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FOR DECISION

EUROPEAN FUND FOR STRATEGIC INVESTMENTS

<u>STEERING BOARD</u>

OPERATING POLICIES AND PROCEDURES NECESSARY FOR THE FUNCTIONING OF EFSI

Joint proposal by EC and EIB

Questions concerning this note should be referred to EFSI Secretariat: tel: +352 4379 82130; e-mail: <u>EFSISecretariat@eib.org</u>

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1) Introduction

This document contains the operating policies and procedures necessary for the functioning of EFSI as referred to in Article 7(2)(b) of the EFSI Regulation¹ to the extent currently in force. It will be complemented by other operating policies and procedures in due course as appropriate, including, *inter alia,* the rules of procedure of the Investment Committee as foreseen in Article 5.5 of the EFSI Agreement.

As regards the submission of applications for operations under the EFSI and their appraisal and due diligence, those follow EIB's or EIF's rules and procedures.

¹ 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 – the European Fund for Strategic Investments (OJ L 169, 1.7.2015, p. 1).

2) Steering Board

EFSI Regulation

Article 7 Governance of the EFSI

(...)

7.2. The EFSI Agreement shall provide that the EFSI is to be governed by a steering board, which, for the purpose of the use of the EU guarantee, is to determine, in conformity with the general objectives set out in Article 9(2):

(a) the strategic orientation of the EFSI, including the allocation of the EU guarantee within the infrastructure and innovation windows and any decision to be taken under Article 11(3) and Section 7(b) of Annex II;

(b) the operating policies and procedures necessary for the functioning of the EFSI;

(c) the rules applicable to the operations with investment platforms and national promotional banks or institutions;

(d) the risk profile of the EFSI.

7.3. The Steering Board shall comprise four members: three appointed by the Commission and one by the EIB. The Steering Board shall elect a Chairperson from among its members for a fixed term of three years, renewable once. The Steering Board shall take its decisions by consensus.

The minutes of Steering Board meetings shall be published as soon as they have been approved by the Steering Board.EN L 169/14 Official Journal of the European Union 1.7.2015. The Steering Board shall regularly organise a consultation of relevant stakeholders - in particular co-investors, public authorities, experts, education, training and research institutions, the relevant social partners and representatives of civil society - on the orientation and implementation of the investment policy carried out by the EIB under this Regulation.

The instruments used by the EIF for carrying out operations covered by this Regulation shall be approved jointly by the Steering Board and the Managing Director, after consulting the Investment Committee.

7.4. Member States and other third parties may - subject in the case of other third parties to the agreement of the Steering Board - contribute to the EFSI in the form of guarantees or cash as regards Member States, and only in the form of cash as regards other third parties. Neither Member States nor other third parties shall be granted membership of the Steering Board, nor shall they be granted a role in the appointment of other EFSI staff including members of the Investment Committee, nor shall they have any right concerning other aspects of governance of the EFSI as set out in this Regulation.

EFSI Agreement

Article 4 Steering Board

- 4.1 The implementation of EFSI shall be governed and supervised by a Steering Board for the purpose of ensuring the appropriate use of the EU Guarantee. The management of EFSI Operations are carried out under the exclusive responsibility and control of EIB.
- 4.2 The Steering Board shall consist of 4 members, of which the Commission shall appoint 3 and EIB 1.

The members of the Steering Board shall be duly empowered to act on behalf of the Party appointing them to the Steering Board.

A member of the Steering Board may have an alternate who represents the Party having appointed that member in his or her absence.

- 4.3 The Steering Board shall:
 - (a) determine the strategic orientation of EFSI;
 - (b) exercise its rights and carry out tasks under the Investment Guidelines and, where appropriate, propose amendments;
 - determine operating policies and procedures necessary for the functioning of EFSI;
 - (d) determine the risk profile of EFSI, supervise regularly its development and adopt appropriate measures if deemed necessary;
 - (e) establish indicative sectorial and geographical concentration limits in line with point (8) of the Investment Guidelines;
 - (f) give guidance on the allocation of operations in line with point (6) of the Investment Guidelines;
 - (g) adjust the project mix as regards sectors and countries, on the basis of an ongoing monitoring of the developments of market conditions in the Member States and of the investment environment to help overcome market failures and suboptimal investment situations including problems resulting from financial fragmentation, while avoiding an approach that would be riskier than necessary;
 - (h) specify policies regarding Investment Platforms, NPBs and funds;
 - determine the rules applicable to the operations with Investment Platforms and NPBs;
 - (j) approve jointly with the Managing Director, after consultation with the Investment Committee, the SMEW Products;
 - (k) review, on a regular basis, the progress on the implementation of EFSI;

