support Instrument is consistent with the relevant Union policies such as the European Green Deal, Sustainable Europe Investment Plan and the sectorial policies that relate to investment support.

The conditions of the financing and investment operations under the solvency support window should be consistent with State aid rules to ensure a level playing field and to facilitate possible combinations with support provided directly by Member States. In addition, due regard is given to the European nature of the Solvency Support Instrument and to the funds' and other vehicles' independent management.

The EU guarantee will be set to avoid any undue distortion of competition, as it would be limited to addressing the challenge of restoring the capital position of companies, which were not in difficulty before the Covid-19 outbreak and which are facing significant solvency risks because of the crisis. Moreover, private investors will be crowded in and the emergence of new funds and vehicles will be encouraged. Commercial logic will be applied in decisions on financing and independent commercially-run fund managers will select companies with adequate return prospects.

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

- **Legal basis**

The proposal amends the EFSI Regulation, so the same legal basis is applicable.

- **Subsidiarity**

The objectives of the proposal cannot be sufficiently achieved by the Member States and can be better achieved by the Union. Due to the disparities in Member States' fiscal capacity to

act, action at Union level can better achieve the objectives pursued, by reason of its scale and effects. More specifically, action at the Union level will allow to counterbalance distortions in the internal market caused by the different fiscal capacity of individual Member States to provide State aid for solvency support to their companies and also allowing for inter-connected supply chains in internal market to function with less disruption by avoiding bankruptcies of viable companies. Moreover, it will allow for economies of scale in the use of the Union budget guarantee in combination with the EIB Group financing by catalysing private investment in the whole Union.

- **Proportionality**

The proposal does not go beyond what is necessary to achieve the objectives pursued. It is intended to support companies and projects that suffer from the economic consequences of the Covid-19 pandemic, which affects all Member States. Mobilising private funds for solvency support alongside public funds leverages budgetary resources in an efficient and proportionate manner.

### **3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

This proposal is part of the package to counter the negative economic consequences of the Covid-19 pandemic and is a crisis measure.

- **Stakeholder consultations**

Due to the urgency to prepare the proposal so that it can be adopted in a timely manner by the European Parliament and the Council, a stakeholder consultation could not be carried out.

- **Impact assessment**

Due to the urgent nature of the proposal, no impact assessment was carried out.

### **4. BUDGETARY IMPLICATIONS**

The EU guarantee provided under the EFSI Regulation will be increased from EUR 26 billion to EUR 92,4 billion. In accordance with the estimated riskiness of the portfolio to be created under the solvency support window the portion of the EU guarantee attributed to that third window is estimated to necessitate provisioning at 50 %, reflecting the higher risk of the targeted investments in the current economic circumstances. Moreover, the considerable size of the EU guarantee and the types of interventions envisaged also point to a need for a conservative provisioning approach. This means that the additional provisioning in relation to the increased EU guarantee will be EUR 33,2 billion. Overall the EU guarantee fund's provisioning rate will accordingly be brought to 45,8 % of total EU guarantee obligations. Consequently, the EFSI guarantee fund should be increased by EUR 33,2 billion, thus reaching EUR 42,3 billion in total.

The additional resources will be mobilised through an increase of the ceilings under the 2014-2020 Multi-Annual Financial Framework and financing made available through the European Recovery Instrument based on empowerment provided in the new Own Resources Decision.

A specific amount of EUR 100 million will be needed to cover costs relating to establishing and managing the structures (equity funds, special purpose vehicles, investment platforms and others) through which the support under the solvency support window is to be provided and for related advisory services and technical assistance, notably to support the green and digital transformation of companies financed under the solvency support window.

The participation of the Union in a possible forthcoming capital increase (in one or more rounds) of the EIF will need a financial envelope of up to EUR 500 million in the revised Multiannual Financial Framework for the current period. This relates to the Union share of the paid-in part of a capital increase. The Union should be able to maintain its overall share in the EIF capital.

Further budgetary information is provided in the legislative financial statement accompanying this proposal.

## **5. OTHER ELEMENTS**

### **• Implementation plans and monitoring, evaluation and reporting arrangements**

The EIB, directly or through the EIF, will implement the Solvency Support Instrument. The monitoring and reporting arrangements will be laid down in the guarantee agreement and will be in line with the existing requirements. The monitoring will include key performance indicators to track the progress towards achieving the objectives of solvency support window.

### **• Detailed explanation of the specific provisions of the proposal**

The specific provisions are explained by relevant Chapter of the EFSI Regulation.

#### **Chapter II**

A third window (solvency support window) is established under the EFSI.

The criteria for the use of the EU guarantee under the solvency support window define that the companies and projects that are eligible to benefit from the EU guarantee under the window must not have been in difficulty in State aid terms at the end of 2019, so that the EU guarantee is directed to provide solvency support to help them to recover from the crisis caused by the Covid-19 pandemic. Companies also encompass special purpose vehicles, project companies and public-private partnerships.

The support is provided through investments or funds, special purpose vehicles, investment platforms or through other intermediated means. Cooperation with national promotional banks or institutions is encouraged.

#### **Chapter III and the Investment Guidelines (Annex II)**

To be eligible for solvency support, companies need to be established and operating in the Union.

It is foreseen that both EIB and EIF can carry out operations under the solvency support window.

The general objectives of the EFSI are complemented by a reference to the European Green Deal and the Strategy on shaping Europe's digital future and to the need of avoiding regional disparities resulting from asymmetric recovery in the aftermath of the COVID-19 pandemic.

The Steering Board shall set any necessary requirements relating to the control of intermediaries (funds, special purpose vehicles and others) in the light of any applicable public order or security considerations.

The support can be channelled through a variety of instruments and products, including through national promotional institutions and banks in compliance with the applicable State aid and international rules.

The EU guarantee in relation to the solvency support window amounts to EUR 66,4 billion. Its introduction brings the total EU guarantee to maximum EUR 92,4 billion. The

corresponding provisioning (at 50 % provisioning rate as regards the increase of the EU guarantee) amounts to EUR 33,2 billion, bringing the EFSI guarantee fund to EUR 42,3 billion in total. Consequently, the overall provisioning rate is adjusted to 45,8 %.

The investment period in relation to the solvency support window runs in general until end-2024 in terms of approvals by the Investment Committee and the governing bodies of EIB/EIF and until end-2026 in terms of signature of the operations. However, 60 % of the financing and investment operations must have been approved already by end-2022.

The Investment Committee approves the use of the EU guarantee under the solvency support window as is currently the case for the other two windows. In the case of operations conducted by the EIF, the Investment Committee is consulted on the financial products. Once the Investment Committee under the proposed InvestEU Regulation is in place, it will be in charge of granting of the EU guarantee also for the solvency support window in order to avoid duplication of structures.

The target is to mobilise up to EUR 300 billion in the real economy under the solvency support window.

A separate amount of EUR 100 million is foreseen to cover costs, advisory services and technical assistance linked to the set-up and management of funds, special purpose vehicles, investment platforms and other vehicles for the purposes of the solvency support instrument. It shall also support the green and digital transformation of companies financed under the solvency support window.

