Regulation (EU) 2018/409 of the European Parliament and of the Council of 14 March 2018 amending Council Regulation (EC, Euratom) No 480/2009 establishing a Guarantee Fund for external actions

REGULATION (EU) 2018/409 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

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amending Council Regulation (EC, Euratom) No 480/2009 establishing a Guarantee Fund for external actions

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 209 and 212 thereof,

Having regard to the proposal from the European Commission,

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

Acting in accordance with the ordinary legislative procedure[(1)],

Whereas:

(1) The Guarantee Fund for external actions (the 'Fund') is regulated by Council Regulation (EC, Euratom) No 480/2009[(2)].

(2) The Fund is endowed by one annual payment from the general budget of the Union, by interest on Fund resources invested and by amounts recovered from defaulting debtors.

(3) Risk-premium revenues generated under the financing operations of the European Investment Bank (EIB) that benefit from a Union budgetary guarantee should be paid into the Fund.

(4) Where the amount of the Fund exceeds 10 % of the Union's total outstanding capital liabilities, the surplus should be paid back into the general budget of the Union in order to better protect the general budget of the Union against potential additional risk of default of the EIB financing operations addressing the long-term economic resilience of refugees, migrants, host and transit communities, and communities of origin as a strategic response to addressing root causes of migration.

(5) Regulation (EC, Euratom) No 480/2009 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC, Euratom) No 480/2009 is amended as follows:

(1) in Article 2, the following indent is added:

— risk-premium revenues generated under the financing operations of the EIB for which the Union provides a guarantee which is remunerated.;

Changes to legislation: *There are currently no known outstanding effects for the Regulation (EU) 2018/409 of the European Parliament and of the Council. (See end of Document for details)*

(2) in Article 3, the third paragraph is replaced by the following:

> If the amount of the Fund exceeds 10 % of the Union's total outstanding capital liabilities, the surplus shall be paid back into the general budget of the European Union. That surplus shall be paid in one transaction to a special heading in the statement of revenue in the general budget of the European Union of the year n + 1 on the basis of the year-end n – 1 difference between 10 % of the Union's total outstanding capital liabilities amount and the value of the Fund's net assets, calculated at the beginning of the year n.;

(3) Article 7 is replaced by the following:

Article 7

> The Commission shall entrust the financial management of the Fund to the EIB.
>
> By 30 June 2019, the Commission shall submit to the European Parliament and to the Council an independent external evaluation of the advantages and disadvantages of entrusting the financial management of the assets of the Fund and of the European Fund for Sustainable Development to the Commission, the EIB, or a combination of the two, taking into account the relevant technical and institutional criteria used in comparing asset-management services, including the technical infrastructure, a comparison of costs for the services given, the institutional set-up, reporting, performance, accountability and the expertise of each institution and the other asset-management mandates for the general budget of the European Union. The evaluation shall, where appropriate, be accompanied by a legislative proposal.;

(4) Article 8 is replaced by the following:

Article 8

> The Commission shall, by 31 May of each year, submit to the European Parliament, to the Council and to the Court of Auditors an annual report on the management of the Fund in the previous calendar year. The annual report shall contain a presentation of the financial position and information on the functioning of the Fund at the end of the previous calendar year, the financial flows as well as the significant transactions and any relevant information on the financial accounts, such as detailed information on the outstanding capital of guaranteed loans or the Fund's assets during the previous calendar year, as well as conclusions and lessons learned. The report shall also include information about the financial management and performance and the risk of the Fund at the end of the previous calendar year. As of 2019 and every third year thereafter, it shall also include an assessment on the adequacy of the 9 % target and the 10 % threshold for the Fund, as referred to in the second and third paragraphs of Article 3 respectively..

Article 2

This Regulation shall enter into force on the twentieth 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.