- (I) review and adjust, if necessary, the allocation of the total EFSI support available under the IIW to Debt Type Operations and Equity Type Operations or the allocation of the total EFSI support available between IIW and SMEW under the EU Guarantee subject to Article 3.9;
- (m) review annual operational and financial reporting on EFSI Operations;
- (n) review terms of reference and evaluation reports concerning EFSI;
- (o) appoint the Investment Committee members following an open and transparent selection procedure carried out in accordance with Article 7(8) of the EFSI Regulation and monitor their performance and absence of conflicts of interest;
- (p) following an open and transparent selection process in line with EIB procedures, select a candidate for each of the positions of Managing Director and Deputy Managing Director;
- (q) take decisions on the size of the PFLP in accordance with Article 7.3;
- (r) decide on participation by a third party in EFSI; and
- (s) carry out any other tasks specified in this Agreement.
- 4.4 The Steering Board shall take decisions by consensus subject always to the internal decision-making bodies of the Parties. The quorum required for meetings shall be two Commission members and the EIB member.
- 4.5 The Steering Board shall elect its Chairperson from among its members. The Chairperson shall be a representative of the Commission and shall be elected for a fixed term of 3 years, renewable once.

The Steering Board shall convene at the request of its Chairperson or any other of its members. Meetings of the Steering Board shall be organised by its Secretariat.

- 4.6 The Steering Board shall adopt its rules of procedure upon a proposal of the Secretariat substantially in the form set out in Schedule I.
- 4.7 Activities carried out in respect of the Steering Board shall not be remunerated. The Party that has nominated the member shall bear all costs associated with this status including all costs incurred by the member in relation to travelling to and attending any meetings of the Steering Board.
- 4.8 For members of the Steering Board, the rules of conflict of interest and of codes of conduct of their respective employers shall apply.
- 4.9 When carrying out their tasks, the Steering Board members shall pursue only the objectives set out in the EFSI Regulation.
- 4.10 The minutes of the Steering Board shall be published as soon as they have been adopted by the Steering Board.

- 4.11 The Steering Board shall organise regularly a consultation of relevant stakeholders – notably co-investors, public authorities, experts, education, training and research institutions, relevant social partners and representatives of civil society – on the orientation and implementation of the investment policy carried out by EIB under the EFSI Regulation.
- 4.12 At the request of the European Parliament or of the Council, the Chairperson of the Steering Board shall report on the performance of EFSI to the requesting institution, including by participating in a hearing before the European Parliament.
- 4.13 The Chairperson of the Steering Board shall reply orally or in writing to questions addressed to EFSI by the European Parliament or the Council, in any event within five weeks of the date of receipt of a question.
- 4.14 EIB shall provide the Secretariat from its head offices in Luxembourg.
- 4.15 The Secretariat shall carry out the following tasks:
 - (a) organisation of Steering Board meetings, including drawing up and distribution of Steering Board documents, agenda and minutes;
 - (b) any other such tasks as defined in this Agreement or by the Steering Board.

Communications between the Parties concerning the Steering Board shall be channelled through the Secretariat.

4.16 The role of the Steering Board on the governance and implementation of the SMEW shall be limited to the tasks described under Articles 4.3(j), 4.3(k), 4.3(l), 4.3(m) and 4.3(n). The EFSI activities conducted by the EIF are otherwise to be governed by the EIF governing bodies.

RULES OF PROCEDURE FOR THE STEERING BOARD²

THE STEERING BOARD FOR EFSI,

Having regard to the EFSI Agreement,

HAS ADOPTED ITS RULES OF PROCEDURE as follows:

Article 1

Convening a meeting

1. Any Steering Board meeting is convened by the Chairperson, either on his or her own initiative, or at the request of a Steering Board member.

Article 2

Agenda

1. The Secretariat shall draw up the agenda and submit it to the Steering Board.

2. Any Steering Board member may request points to be put on the agenda. The Secretariat shall then include them on the agenda.

- 3. The agenda shall make a distinction between:
- (a) proposed measures about which the Steering Board is asked to take a decision or to give an opinion;
- (b) other issues put to the Steering Board for information or a simple exchange of views.

Article 3

Documentation to be sent to Steering Board members

1. The Secretariat shall send the invitation to the meeting, the agenda and proposed measures about which the Steering Board's opinion or decision is required and any other working documents to the Steering Board members in accordance with Article 12 no later than 14 calendar days before the date of the meeting.

2. In urgent cases, and where the measures to be adopted must be applied immediately, the Chairperson may, on his or her own initiative or at the request of a Steering Board member, shorten the period laid down in the above paragraph to five calendar days before the date of the meeting.

² As in EFSI Agreement – Schedule I and as adopted by the Steering Board during its first meeting on 22/07/2015 – DOCUMENT REF 01-2015.