The Commission will manage this support. It may also entrust tasks to the European Investment Advisory Hub (EIAH), if appropriate.

Annex II provides more technical details on the instruments and products to be used and on the financing structures under the solvency support window and refers to the setting of specific geographic concentration limits by the Steering Board.

### **Chapter IIIa**

The participation of the Union in forthcoming capital increase(s) of the EIF is foreseen in this Chapter.

### **Chapter IV**

Technical assistance and advisory support will be available from the Commission or via the EIAH to support Member States to establish funds, special purpose vehicles or other vehicles that would meet the requirements of the Union guarantee, especially for Member States with undeveloped equity markets. This support may also cover costs for the setting up and managing of the funds or other vehicles.

### **Chapter VI**

Specific reporting requirements regarding financing and investment operations under the solvency support window shall be laid down in the guarantee agreement with the EIB.

### **Chapter VIII**

In order to ensure fast operationalisation of the Solvency Support Instrument, the EIB may propose to the Investment Committee granting of the support of the EU guarantee under the solvency support window for guarantees or financing it has provided in the period between the adoption by the Commission of this legislative proposal and the signature of the amended guarantee agreement between the Commission and the EIB. To qualify for such “warehousing” the relevant guarantees or financing must fulfil the criteria of the solvency



support window. The EIB shall present such proposal once the amended EFSI Regulation is in force.

Proposal for a

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

**amending Regulation (EU) 2015/1017 as regards creation of a Solvency Support Instrument**

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 Committee<sup>5</sup>,

Having regard to the opinion of the Committee of the Regions<sup>6</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas

- (1) Commission estimates derived from firm-level data suggest that the equity repair needs resulting from the Covid-19 pandemic could be in the region of EUR 720 billion in 2020. The number could go higher in case lockdown measures were to stay in place for longer than currently assumed, or if they had to be re-imposed due to a resurgence of contaminations. If left unaddressed these capital shortfalls may lead to a prolonged period of lower investment and higher unemployment. The impact of the capital shortfall will be uneven across sectors and Member States, leading to divergences in the single market. This is compounded by the fact that the capacity of Member States to provide State aid differs greatly.
- (2) In accordance with Regulation [European Union Recovery Instrument] and within the limits of resources allocated therein, recovery and resilience measures under the solvency support window of the European Fund for Strategic Investments should be carried out to address the unprecedented impact of the COVID-19 crisis. Such additional resources should be used in such a way as to ensure compliance with the time limits provided for in Regulation [EURI].
- (3) In order to counter the severe economic consequences of the Covid-19 pandemic in the Union, companies that have encountered difficulties because of the economic crisis caused by the pandemic and that cannot obtain sufficient support through market financing, or measures undertaken by Member States, should be provided with a facility for solvency support as a matter of urgency under a Solvency Support Instrument which should be added as a third window under the EFSI.

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<sup>5</sup> OJ C [...], [...], p. [...].

<sup>6</sup> OJ C [...], [...], p. [...].

- (4) Companies supported under the Solvency Support Instrument should be established and operating in the Union, meaning that they should have their registered office in a Member State and should be active in the Union in the sense that they have substantial activities in terms of staff, manufacturing, research and development or other business activities in the Union. They should pursue activities in support of objectives covered by this Regulation. They should have a viable business model and not have been in difficulty in terms of the State aid framework<sup>7</sup> already at end 2019. Support should be targeted at eligible companies operating in those Member States and sectors which are most impacted by the Covid-19 crisis and/or where the availability of State solvency support is more limited.
- (5) The EU guarantee granted to the European Investment Bank (EIB) should be increased by EUR 66 436 320 000 in order to create the third window of the EFSI – the solvency support window – under which solvency support should be provided.
- (6) The provisioning of the EU guarantee should be increased accordingly. Given the high level of riskiness of the investment and financing operations under the solvency support window the overall EFSI provisioning rate should be adjusted to 45,8 %.
- (7) The amount of the EU guarantee available under the solvency support window is expected to mobilise up to EUR 300 000 000 000 of investment in the real economy.
- (8) The delivery modes of the support should be flexible in view of the need of differing solutions in different Member States. They should include, inter alia, EIB Group financing, or guarantee or investment in existing independently managed funds or in special purpose vehicles that in turn invest in eligible companies. Furthermore, the support could be channelled via newly established independently managed funds, including via first-time teams, or via special purpose vehicles especially set up either at European or regional or national level with a view to benefiting from the EU guarantee in order to invest in eligible companies. The EU guarantee could also be used to guarantee or finance an intervention by a national promotional bank or institution in line with State aid rules together with private investors in support of eligible companies. Undue distortion of competition in the internal market should be avoided.
- (9) The equity funds, special purpose vehicles, investment platforms and national promotional banks and institutions should provide equity or quasi-equity (such as hybrid debt, preferred stock or convertible equity) to eligible companies, but excluding entities targeting buy-out (or replacement capital) intended for asset stripping.
- (10) The financing and investment operations should be aligned with current policy priorities of the Union such as the European Green Deal and the Strategy on shaping Europe's digital future. Support to cross-border activities should also be targeted.
- (11) Financing and investment operations under the solvency support window should be decided upon until end-2024 with at least 60 % of financing and investment operations to be decided by end-2022 to allow for a rapid reaction to the economic crisis caused by the Covid-19 pandemic.
- (12) In order to be able to channel support to the European economy through the European Investment Fund (EIF), the Commission should be in a position to participate in one or

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<sup>7</sup> As defined in Article 2(18) of Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 187, 26.6.2014, p.1).

more possible capital increases of the EIF in order to allow it to continue supporting the European economy and its recovery. The Union should be able to maintain its overall share in the EIF capital. A sufficient financial envelope to this effect should be foreseen in the revised Multiannual Financial Framework for the current period.

- (13) An amount of EUR 100 000 000 should be established to support the set-up and management of investment funds, special purpose vehicles and investment platforms in Member States, in particular in those which do not have developed equity fund markets, and to support the green and digital transformation of companies financed under the solvency support window.
- (14) The Investment Committee under the InvestEU Regulation should become responsible for granting the EU guarantee also under this Regulation once it is established.
- (15) Article 137(2) of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community provides that the United Kingdom and projects located in the United Kingdom shall only be eligible for financial operations guaranteed by the Union budget under the EFSI approved by the entities and bodies, including the EIB and the European Investment Fund ('EIF'), or by persons entrusted with the implementation of part of those actions before the date of entry into force of the Withdrawal Agreement. Further, Article 143(1) of the Withdrawal Agreement limits the liability of the United Kingdom for its share of the contingent liabilities of the Union to those contingent liabilities, which arise from financial operations decided by the Union before the date of the entry into force of the Withdrawal Agreement. Any contingent liability of the Union under this Regulation is subsequent to the date of the withdrawal of the United Kingdom from the Union. Therefore, this Regulation should not apply to and in the United Kingdom.
- (16) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 of the Treaty on the Functioning of the European Union (TFEU) apply to this Regulation. These rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes, indirect implementation, and provide for checks on the responsibility of financial actors. Rules adopted on the basis of Article 322 TFEU also concern the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States, as the respect for the rule of law is an essential precondition for sound financial management and effective EU funding.
- (17) Regulation (EU) No 2015/1017 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

#### *Article 1*

Regulation (EU) No 2015/1017 is amended as follows:

- (1) In Article 2, the following point (9) is added:  
‘(9) ‘companies’ means for the purposes of the solvency support window companies, project companies, public-private partnerships and other legal structures.’
- (2) In Article 3, the following point (c) is added:

‘(c) the solvency of companies established in a Member State and operating in the Union.’

- (3) In Article 4, point (iv) of point (a) of paragraph 2 is amended as follows:

‘the pricing of operations under the EU guarantee which is to be in line with the EIB’s pricing policy; for the solvency support window, other arrangements may be agreed;’

- (4) In Article 5, an indented subparagraph is added to the last subparagraph of paragraph 1 as follows:

‘— support to funds, special purpose vehicles, investment platforms or other arrangements under the solvency support window.’

- (5) In paragraph 1 of Article 6, the following subparagraph is added in point (a):

‘However, support under the solvency support window shall only be granted if it is to the benefit of companies that were not in difficulty in State aid terms<sup>8</sup> already at the end of 2019 but since then face significant solvency risks due to the crisis caused by the Covid-19 pandemic;’

- (6) In Article 6, paragraph 3 is added as follows:

‘3. Notwithstanding paragraph 2, the sub-operations by the financial intermediaries may be limited to a minimum size in financing and investment operations under the solvency support window.’

- (7) A new point (e) in paragraph 2 of Article 7 is added:

‘the guidance referred to in Section 6 point d of Annex II.’

- (8) In Article 8, a third paragraph is added as follows:

‘Notwithstanding the first paragraph, only companies established in a Member State and operating in the Union can be supported by the financing and investment operations under the solvency support window.’

- (9) In Article 9, a second sentence is added to the first subparagraph of paragraph 2 as follows:

‘The EU guarantee shall also be granted for financing and investment operations conducted by the EIF under the solvency support window.’

- (10) In Article 9, the introductory sentence of the third subparagraph of paragraph 2 is amended as follows:

‘The operations concerned shall be consistent with Union policies, including the European Green Deal<sup>9</sup> and the Strategy on shaping Europe’s digital future<sup>10</sup>, as well as supporting an inclusive and symmetric recovery in the aftermath of the COVID-19 pandemic, and support any of the following general objectives:’

- (11) In Article 9, point (j) is added to the third subparagraph of paragraph 2 as follows:

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<sup>8</sup> As defined in Article 2(18) of Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 187, 26.6.2014, p. 1).

<sup>9</sup> COM(2019)640 final.

<sup>10</sup> COM(2020)67 final.

‘(j) solvency support under the solvency support window to companies referred to in Article 3(c) supporting any of the objectives referred to in this paragraph.’

- (12) In Article 9, the final subparagraph of paragraph 2 is deleted and a new paragraph 2a introduced as follows:

‘While recognising the demand-driven nature of the EFSI, the EIB shall:

- (a) 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;
- (b) ensure that the majority of EFSI financing under the solvency support window is utilised to support eligible companies in Member States and sectors economically most hit by the Covid-19 pandemic;
- (c) ensure that the majority of EFSI financing under the solvency support window is utilised to support eligible companies in Member States where the availability of State solvency support is more limited.

The Steering Board shall, where necessary, provide detailed guidance concerning points (a) to (c).

- (13) In Article 9, points (a) and (b) of paragraph 3 are amended as follows:

‘(a) 31 December 2020, for EIB operations under the infrastructure and innovation window 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 under the SME window for which a contract between the EIB and the beneficiary or financial intermediary has been signed by 31 December 2022;’

- (14) In Article 9, point (c) is added to paragraph 3 as follows:

‘(c) 31 December 2024, for EIB or EIF operations under the EU guarantee for solvency support window referred to in the third subparagraph of Article 11(1). Contracts between the EIB or EIF and the beneficiary or financial intermediary for those operations shall be by 31 December 2026 subject to the approval by the EIB or EIF governing bodies in accordance with Article 4(6) of Regulation [EURI].’

- (15) In Article 10, points (b) and (c) of paragraph 2 are amended as follows:

‘(b) EIB funding or guarantees to the EIF enabling it to undertake loans, guarantees, counter-guarantees, any other form of credit enhancement instrument, capital market instruments and equity or quasi-equity participations, including in favour of national promotional banks or institutions, investment platforms, funds or special purpose vehicles;

(c) EIB guarantees to national promotional banks or institutions, investments platforms, funds or special purpose vehicles under a counter-guarantee of the EU guarantee.’

- (16) In Article 10, a third subparagraph is added to paragraph 2 as follows:

‘The eligible instruments under the solvency support window shall result in providing equity or quasi-equity to companies referred to in Article 3(c). Hybrid instruments may be used in line with Annex II if such instruments fulfil the purpose of the window.’

- (17) In Article 10, a second sentence is added to paragraph 4 as follows:

‘Under the solvency support window, the EIF may grant a guarantee to funds and special purpose vehicles.’

- (18) In Article 10, paragraph 5 is added as follows:

‘The intermediaries under the solvency support window shall be established in a Member State and operate in the Union. The Steering Board shall set any necessary requirements relating to the control of intermediaries (funds, special purpose vehicles and others) in the light of any applicable public order or security considerations.’

- (19) Article 11(1) is amended as follows:

‘1. The EU guarantee shall not, at any time, exceed EUR 92 436 320 000, of which a part may be allocated for EIB funding or guarantees to the EIF in accordance with paragraph 3 or under the solvency support window.

An amount of up to EUR 66 436 320 000 of the EU guarantee shall be allocated for operations under the solvency support window.

An amount of up to EUR 56 476 320 000 out of the amount referred to in the second subparagraph shall be allocated for implementing measures referred to in Article 2 of Regulation [EURI] and shall only be available as of the date referred to in Article 4(3) of that Regulation.

Aggregate net payments from the general budget of the Union under the EU guarantee shall not exceed EUR 92 436 320 000 and not exceed EUR 26 000 000 000 before [*the date of entry into force of this Regulation*].’

- (20) In Article 11(3), the first sentence shall be amended as follows:

‘3. Where the EIB provides funding or guarantees under the SME window 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 amount 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.’

- (21) In Article 11, the second subparagraph of paragraph 6 is amended as follows:

‘The EU guarantee shall also cover the amounts referred to in the second, third and fourth subparagraphs of Article 9(6).’

- (22) Article 12 is amended as follows:

- (a) In paragraph 2, a new point (e) is added:

‘(e) an amount of EUR 28 238 160 000 out of the amount referred to in point (ii) of Article 3(2)(c) of Regulation [EURI].’