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3. If the placing of another point onto the agenda is requested during the course of a meeting, the approval of a simple majority of Steering Board members is required.

Article 4

Working methods of the Steering Board

1. The Steering Board will reach its decisions by consensus of its members.

2. The Chairperson, on his or her own initiative or at the request of a Steering Board member, may postpone a particular agenda point until the end of the meeting or a later meeting:

- if a substantive change is made to the proposal during the meeting,

- if the text of the proposal has been submitted to the Steering Board during the meeting,

- if a new point has been added to the agenda, in accordance with Article 3(3).

3. If a Steering Board member so requests, voting on an issue shall be postponed if the documents relating to a specific agenda point have not been sent to the members within the timeframe laid down in Article 3(1) and (2).

However, at the proposal of the Chairperson or the request of a Steering Board member, the Steering Board may decide by a simple majority of members to keep this point on the agenda because of the urgency of the matter.

4. The Steering Board may decide to adopt a Code of Conduct. The Steering Board members and alternates shall adhere to it and shall act according to it.

The Chairperson shall supervise at the beginning of each meeting that all participants at each meeting (including those persons participating pursuant to Article 7) have adhered to the Code of Conduct.

Article 5

Representation and quorum

1. Each Steering Board member may be represented by only one person. However, with the Chairperson's permission, he or she may be accompanied by experts, at the expense of the member concerned.

2. The quorum required for the Steering Board's deliberations shall be two of the Commission Steering Board members or his or her alternate and the EIB Steering Board member or his or her alternate.

Article 6

Working groups

1. The Steering Board may create working groups to examine particular issues.

2. The Steering Board shall nominate the chair of the working group.

3. The groups must report back to the Steering Board. To this end, they may appoint a rapporteur.

Article 7

Admission of third parties

1. The Chairperson may decide to invite experts to talk on particular matters, on his or her own initiative or at the request of a Steering Board member.

2. Experts must withdraw when the Steering Board moves to a vote.

Article 8

Written procedure

1. If necessary and justified, a Steering Board's opinion or decision can be obtained by a written procedure. To this end, the Chairperson shall send the Steering Board members the proposed measures on which their opinion or vote is sought, in accordance with Article 12. The written procedure shall allow at least 14 calendar days for opinion or vote. In urgent cases this period may be shortened as appropriate by decision of the Steering Board.

2. If a Steering Board member requests that the proposed measures be examined at a Steering Board meeting, the written procedure shall be terminated without result; the Chairperson shall then call a meeting as soon as possible.

Article 9

Secretarial support

1. Members of the Steering Board shall provide their own secretarial support at their own cost.

2. The Secretariat shall be provided by EIB.

Article 10

Minutes and summary report of the meeting

1. The Secretariat shall draw up minutes of each meeting, under the auspices of the Chairperson. These minutes shall contain, in particular, the opinions expressed on the proposed measures referred to in Article 2(3)(a) and, if necessary, the opinions expressed on issues referred to in Article 2(3)(b). The text of the opinions and the decisions shall be given in a separate annex. The minutes shall be sent to the members of the Steering Board within 15 working days of the meeting.

2. The Steering Board members shall send any written comments they may have on the minutes to the Chairperson. The Steering Board shall be informed of this – if there are any disagreements, the proposed amendment shall be discussed by the Steering Board. If the disagreement persists, the proposed amendment shall be annexed to the minutes.

Article 11

Attendance list

1. At each meeting, the Chairperson shall draw up an attendance list.

2. At the beginning of every meeting, any Steering Board member whose participation in the work of the Steering Board would constitute a conflict of interest with regard to a particular agenda point must inform the Chairperson of this situation.

In the event of such a conflict of interest, the member concerned must withdraw his or her participation whilst the relevant agenda points are being dealt with. If the member is the EIB member, he or she must be replaced by an alternate in order for the meeting to proceed on that agenda point.

Article 12

Correspondence

1. Correspondence relating to the Steering Board shall be addressed to the Secretariat, for the attention of the Chairperson.

2. Correspondence for Steering Board members shall be addressed to the Secretariat, if possible by e-mail.

3. Correspondence from the Secretariat to a Steering Board member shall be addressed by e-mail.

Article 13

Transparency

1. Article 27 (Confidentiality) of the EFSI Agreement applies to Steering Board documents.

2. In addition, the minutes of the Steering Board meetings shall be published.

3) Investment Committee

EFSI Regulation

Article 7 Governance of the EFSI

(...)