- (b) In paragraph, 3 a second subparagraph is inserted:

‘Endowment to the guarantee fund provided for in point (e) of paragraph 2 of this Article shall constitute an external assigned revenue in accordance with Article 21(5) of the Financial Regulation.’

(c) Paragraph 5 is amended as follows:

‘5. Endowments to the guarantee fund referred to in points (a) to (d) of paragraph 2 and endowment referred to in point (e) of 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 45,8 % of the total EU guarantee obligations.’

(d) Paragraph 7 is amended as follows:

‘7. From 1 January 2028, 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.’

(e) Paragraph 10 is amended as follows:

‘10. In the event that the EU guarantee is fully restored to an amount of EUR 92 436 320 000, any amount in the guarantee fund in excess of the target amount shall be paid to the general budget of the Union.’

(23) In Article 13, the second paragraph is amended as follows:

‘If necessary, payment appropriations may be entered in the general budget of the Union beyond 2020 and up to and including the financial year 2027 to fulfil the obligations stemming from Article 12(5).’

(24) Chapter IIIa is inserted as follows:

#### ‘Article 13a

##### Participation in a capital increase of the European Investment Fund

The Union shall subscribe shares in forthcoming capital increases of the European Investment Fund so that its relative share in the capital remains at current level. The subscription of the shares and the payment of up to EUR 500 000 000 of the paid-in part of the shares shall be carried out in accordance with the terms and conditions that shall be approved by the General Meeting of the Fund.’

(25) Article 14 is amended as follows:

a) In paragraph 2, point (i) is inserted as follows:

‘(i) providing support to financing and investment operations under the solvency support window.’

b) Paragraph 3 is amended as follows:

‘EIAH services shall be available for public and private project promoters, including national promotional banks or institutions, investment platforms, funds, special purpose vehicles and regional and local public entities.’

(26) Article 14a is inserted as follows;

#### ‘Article 14a

##### Financing of advisory services and technical assistance

An amount of up to EUR 100 000 000 shall be made available for covering costs, advisory services and technical and administrative assistance to set-up and manage funds, special purpose vehicles, investment platforms and other vehicles for the purposes of the solvency support window including for support referred to in point (i) of Article 14(2) and having a



special focus on Member States with less developed equity markets. The technical assistance shall also be available to support the green and digital transformation of companies financed under this window.

The Commission shall implement this amount under direct or indirect management as referred to in points (a) and (c) of Article 62(1) of the Financial Regulation.

An amount of EUR 80 000 000 out of the amount referred to in the first subparagraph shall constitute an external assigned revenue in accordance with Article 21(5) of the Financial Regulation and shall be subject to Article 4(4) and (8) of the [EURI] Regulation.

(27) In Article 16, a second subparagraph is added to paragraph 2 as follows:

‘Operations under the solvency support window shall be reported on separately, as appropriate and as set out in the guarantee agreement.’

(28) In Article 16, a second subparagraph is added to paragraph 3 as follows:

‘Annual financial statements of the EU guarantee, prepared in compliance with the accounting rules as adopted by the Accounting Officer of the Commission as referred to in Article 80 of the Financial Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union. The unaudited financial statements and any information necessary to produce the Union accounts shall be provided by the EIB group by 15 February of the following financial year and audited financial statements by 31 March of the following financial year.’

(29) In Article 18(3), the introductory sentence is amended as follows:

‘3. By 30 June 2018, by 30 December 2021 and every three years thereafter:’

(30) In Article 24, paragraphs 3 and 4 are added as follows:

‘3. The EIB may submit to the Investment Committee after the entry into force of this Regulation financing and investment operations approved by its governing bodies during the period from the adoption of the Commission proposal to amend Regulation (EU) 2015/2017 until the signature of the amended guarantee agreement resulting from the amended Regulation if such operations fulfil the requirements for support under the solvency support instrument. Operations to be submitted to the Investment Committee must not have benefited from the support of the EU guarantee previously.

4. Once the Investment Committee foreseen in the InvestEU Regulation has taken up its functions, it will also become responsible for granting the EU guarantee under this Regulation.’

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

(1) In Section 1, the third paragraph is replaced by the following:

‘The investment guidelines only apply to EFSI operations relating to the debt and equity instruments referred to in Article 10(2)(a) of this Regulation and to EFSI operations under the Solvency Support Window referred to in Articles 10(2)(b) and 10(2)(c). The guidelines are thus not applicable to EFSI operations relating to the instruments referred to in Article 10(2)(b) other than those supported under the Solvency Support Window.’

(2) Section 2 is amended as follows:

- (a) In point (b), the first paragraph is replaced by the following:
- ‘(b) The EU guarantee shall be granted to support, directly or indirectly, the financing of new operations. In the infrastructure field, greenfield investments (asset creation) should be encouraged. Brownfield investments (extension and modernisation of existing assets) may also be supported. Under the Solvency Support Window, financing shall aim at improving the equity base of companies and their solvency. The terms of the financing should avoid distorting competition between companies. As a rule, the EU guarantee shall not be granted for supporting refinancing operations (such as replacing existing loan agreements or other forms of financial support for projects which have already partially or fully materialised), except under the Solvency Support Window or in exceptional and well-justified circumstances where it is demonstrated that such a transaction will enable a new investment of an amount at least equivalent to the amount of the transaction and that would fulfil the eligibility criteria and general objectives laid down in Article 6 and Article 9(2) respectively.’
- (b) Point (c) is amended as follows:
- ‘(c) The EU guarantee shall support a wide range of products to allow the EFSI to adapt to market needs while encouraging private investment in projects, without crowding out private market finance. 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 under the Infrastructure and Innovation Window and under the SME Window together, which includes 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. The eligible products shall include inter alia<sup>11</sup> loans, guarantees/counter-guarantees, mezzanine and subordinated finance, capital market instruments including credit enhancement, and equity or quasi-equity participations, including through national promotional banks or institutions, investment platforms funds or special purpose vehicles. In this context, in order to allow a broad range of investors to invest in EFSI projects, the EIB shall be allowed to structure appropriate portfolios. Under the Solvency Support Window the eligible products shall consist of those that result in providing investments, intermediated equity or quasi-equity to companies and projects, but excluding entities targeting buy-out (or replacement capital) intended for asset stripping. It is expected that EIB and EIF will provide financing with a view to reach a target of up to EUR 300 000 000 000 of investment under the Solvency Support Window.
- (c) In point (d), the first sentence is amended as follows:
- ‘(d) National promotional banks or institutions, investment platforms, funds and special purpose vehicles shall be eligible for coverage by the

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<sup>11</sup> This is a non-exclusive indication of products that may be offered via the EFSI.

EIB guarantee under the counter-guarantee of the EU guarantee in accordance with Article 10(2)(c).’