7.7. The EFSI Agreement shall provide that the EFSI is to have an investment committee, which is to be responsible for examining potential projects in line with the EFSI investment policies and for approving the support of the EU guarantee for EIB operations for projects that comply with the requirements of Articles 6 and 9, irrespective of the geographic location, in accordance with Article 8, of such projects. Furthermore, the Investment Committee shall be the competent body for approving operations with investment platforms and national promotional banks or institutions.

7.8. The Investment Committee shall be composed of eight independent experts and the Managing Director. The experts of the Investment Committee shall, following an open and transparent selection procedure, be appointed by the Steering Board for a fixed term of up to three years. Their term shall be renewable but shall not exceed six years in total. The independent experts shall have a high level of relevant market experience in project structuring and project financing, as well as micro- and macro-economic expertise.

When appointing the experts of the Investment Committee, the Steering Board shall ensure that the composition of the Investment Committee is diversified, so as to ensure that it has a wide knowledge of the sectors referred to in Article 9 and of the geographic markets in the Union.

The composition of the Investment Committee shall be gender-balanced. The Steering Board shall strive to select experts having experience in investment in one or more of the following fields:

- (a) research, development and innovation;
- (b) transport infrastructures and innovative technologies for transport;
- (c) energy infrastructures, energy efficiency and renewable energy;
- (d) information and communication technologies infrastructures;
- (e) environmental protection and management;
- (f) education and training;
- (g) health and medicine;
- (h) SMEs;
- (i) cultural and creative industries;
- (j) urban mobility;

(k) social infrastructures and the social and solidarity economy.

7.9. When participating in the activities of the Investment Committee, its members shall perform their duties impartially and in the interests of the EFSI. When implementing the investment guidelines set out in Annex II and taking decisions on the use of the EU guarantee, they shall not seek or take instructions from the EIB, the institutions of the Union, Member States, or any other public or private body. Without prejudice to the provision of analytical, logistical and administrative support by the staff of the EIB to the Investment Committee, adequate organisational arrangements shall be established and maintained to ensure the operational independence of the Investment Committee. Any project assessment conducted by EIB staff shall not be binding on the Investment Committee for the purposes of granting the EU guarantee.

7.10. CVs and declarations of interest of each member of the Investment Committee shall be made public and constantly updated. Each member of the Investment Committee shall communicate without delay to the Steering Board all information needed to check on an ongoing basis the absence of any conflict of interest.

7.11. Following a request from the Steering Board, the contract of any member of the Investment Committee who breaches the obligations set out in paragraphs 9 and 10 shall be terminated, in accordance with applicable employment and labour law rules.

7.12. The Investment Committee shall decide on the use of the EU guarantee in accordance with this Regulation, including the investment guidelines set out in Annex II.

Decisions of the Investment Committee shall be taken by simple majority. Decisions approving the use of the EU guarantee shall be public and accessible.

The EIB shall submit twice a year to the European Parliament, the Council and the Commission a list of all decisions of the Investment Committee rejecting the use of the EU guarantee, subject to strict confidentiality requirements.

Annex II

EFSI INVESTMENT GUIDELINES

1. Scope

The purpose of the investment guidelines shall be to serve together with this Regulation as a basis for the Investment Committee to decide in a transparent and independent manner on the use of the EU guarantee for EIB operations that are eligible under the EFSI in conformity with the objectives and any other relevant requirements laid down in this Regulation.

The investment guidelines are based on the principles established by this Regulation with regard to general objectives, eligibility criteria, eligible instruments and the definition of additionality. They complement this Regulation by (i) giving further guidance on eligibility, (ii) providing a risk framework for operations, (iii) defining sector and geographic diversification thresholds, and (iv) defining criteria to assess the contribution to the EFSI objectives to facilitate prioriti- sation.

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 are thus not applicable to EFSI operations relating to the instruments referred to in Article 10(2)(b).

2. Eligible Counterparts, Project Types and Instruments

a) The eligible counterparts to benefit from the EU guarantee shall include:

 entities of all sizes, including utilities, SPVs or project companies, SMEs or mid-cap companies;

- national promotional banks or institutions or financial institutions for intermediation;
- equity/debt funds and any other form of collective investment vehicles;
- investment platforms;
- public sector entities (territorial or not, but excluding operations with such entities giving rise to direct Member State risk) and public-sector type entities.
- (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. 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 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.

- (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 finance under the EFSI with a view to reach an overall initial target of at least EUR 315 000 000 000 of public or private investment, including financing mobilised through the EIF under EFSI operations relating to the instruments referred to in Article 10(2)(b) and national promotional banks or institutions. The eligible products shall include inter alia (¹) 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 or funds. 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.
- (d) National promotional banks or institutions and investment platforms or funds shall be eligible for coverage by the EIB guarantee under the counter-guarantee of the EU guarantee in accordance with Article 10(2)(c). The decision to grant that EIB guarantee shall strive to mobilise investments at both the national and regional level and to exploit the complementary expertise, the specific comparative advantages, and the scope of such entities, for the benefit of the EFSI initiative.

3. Additionality

The EU guarantee shall be granted in support of operations that meet the criterion of providing additionality as defined in Article 5(1) of this Regulation.

The following general principles shall also apply:

- (a) in order to avoid duplication of existing financial instruments, the EU guarantee may complement, be combined with, or strengthen or enhance existing Union programmes or other sources of Union funds or joint instruments;
- (b) over the course of the EFSI investment period, investment supported by the EFSI shall in principle not crowd out the use of other Union financial instruments;
- (c) attention shall be paid to the complementarity of new infrastructure and innovation window products focusing on SMEs and small mid-cap companies with existing EU financial instruments and EFSI financial instruments under the SME window so that the highest level of efficient use of financial resources is achieved. Nonetheless, a cumulative use of instruments shall be possible in particular in cases where the usual support is not sufficient to kick-start investments.

4. Added value: contribution to the EFSI objectives

Projects benefitting from the EU guarantee shall respect the eligibility criteria and general

objectives set out in Article 6 and Article 9(2) respectively.

5. Scoreboard

The scoreboard referred to in Article 7 shall be used by the Investment Committee with a view to ensuring an independent and transparent assessment of the possible use of the EU guarantee.

6. Investment Windows

- (a) The debt and equity instruments referred to in Article 10(2)(a) shall be provided under an Infrastructure and Innovation Window, which will consist of a Debt Sub-window and an Equity-Type Sub-window. Allocation of operations (¹) to one of the two Sub-windows shall be based on the EIB's system of loan grading and the EIB's standard risk assessment and subject to guidance provided by the Steering Board.
- (b) Infrastructure and Innovation Window Debt Sub-window
 - For debt-type operations, the EIB shall carry out its standard risk assessment, involving the computation of the probability of default and the recovery rate. Based on these parameters, the EIB shall quantify the risk for each operation. Such computation shall be performed without taking into account the EU guarantee, to reflect the overall risk of the transaction.
 - Each debt-type operation shall receive a risk classification (the Transaction Loan Grading) as per the EIB's system of loan gradings. Information on loan grading shall be included in the project documentation for the Investment Committee. Transactions with a higher risk profile than projects supported by EIB normal operations are referred to as special activities as defined in Article 16 of the EIB Statute and in the credit risk policy guidelines of the EIB. Operations supported by the EU guarantee shall typically have a higher risk profile than EIB normal operations and hence fall under the special activities. Transactions with a better loan grading can be included into the EFSI portfolio provided that a high added value is clearly demonstrated and their inclusion is consistent with the criterion of providing additionality.
 - Projects shall be economically and technically viable and the EIB's financing shall be structured in line with sound banking principles and comply with the high level risk management principles set by the EIB in its internal guidelines. All relevant information shall be made available to the members of the Steering Board and of the Investment Committee.
 - Debt-type products shall be priced in line with the EIB's loan pricing methodology.
- (c) Infrastructure and Innovation Window Equity Type Sub-window
 - For equity-type operations, the EU guarantee may be used to support direct investments in individual companies or projects (Equity-Type Direct Investments) or

financing for funds or analogous portfolio risks (Equity-Type Portfolio), provided that the EIB invests on a pari passu basis for its own risk as well. The determination whether an operation bears equity-type risks or not, irrespective of its legal form and nomenclature, shall be based on the EIB's standard assessment.

- The EIB's equity-type operations shall be carried out in accordance with the EIB'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.
- Equity-type investments shall be priced in line with the market, absent which market testing or benchmarking shall be used.

7. Exposure limits per risk category

- (a) The exposure limits for special activities categories decreases with increasing risk-level, as expressed in the Transaction Loan Grading. The limit is thus generally higher for debt-type risk than for equity-type risk.
- (b) Reflecting the availability of credit enhancement provided by the EU guarantee, the exposure limits for the EFSI shall be set by the EIB at a level higher than the equivalent limit under the EIB's own risk business. The members of the Steering Board and the Investment Committee shall receive a detailed overview of the EFSI risk limits. The Steering Board shall supervise regularly the development of the risk profile of the EFSI portfolio and adopt appropriate measures if deemed necessary.
- (c) Transactions for higher amounts than the specific EFSI limits can be included into the EFSI portfolio on an exceptional basis, with the agreement of the Steering Board, provided that additionality and added value is clearly demonstrated and their inclusion is unlikely to jeopardise the overall portfolio risk-level target at the end of the initial investment period.