(3) In Section 6, point (d) is added as follows:

‘(d) Solvency Support Window

- The EU guarantee may be used to support EIB or EIF financing, or guarantees to, or investments in funds, special purpose vehicles or other investment platforms, including through national promotional banks or institutions or other relevant arrangements, that provide equity and equity-type investments in companies.
- Funds, special purpose vehicles or investment platforms that target companies engaging in cross-border activities within the Union and/or companies which have high potential for green or digital transformation shall be particularly targeted under the Solvency Support Window.
- The funds, special purpose vehicles or investment platforms shall provide financing on commercial terms or on terms consistent with the State aid Temporary Framework<sup>12</sup>, while paying due regard to the European nature of the Solvency Support Instrument and to the funds’ and other vehicles’ independent management.
- The funds, special purpose vehicles or investment platforms shall have commercial management that take investment decisions or independent management that is at arm’s length from any investors.
- Companies targeted by funds, special purpose vehicles or investment platforms shall be encouraged to comply, to the extent possible, with minimum high-level social and environmental safeguards in line with guidance provided by the Steering Board. Such guidance should include adequate provisions for avoiding undue administrative burdens, taking into account the size of companies and including lighter provisions for SMEs. Companies with a certain level of exposure to a pre-defined list of environmentally harmful activities, in particular the sectors covered by the EU Emissions Trading System (EU ETS), shall be encouraged to put in place, in the future, green transition plans. Companies shall also be encouraged to advance in their digital transformation. Technical assistance shall be available to assist companies for the purpose of these transitions.
- The operations under this window shall be carried out in accordance with the EIB’s or the EIF’s internal rules and procedures. All relevant information for the assessment of the operation shall be made available to the members of the Steering Board and of the Investment Committee.
- EIB or EIF guarantees or investments shall be priced in line with Article 4(2)(a)(iv) or Article 4(2)(a)(v).’

(4) In Section 8, point (b) is amended as follows:

‘(b) Geographical Concentration

<sup>12</sup>

Communication from the Commission: Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (C(2020)1863), as amended by C(2020) 3156 final.

EFSI-supported operations shall not be concentrated in any specific territory at the end of the investment period concerned. To this end the Steering Board shall adopt indicative geographical diversification and concentration guidelines. The Steering Board may decide to modify these indicative limits, after consulting the Investment Committee.

The Steering Board shall set specific diversification and concentration limits under the Solvency Support Window to ensure that the respective requirements of Article 9(2a)(b) and (c) are fulfilled, whilst avoiding excessive concentration in a limited number of Member States. The Steering Board shall regularly take stock of the economic impact of the Covid-19 pandemic on Member States and sectors. On this basis, the Steering Board may decide to modify these limits, after consulting the Investment Committee.

The Steering Board shall explain its decisions relating to the indicative and Solvency Support Window specific limits to the European Parliament and the Council in writing. The EFSI should aim to cover all Member States.’

## *Article 2*

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 Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

## **LEGISLATIVE FINANCIAL STATEMENT**

### **1. FRAMEWORK OF THE PROPOSAL/INITIATIVE**

#### **1.1. Title of the proposal/initiative**

Regulation of the European Parliament and of the Council amending Regulation (EU) 2015/1017 as regards creation of a Solvency Support Instrument

#### **1.2. Policy area(s) concerned in the ABM/ABB structure<sup>13</sup>**

Policy area: Economic and Financial Affairs

ABB Activity: Financial operations and instruments

For a detailed account of the ABB Activities, refer to Section 1.4.2.

#### **1.3. Nature of the proposal/initiative**

☐ The proposal/initiative relates to **a new action**

☐ The proposal/initiative relates to **a new action following a pilot project/preparatory action<sup>14</sup>**

☒ The proposal/initiative relates to **the extension of an existing action**

☐ The proposal/initiative relates to **an action redirected towards a new action**

#### **1.4. Objective(s)**

##### *1.4.1. The Commission's multiannual strategic objective(s) targeted by the proposal/initiative*

Supporting growth-enhancing investments and solvency support in line with Union priorities such as the European Green Deal, Sustainable Europe Investment Plan and the sectorial policies that relate to investment support.

##### *1.4.2. Specific objective(s) and ABM/ABB activity(ies) concerned*

**Specific Objective 1:** Increasing the volume of European Investment Bank Group (EIB Group) financing and investment operations in priority areas

**Specific Objective 2:** To provide advisory support for investment project identification, preparation and development to public and private counterparts or to support the set up and management of funds and other vehicles for the purposes of the solvency support instrument

ABM/ABB activity(ies) concerned

ECFIN: Financial operations and instruments

##### *1.4.3. Expected result(s) and impact*

The proposal is expected to mobilise EUR 300 000 000 000 investment in the real economy by supporting companies facing economic difficulties due to the crisis caused by the Covid-19 pandemic in the Union.

<sup>13</sup>

ABM: activity-based management; ABB: activity-based budgeting.

<sup>14</sup>

As referred to in Article 54(2)(a) or (b) of the Financial Regulation.

#### 1.4.4. *Indicators of results and impact*

The achievement of the objectives of the proposal will be monitored through key performance indicators and key monitoring indicators in line with existing arrangements relating to the Infrastructure and Innovation Window and the SME Window under the EFSI Regulation. Specific indicators will be set for the Solvency Support Window, as appropriate.

### 1.5. **Grounds for the proposal/initiative**

#### 1.5.1. *Requirement(s) to be met in the short or long term*

The Commission is proposing to reinforce its proposal for the Multiannual Financial Framework to address the negative economic consequences of the Covid-19 pandemic for companies and projects in the Union. Many of them are already facing solvency difficulties because of the crisis and the problems will accentuate as the lockdown period continues and the distancing rules will continue to impact business activities across many sectors. The difficulties may be long-lasting even beyond the lockdown.

Companies to be supported are those with a viable business model prior to the crisis but which are solvency constrained due to the Covid-19 crisis. The purpose is to help them weather this difficult period so that they are still there to carry the recovery when the time comes.

#### 1.5.2. *Added value of EU involvement*

The proposal intends to counter-balance expected distortions in the Single Market given that the availability of solvency support measures for companies may differ substantially across Member States and lead to an unlevel playing field.

#### 1.5.3. *Lessons learned from similar experiences in the past*

It is proposed to leverage budgetary expenditure through providing an EU guarantee in order to attract in addition private financing to support companies in the Union, as has already successfully been done under the EFSI Regulation.

#### 1.5.4. *Compatibility and possible synergy with other appropriate instruments*

The proposal is consistent with the relevant Union policies such as the European Green Deal, Sustainable Europe Investment Plan and the sectorial policies that relate to investment support.

The Solvency Support Instrument is complementary to other Union programmes that are focused on mitigating the impacts of the Covid-19 crisis or relaunching the economy as the Covid-19 crisis eases. It complements in particular support to SMEs that will be provided through (i) the recovery assistance for cohesion (REACT-EU), which will provide frontloaded support also for SMEs; and (ii) the Pan-European Guarantee Fund in response to Covid-19 crisis being established by the EIB underpinned by a guarantee from the Member States. Also, the SME window being reinforced under InvestEU will provide additional support from 2021.