8. Sectoral and geographical diversification

The EFSI is demand driven but aims to support eligible projects across the Union as well as cross-border projects, covered by Article 8 of this Regulation, without any sectoral or geographical pre-allocation. However, best efforts shall be made to ensure that at the end of the initial investment period a wide range of sectors and regions will be covered and excessive sectoral or geographical concentration is avoided.

(a) Sectoral Concentration

In order to manage sector diversification and concentration of the EFSI portfolio, the Steering Board shall set indicative concentration limits in respect of the volume of operations supported by the EU guarantee at the end of the initial investment period. The

indicative concentration limits shall be made public.

The Steering Board may decide to modify these indicative limits, after consulting the Investment Committee. In that case, the Steering Board shall explain its decision to the European Parliament and to the Council in writing.

(b) Geographical Concentration

EFSI-supported operations shall not be concentrated in any specific territory at the end of the initial investment period. 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 explain its decisions relating to the indicative limits to the European Parliament and the Council in writing. The EFSI should aim to cover all Member States.

EFSI Agreement

Article 5 Investment Committee

- 5.1 The Investment Committee shall be responsible for examining the use of the EU Guarantee for operations proposed to it as potential EFSI Guaranteed Operations under the IIW in line with the Investment Guidelines and this Agreement and approving the support of the EU Guarantee for such operations as the sole decision making body for that purpose.
- 5.2 In performing its duties, the Investment Committee shall have a duty of care to EFSI, as embodied by the Steering Board. The Investment Committee should not encroach upon or interfere with the decision making of EIB, or be a substitute for the governing bodies of the latter.
- 5.3 It shall be composed of 8 independent experts and the Managing Director.
- 5.4 The Investment Committee shall take decisions by simple majority. Each member of the Investment Committee shall have one vote. No abstentions will be permitted except in case of conflict of interest or impossibility to vote due to illness or similar reason that objectively temporarily prevents the member from exercising his or her duties. The minimum quorum required for decisions shall be five.
- 5.5 The Investment Committee shall adopt its own rules of procedure.
- 5.6 The procedure for submission of proposals to the Investment Committee is set out in Schedule V.
- 5.7 The members of the Investment Committee shall be appointed by the Steering Board following an open and transparent selection procedure organised by EIB in agreement with the Commission for a renewable fixed term of up to 3 years and not exceeding 6 years in total. The Investment Committee members shall be contracted by EIB notwithstanding their duty of care obligation set out in Article 5.2 which shall be mentioned in their terms of appointment. The Parties agree no further action shall be required to mitigate any potential or perceived conflict of interest arising from the requirement under this Article 5.7 that EIB contracts the members of the Investment Committee notwithstanding the fact that they carry out functions respecting the duty of care to EFSI.
- 5.8 The members of the Investment Committee (other than the Managing Director and the Deputy Managing Director) are entitled to receive an annual fee of EUR 67,500 plus reasonable travel costs from EIB. They shall be responsible for the payment of taxes, social security and any pension obligations that may be payable in connection to the annual fee received. The terms and conditions of the members of the Investment Committee, including their remuneration, may be revised by the Steering Board.

- 5.9 The members of the Investment Committee shall be appointed in a personal capacity, and shall therefore not delegate their responsibilities to another member or to a third party.
- 5.10 The composition of the Investment Committee shall be gender-balanced and diversified so as to ensure that it has a wide knowledge of the eligible sectors for EFSI Guarantee Operations covered in Article 9 of the EFSI Regulation and of geographic markets within the EU. The members shall have experience in investment in one and preferably more of the fields referred to in Article 7(8), third sub-paragraph of the EFSI Regulation. Information and documentation supplied, correspondence and meetings shall be in English and Investment Committee members shall be fully able to work in this language.
- 5.11 Curriculum vitae and declarations of interest of each member of the Investment Committee shall be made public and constantly updated. The members of the Investment Committee shall be required to communicate without delay to the Steering Board all information needed to check on an ongoing basis the absence of any conflict of interest.
- 5.12 The members of the Investment Committee shall perform their duties impartially and in the interests of EFSI and not to take or seek instructions from EIB, the institutions of the EU, Member States, or any other public or private body when implementing the Investment Guidelines or taking decisions on the use of the EU Guarantee.
- 5.13 In the case of a breach of the obligations by a member of the Investment Committee referred to in Articles 5.11 and 5.12 or any other obligation of such a nature as would, under the terms of their appointment give rise to a right to terminate his or her contract, the Steering Board may request EIB to terminate his or her contract and appoint a replacement from the reserve list of candidates compiled during the appointment process.
- 5.14 The provision of analytical support by EIB to the Investment Committee in respect of a proposed operation as a potential EFSI Guaranteed Operation shall consist of the information detailed in Article 2 of Schedule V.