## 1.6. Duration and financial impact

x Proposal/initiative of **limited duration**

- ☐ Proposal/initiative in effect from 2020 to 2026
- x Financial impact from 2020 to 2027

## 1.7. Management mode(s) planned<sup>15</sup>

x **Direct management** by the Commission

- x by its departments, including by its staff in the Union delegations;
- ☐ by the executive agencies

☐ **Shared management** with the Member States

x **Indirect management** by entrusting budget implementation tasks to:

- ☐ third countries or the bodies they have designated;
- ☐ international organisations and their agencies (to be specified);
- X the EIB and the European Investment Fund;
- ☐ bodies referred to in Articles 208 and 209 of the Financial Regulation;
- ☐ public law bodies;
- ☐ bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees;
- ☐ bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that provide adequate financial guarantees;
- ☐ persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.

### Comments

The EFSI Guarantee Fund is under direct management of the Commission. The European Investment Advisory Hub is managed indirectly through the EIB. Advisory services and technical assistance may be managed directly or indirectly by the Commission, including through the EIB.

<sup>15</sup>

Details of management modes and references to the Financial Regulation may be found on the BudgWeb site: [http://www.cc.cec/budg/man/budgmanag/budgmanag\\_en.html](http://www.cc.cec/budg/man/budgmanag/budgmanag_en.html)

## **2. MANAGEMENT MEASURES**

### **2.1. Monitoring and reporting rules**

In accordance with Article 10 of the EFSI Regulation, the EIB, in cooperation with the EIF as appropriate, shall report semi-annually to the Commission on EIB financing and investment operations. In addition, 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. By 31 March of each year, the Commission is required to 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 year.

In accordance with Article 12 of the EFSI Regulation, the EIB shall evaluate the functioning of the EFSI and provide its evaluation to the European Parliament, the Council and the Commission. Moreover, the Commission shall evaluate the use of the EU guarantee and the functioning of the Guarantee Fund and provide it to the European Parliament and the Council. A comprehensive report on the functioning of the EFSI is required every three years (next in 2021), as well as a comprehensive report on the use of the EU guarantee and the functioning of the Guarantee Fund.

### **2.2. Management and control system**

#### **2.2.1. Risk(s) identified**

The EIB financing and investment operations covered by the EU guarantee carry a non-negligible financial risk. The probability of a call upon the guarantee is tangible. However, it is estimated that the Guarantee Fund provides the protection required for the Union budget. Projects themselves may be subject to implementation delays and cost overruns.

Even if based on conservative assumptions, the cost-efficiency of the initiative could suffer from insufficient market-uptake of the instruments and changing market conditions over time reducing the assumed multiplier effect.

In accordance with Article 8(4) of the EFSI Regulation, the resources of the Guarantee Fund are to be invested. Those investments will bear an investment risk (e.g. market and credit risk) and some operational risk.

#### **2.2.2. Information concerning the internal control system set up**

The EFSI is governed by a Steering Board, which determines the strategic orientation of the EFSI, the operating policies and procedures, the rules applicable to the operations with the investment platforms and national promotional banks and the risk profile of the EFSI.

Decisions on the use of the EFSI support under the solvency support window are to be made by the Investment Committee as is currently the case for the other two windows. In the case of operations conducted by the EIF, the Investment Committee is consulted on the financial products. The Investment Committee is composed of independent experts who are knowledgeable and experienced in the areas of investment projects and are accountable to the Steering Board, who supervises the fulfilment of the EFSI's objectives.



The EFSI Managing Director is responsible for the day-to-day management of the EFSI and preparation of the meetings of the Investment Committee. The Managing Director is directly accountable to the Steering Board and reports every quarter on the activities of the EFSI to the Steering Board. The Managing Director was appointed by the President of the EIB, after approval by the European Parliament of the candidate selected by the Steering Board.

The Commission manages the assets of the Guarantee Fund in accordance with the EFSI Regulation and under its internal rules and procedures in force.

### **2.3. Measures to prevent fraud and irregularities**

Article 21 of the EFSI Regulation clarifies the competence of the European Anti-Fraud Office (OLAF) to carry out investigations on operations supported under this initiative. The EIB Group has established specific rules for cooperation with OLAF in connection with possible cases of fraud, corruption or any other illegal activity detrimental to the financial interests of the Communities.

Beyond that, the EIB's rules and procedures are applicable, including, *inter alia*, the EIB Anti-Fraud Policy.

### 3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

#### 3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

- Existing budget lines

In order of multiannual financial framework headings and budget lines.

| Heading of multiannual financial framework | Budget line                                                                                                                                                                                                                                                                                                                                                                                                                            | Type of expenditure           | Contribution                      |                                        |                      |                                                                    |
|--------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|-----------------------------------|----------------------------------------|----------------------|--------------------------------------------------------------------|
|                                            | Number<br>Heading 1a (2014-2020 MFF)<br>.....]                                                                                                                                                                                                                                                                                                                                                                                         | Diff./Non-diff. <sup>16</sup> | from EFTA countries <sup>17</sup> | from candidate countries <sup>18</sup> | from third countries | within the meaning of Article 21(2)(b) of the Financial Regulation |
| 1a                                         | 01.010401 Support expenditure for "European Fund for Structural Investments (EFSI)"                                                                                                                                                                                                                                                                                                                                                    | Non-diff                      | NO                                | NO                                     | NO                   | NO                                                                 |
| 1a                                         | 01.040101 European Investment Fund — Provision of paid-up shares of subscribed capital<br>01.0404 Guarantee for the European Fund for Strategic Investments (EFSI)<br>01.040502 Provisioning of the Guarantee for the "European Fund for Strategic Investments (EFSI)" – Solvency Window<br>01.040602 European Investment Advisory Hub (EIAH) and European Investment Project Portal (EIPP) – (Technical assistance) – Solvency Window | Diff                          | NO                                | NO                                     | NO                   | NO                                                                 |

- New budget lines requested

In order of multiannual financial framework headings and budget lines.

| Heading of multiannual financial framework | Budget line                                                   | Type of expenditure | Contribution        |                          |                      |                                                                    |
|--------------------------------------------|---------------------------------------------------------------|---------------------|---------------------|--------------------------|----------------------|--------------------------------------------------------------------|
|                                            | Number<br>Heading 1 (2021-2027 MFF)                           | Diff./Non-diff.     | from EFTA countries | from candidate countries | from third countries | within the meaning of Article 21(2)(b) of the Financial Regulation |
| 1                                          | 02.0104 Support expenditure for "European Fund for Structural | Non-diff            | NO                  | NO                       | NO                   | NO                                                                 |

<sup>16</sup> Diff. = Differentiated appropriations / Non-diff. = Non-differentiated appropriations.

<sup>17</sup> EFTA: European Free Trade Association.

<sup>18</sup> Candidate countries and, where applicable, potential candidate countries from the Western Balkans.

|   | Investments (EFSI)"                                                                                                                                                                                                                                                                                                                            |      |    |    |    |    |
|---|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|----|----|----|----|
| 1 | 02.0501 Guarantee for the "European Fund for Strategic Investments" (EFSI)<br>02.050202 Provisioning of the Guarantee for the "European Fund for Strategic Investments (EFSI)" – Solvency Window<br>02.050302 European Investment Advisory Hub (EIAH) and European Investment Project Portal (EIPP) – (Technical assistance) – Solvency Window | Diff | NO | NO | NO | NO |

### 3.2. Estimated impact on expenditure

#### 3.2.1. Summary of estimated impact on expenditure

EUR million (to three decimal places)

| Heading of multiannual financial framework                                                                                                                       |                        |      | Number        | Heading 1a (MFF 2014-2020) then Heading 1 (MFF 2021-2027) |         |         |         |         |      |      |           |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|------|---------------|-----------------------------------------------------------|---------|---------|---------|---------|------|------|-----------|
|                                                                                                                                                                  |                        |      | 2020          | 2021                                                      | 2022    | 2023    | 2024    | 2025    | 2026 | 2027 | TOTAL     |
| 01.010401 (2020) then 02.0104 Support expenditure for "European Fund for Structural Investments (EFSI)"                                                          | Commitments = Payments | (3)  | 2,000         | p.m.                                                      | p.m.    | p.m.    | p.m.    | p.m.    | p.m. |      | 2,000     |
|                                                                                                                                                                  |                        |      | 2,000         | p.m.                                                      | p.m.    | p.m.    | p.m.    | p.m.    | p.m. |      | 2,000     |
| 01.040101 European Investment Fund — Provision of paid-up shares of subscribed capital                                                                           | Commitments            |      | 500,000       | p.m.                                                      | p.m.    | p.m.    | p.m.    | p.m.    | p.m. |      | 500,000   |
|                                                                                                                                                                  | Payments               |      | 500,000       | p.m.                                                      | p.m.    | p.m.    | p.m.    | p.m.    | p.m. |      | 500,000   |
| 01.0404 (2020) then 02.0501 Guarantee for the "European Fund for Strategic Investments (EFSI)"                                                                   | Commitments            | (1)  | p.m.          | p.m.                                                      | p.m.    | p.m.    | p.m.    | p.m.    | p.m. |      | p.m.      |
|                                                                                                                                                                  | Payments               | (2)  | p.m.          | p.m.                                                      | p.m.    | p.m.    | p.m.    | p.m.    | p.m. |      | p.m.      |
| 01.040502 (2020) then 02.050202 Provisioning of the Guarantee for the "European Fund for Strategic Investments (EFSI)" – Solvency Window                         | Commitments            | (1)  | 4.980,00<br>0 | p.m.                                                      | p.m.    | p.m.    | p.m.    | p.m.    | p.m. | p.m. | 4.980,000 |
|                                                                                                                                                                  | Payments               | (2)  | 2.490,00<br>0 | 490,000                                                   | 500,000 | 500,000 | 500,000 | 500,000 | p.m. | p.m. | 4.980,000 |
| 01.040602 (2020) then 02.050302 European Investment Advisory Hub (EIAH) and European Investment Project Portal (EIPP) – (Technical assistance) – Solvency Window | Commitments            | (1)  | 18,000        | p.m.                                                      | p.m.    | p.m.    | p.m.    | p.m.    | p.m. | p.m. | 18,000    |
|                                                                                                                                                                  | Payments               | (2)  | 8,000         | 10,000                                                    | p.m.    | p.m.    | p.m.    | p.m.    | p.m. | p.m. | 18,000    |
| TOTAL appropriations for the envelope of the programme                                                                                                           | Commitments            | =1+3 | 5.500,00<br>0 | p.m.                                                      | p.m.    | p.m.    | p.m.    | p.m.    | p.m. | p.m. | 5.500,000 |
|                                                                                                                                                                  | Payments               | =2+3 | 3.000,00<br>0 | 500,000                                                   | 500,000 | 500,000 | 500,000 | 500,000 | p.m. | p.m. | 5.500,000 |

In addition to the financial envelope allocated to the EFSI guarantee under Regulation (EU) 2015/1017 (EFSI Regulation), EUR 28 318,160 million (in current prices) will be available as external assigned revenues, within the meaning of Article 21(5) of the Financial Regulation as financing from the European Union Recovery Instrument. Out of this up to EUR 6,520 million may be dedicated to administrative expenditure, including external staff costs.

A specific amount of EUR 80 million will be needed to cover operational costs relating to establishing and managing the structures (equity funds, special purpose vehicles, investment platforms and others) through which the support under the solvency support window is to be provided and for related advisory services and technical assistance, including administrative support. In line with the provisions of the EURI Regulation, the legal commitments covered by external assigned revenue stemming from borrowing shall be entered into by 31 December 2024.

The indicative breakdown of the expenditure from external assigned revenue is as follows:

| EFSI - Solvency Instrument                                              |                        |      | 2021      | 2022      | 2023      | 2024      | 2025      | 2026      | 2027      | <i>Post<br/>2027</i> | TOTAL      |
|-------------------------------------------------------------------------|------------------------|------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|----------------------|------------|
| Operational expenditure from EURI external assigned revenues            | Commitments            | (1)  | 8.275,120 | 8.441,120 | 5.740,120 | 5.855,280 |           |           |           |                      | 28.311,640 |
|                                                                         | Payments               | (2)  | 4.717,773 | 4.718,773 | 4.718,773 | 3.539,080 | 3.539,080 | 3.539,080 | 3.539,080 |                      | 28.311,640 |
| Administrative support expenditure from EURI external assigned revenues | Commitments = Payments | (3)  | 1,880     | 0,880     | 0,880     | 0,720     | 0,720     | 0,720     | 0,720     |                      | 6,520      |
| Total external assigned revenues                                        | Commitments            | =1+3 | 8.277,000 | 8.442,000 | 5.741,000 | 5.856,000 | 0,720     | 0,720     | 0,720     |                      | 28.318,160 |
|                                                                         | Payments               | =2+3 | 4.719,653 | 4.719,653 | 4.719,653 | 3.539,800 | 3.539,800 | 3.539,800 | 3.539,800 |                      | 28.318,160 |

|                                                   |              |                              |
|---------------------------------------------------|--------------|------------------------------|
| <b>Heading of multiannual financial framework</b> | <b>5 / 7</b> | ‘Administrative expenditure’ |
|---------------------------------------------------|--------------|------------------------------|