The Investment Committee shall be entitled to rely on EIB's assessment that the operations proposed to it as potential EFSI Guaranteed Operations are economically and technically viable, are structured in line with sound banking principles and comply with the risk management principles set by EIB in its internal guidelines as amended from time to time. However, it shall not be bound by assessments by EIB for the purposes of approving the granting of the EU Guarantee.

Subject to the provisions of this Agreement, the benefit of the support of the EU Guarantee shall be determined by reference to the circumstances existing at the date of the Investment Committee's approval and shall not be affected by changes to such circumstances occurring after this date. Should, due to a change in circumstances prior to signature, EIB resubmit to its Board of Directors a proposal for which the Investment Committee had already approved the EU Guarantee cover it shall also resubmit the proposal to the Investment Committee for approval of the EU Guarantee coverage unless the change relates to any area not within the competence of the Investment Committee.

- 5.15 The Investment Committee shall be consulted by the Managing Director and the Steering Board jointly on proposals for SMEW Products. Its role as regards the SMEW is limited to this task.
- 5.16 The decisions approving the use of the EU Guarantee shall be public and accessible. The list of all decisions of the Investment Committee rejecting the use of the EU Guarantee shall be submitted by EIB twice a year to the European Parliament, the Council and the Commission, subject to strict confidentiality requirements.
- 5.17 EIB shall provide the Secretariat from its head offices in Luxembourg.
- 5.18 The Secretariat shall carry out the following tasks:
 - (a) organisation of Investment Committee meetings, including drawing up and distribution of Investment Committee documents, agenda, minutes and travel arrangements;
 - (b) any other such tasks as defined in this Agreement or by the Investment Committee.

Communications between the Investment Committee members can be channelled through the Secretariat.

SCHEDULE V

PROCEDURE FOR SUBMISSION OF PROPOSALS TO THE INVESTMENT COMMITTEE

Article 1 - General Provisions

- 1. The decision procedure for the approval of EFSI Guaranteed Operations is intended to ensure that Investment Committee members shall be able to provide a decision in relation to any particular operation prior to its consideration by the EIB Board of Directors. Consequently the Managing Director shall convene at least one meeting of the Investment Committee normally in Luxembourg but which may also be held by videoconference or other remote means prior to each EIB Board of Directors' meeting to consider the EFSI Guaranteed Operations which are to be presented during that EIB Board of Directors meeting. The Managing Director shall convene each meeting of the Investment Committee by notice circulated at least 20 Business Days in advance. The meeting shall be concluded at least 2 Business Days before the relevant EIB Board of Directors' meeting.
- 2. EIB shall submit proposals for potential EFSI Guaranteed Operations to the Investment Committee members which may be by way of a protected web portal. These proposals shall be submitted to the Investment Committee members at least 10 Business Days in advance of the meeting in which they are to be considered and upon which a vote is to be held.
- 3. Investment Committee members may ask written questions on matters relevant to their functions and the operations under consideration in advance of the meeting. The questions shall be addressed to the Managing Director up to 2 Business Days prior to the relevant meeting and the Managing Director will either supply written answers prior to the meeting or verbal answers during the meeting.
- 4. No abstentions will be permitted except in the case of conflict of interest or impossibility to vote due to illness or similar reason that objectively temporarily prevents the member from exercising his or her duties.
- 5. Investment Committee members shall be subject to confidentiality requirements in relation to the specific details of operations provided to them and shall be prohibited from contacting Final Recipients, Financial (Sub-)Intermediaries and parties connected to or representing Final Recipients and Financial (Sub-)Intermediaries.
- 6. At the request of the Managing Director, EIB may be represented in the meetings to provide additional clarifications on the questions raised by the Investment Committee members.
- 7. Decisions on whether or not cover under the EU Guarantee is available for the particular EFSI Guaranteed Operations presented at the meeting shall be made on a simple majority of voting members present with a quorum of five.
- 8. All decisions of the Investment Committee are final and binding and EIB shall be capable of relying on such decisions.

- The Investment Committee members may convene an additional meeting to discuss any issue related to their functions or other issues outside discussion of individual operations where two or more members make a request to the Managing Director in writing.
- 10. Investment Committee members acting in good faith in the performance of their duties shall not be held liable for any loss by EIB or the EU except in case of gross negligence or wilful misconduct.

Article 2 - Information

- 1. EIB shall submit the following information to the Investment Committee in respect of proposals for potential EFSI Guaranteed Operations. All information shall be provided in English.
 - (a) an EFSI Guarantee Request Form which shall contain the following information:
 - Brief description of the operation and whether the operation is proposed as a Debt Type Operation or an Equity Type Operation;
 - (ii) Legal denomination of the Guaranteed Obligor (unless not known);
 - (iii) Country of domicile of the Guaranteed Obligor;
 - (iv) Maximum loan / guarantee / investment amount;
 - (v) Estimated total investment cost of the operation;
 - (vi) Adequate information to assess whether the operation is in an eligible sector(s) as referred to in Article 9(2) of the EFSI Regulation;
 - (vii) Type of product (more than one may be included);
 - (viii) Adequate information to assess the Additionality of the operation;
 - (ix) Initial view on the likely security (if any);
 - (x) Statement in accordance with Article 16.2 that the proposed operation falls within the EFSI Investment Guidelines.
 - (b) a copy of the information that will be provided to the EIB Board of Directors;
 - (c) the expected loan grading for the operation (excluding the benefit of the EU Guarantee); and
 - (d) the Scorecard.

Article 3 - Investment Platforms and NPBs

Proposals to the Investment Committee may include operations in the form of Investment Platforms or proposed initiatives to be undertaken with the participation of NPBs. In these cases, where the Investment Committee has approved use of the EU Guarantee at the level of the proposed Investment Platform or NPB initiative, the operations undertaken pursuant to the Investment Platform or NPB initiative will benefit from the EU Guarantee without individual Investment Committee approval, except in the case where the Investment Committee explicitly states that individual approval of operations for the support of the EU Guarantee is necessary.

Article 4 - Record-keeping

Each response of the Investment Committee members to the Managing Director and each communication of the Managing Director to EIB shall be appropriately electronically stored by EIB so as to ensure that the decisions of the Investment Committee are auditable and capable of proper evaluation.

4) Managing Director and Deputy Managing Director

EFSI Regulation

Article 7 Governance of the EFSI

(...)

7.5. The EFSI Agreement shall provide that the EFSI is to have a managing director, who is to be responsible for the day- to-day management of the EFSI and the preparation and chairing of meetings of the Investment Committee referred to in paragraph 6.

The Managing Director shall be assisted by a deputy managing director. The Managing Director shall report every quarter on the activities of the EFSI to the Steering Board.

7.6. Following an open and transparent selection process in line with EIB procedures, the Steering Board shall select a candidate for each of the positions of Managing Director and Deputy Managing Director.

The European Parliament and the Council shall be kept duly informed in a timely manner at all stages of the selection procedure, subject to strict confidentiality requirements. That applies regardless of the conclusion of the agreement between the European Parliament and the EIB referred to in Article 17(5).

The European Parliament shall organise as rapidly as possible, and at the latest within four weeks from the communication of the name of a selected candidate, a hearing with the candidate for each position.

Following the approval from the European Parliament, the Managing Director and the Deputy Managing Director shall be appointed by the President of the EIB for a fixed term of three years, renewable once.

EFSI Agreement

Article 6 Managing Director and Deputy Managing Director

- 6.1 The EFSI shall have a Managing Director and a Deputy Managing Director who assists the Managing Director and replaces the Managing Director in his or her absence.
- 6.2 The Managing Director shall be responsible for the day-to-day management of EFSI and the preparation and chairing of meetings of the Investment Committee.
- 6.3 The Managing Director and the Deputy Managing Director shall be appointed for a once renewable fixed term of 3 years.
- 6.4 Following an open and transparent selection process in line with EIB procedures, the Steering Board shall select a candidate for each of the positions of Managing Director and Deputy Managing Director. The Commission shall receive the curriculum vitae of all the candidates and shall have the right to participate as observer in the selection of shortlisted candidates to be interviewed.
- 6.5 EIB and the Steering Board shall keep the European Parliament and the Council duly informed in a timely manner at all stages of the selection procedure subject to strict confidentiality requirements.
- 6.6 The European Parliament shall organise as rapidly as possible, and at the latest within four weeks from the communication of the name of a selected candidate, a hearing with the candidate for each position.
- 6.7 Following the hearing and approval by the European Parliament, the Managing Director and the Deputy Managing Director shall be appointed by the President of EIB as EIB employees. EIB staff rules apply to them.
- 6.8 The remuneration of the Managing Director shall be at EIB rates equivalent to the level of Director General.
- 6.9 The remuneration of the Deputy Managing Director shall be at EIB rates equivalent to the level of Director.
- 6.10 The Managing Director shall be responsible for approving the SMEW Products together with the Steering Board and after consultation of the Investment Committee. The EFSI activities conducted by EIF are otherwise to be governed by the EIF governing bodies.
- 6.11 The Managing Director shall report every quarter on the activities of the EFSI Guaranteed Operations to the Steering Board.
- 6.12 For the Managing Director and the Deputy Managing Director, the rules of conflict of interest contained in the EIB Staff Code of Conduct shall apply.