EUR million (to three decimal places)

|                                    |                | Year<br>2020 | Year<br>2021 | Year<br>2022 | Year<br>2023 | Year<br>2024 | Year<br>2025 | Year<br>2026 | Year<br>2027 | TOTAL |
|------------------------------------|----------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|-------|
| DG: ECFIN                          |                |              |              |              |              |              |              |              |              |       |
| • Human resources                  |                |              |              |              |              |              |              |              |              |       |
| • Other administrative expenditure |                |              |              |              |              |              |              |              |              |       |
| <b>TOTAL DG ECFIN</b>              | Appropriations |              |              |              |              |              |              |              |              |       |

|                                                                                                                   |                                      |  |  |  |  |  |  |  |  |  |
|-------------------------------------------------------------------------------------------------------------------|--------------------------------------|--|--|--|--|--|--|--|--|--|
| <b>TOTAL appropriations under HEADING 5 (2020) / HEADING 7 (2021-2027) of the multiannual financial framework</b> | (Total commitments = Total payments) |  |  |  |  |  |  |  |  |  |
|-------------------------------------------------------------------------------------------------------------------|--------------------------------------|--|--|--|--|--|--|--|--|--|

| <b>TOTAL appropriations across HEADINGS of the multiannual financial frameworks</b> |             | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | Post 2027 | Total |
|-------------------------------------------------------------------------------------|-------------|------|------|------|------|------|------|------|------|-----------|-------|
|                                                                                     | Commitments |      |      |      |      |      |      |      |      |           |       |
|                                                                                     | Payments    |      |      |      |      |      |      |      |      |           |       |

### 3.2.2. Estimated impact on appropriations of an administrative nature

#### 3.2.2.1. Summary

- ☐ The proposal/initiative does not require the use of appropriations of an administrative nature
- ☒ The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

EUR million (to three decimal places)

|                                                                                        | Year<br>2020 | Year<br>2021 | Year<br>2022 | Year<br>2023 | Year<br>2024 | Year<br>2025 | Year<br>2026 | Year<br>2027 | TOTAL        |
|----------------------------------------------------------------------------------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
| <b>HEADING 5/7<br/>of the multiannual<br/>financial framework</b>                      |              |              |              |              |              |              |              |              |              |
| Human resources                                                                        |              |              |              |              |              |              |              |              |              |
| Other administrative<br>expenditure                                                    |              |              |              |              |              |              |              |              |              |
| <b>Subtotal HEADING 5/7<br/>of the multiannual<br/>financial framework</b>             |              |              |              |              |              |              |              |              |              |
| <b>Outside HEADING 5/7<sup>19</sup><br/>of the multiannual<br/>financial framework</b> |              |              |              |              |              |              |              |              |              |
| Human resources                                                                        |              | 0,880        | 0,880        | 0,880        | 0,720        | 0,720        | 0,720        | 0,720        | <b>5,520</b> |
| Other expenditure<br>of an administrative<br>nature                                    | 2            | 1            |              |              |              |              |              |              | <b>3</b>     |
| <b>Subtotal<br/>outside HEADING 7<br/>of the multiannual<br/>financial framework</b>   |              |              |              |              |              |              |              |              |              |
| <b>TOTAL</b>                                                                           | <b>2</b>     | <b>1,880</b> | <b>0,880</b> | <b>0,880</b> | <b>0,720</b> | <b>0,720</b> | <b>0,720</b> | <b>0,720</b> | <b>8,520</b> |

The appropriations required for human resources and other expenditure of an administrative nature will be met by appropriations from the DG that are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints. Additional external staff and will be solely financed from assigned revenues.

<sup>19</sup>

For 2020: Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research. From 2021: External assigned revenue.

### 3.2.2.2. Estimated requirements of human resources

- ☐ The proposal/initiative does not require the use of human resources.
- ☒ The proposal/initiative requires the use of human resources, as explained below:

*Estimate to be expressed in full time equivalent units*

|                                                                          | Year<br>2020      | Year<br>2021 | Year<br>2022 | Year<br>2023 | Year<br>2024 | Year<br>2025 | Year<br>2026 | Year<br>2027 |  |
|--------------------------------------------------------------------------|-------------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--|
| <b>• Establishment plan posts (officials and temporary staff)</b>        |                   |              |              |              |              |              |              |              |  |
| XX 01 01 01 (Headquarters and Commission's Representation Offices)       |                   |              |              |              |              |              |              |              |  |
| XX 01 01 02 (Delegations)                                                |                   |              |              |              |              |              |              |              |  |
| XX 01 05 01 (Indirect research)                                          |                   |              |              |              |              |              |              |              |  |
| 10 01 05 01 (Direct research)                                            |                   |              |              |              |              |              |              |              |  |
| <b>• External staff (in Full Time Equivalent unit: FTE)<sup>20</sup></b> |                   |              |              |              |              |              |              |              |  |
| XX 01 02 01 (AC, END, INT from the 'global envelope')                    |                   |              |              |              |              |              |              |              |  |
| XX 01 02 02 (AC, AL, END, INT and JED in the delegations)                |                   |              |              |              |              |              |              |              |  |
| <b>XX 01 04 yy<sup>21</sup></b>                                          | - at Headquarters |              |              |              |              |              |              |              |  |
|                                                                          | - in Delegations  |              |              |              |              |              |              |              |  |
| XX 01 05 02 (AC, END, INT - Indirect research)                           |                   |              |              |              |              |              |              |              |  |
| 10 01 05 02 (AC, END, INT - Direct research)                             |                   |              |              |              |              |              |              |              |  |
| Other budget lines (assigned revenue)                                    |                   | 11           | 11           | 11           | 9            | 9            | 9            | 9            |  |
| <b>TOTAL</b>                                                             |                   | 11           | 11           | 11           | 9            | 9            | 9            | 9            |  |

**DG ECFIN, COMP and BUDG** are the policy area or budget title concerned.

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints. Additional external staff will be solely financed from assigned revenues.

Description of tasks to be carried out:

|                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|-------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Officials and temporary staff | –                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| External staff                | <p>Front office (development of policy documents, preparation and negotiation of guarantee agreement, operational follow up and reporting, management of advisory and technical assistance);</p> <p>Back office (monitoring and follow up of the programme, including guarantee calls, operational and financial reporting and other guarantee management activities; monitoring and reporting on advisory services and technical assistance);</p> <p>Risk (monitoring credit risk profile of portfolios of operations under the EU guarantee, assessment and reporting);</p> |

<sup>20</sup> AC= Contract Staff; AL = Local Staff; END= Seconded National Expert; INT = agency staff; JED= Junior Experts in Delegations.

<sup>21</sup> Sub-ceiling for external staff covered by operational appropriations (former 'BA' lines).



### 3.3. Estimated impact on revenue

- X The proposal/initiative has no financial impact on revenue.
- ☐ The proposal/initiative has the following financial impact:
  - ☐ on own resources
  - ☐ on miscellaneous revenue

EUR million (to three decimal places)

| Budget revenue line: | Appropriations available for the current financial year | Impact of the proposal/initiative <sup>22</sup> |          |          |          |                                                                                     |  |
|----------------------|---------------------------------------------------------|-------------------------------------------------|----------|----------|----------|-------------------------------------------------------------------------------------|--|
|                      |                                                         | Year N                                          | Year N+1 | Year N+2 | Year N+3 | Enter as many years as necessary to show the duration of the impact (see point 1.6) |  |
| Article .....        |                                                         |                                                 |          |          |          |                                                                                     |  |

|  |
|--|
|  |
|--|

<sup>22</sup> As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 25 % for collection costs.