# Regulation (EU) 2017/2396 of the European Parliament and of the Council of 13 December 2017 amending Regulations (EU) No 1316/2013 and (EU) 2015/1017 as regards the extension of the duration of the European Fund for Strategic Investments as well as the introduction of technical enhancements for that Fund and the European Investment Advisory Hub

## REGULATION (EU) 2017/2396 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 13 December 2017

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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[(1)],

Having regard to the opinion of the Committee of the Regions[(2)],

Acting in accordance with the ordinary legislative procedure[(3)],

Whereas:

(1) Since the Commission communication ‘An Investment Plan for Europe’ (the ‘Investment Plan’) was presented on 26 November 2014, the conditions for an uptake in investment have improved and confidence is returning in Europe’s economy and growth. The Union is now in its fourth year of moderate recovery, with Gross Domestic Product growing at 2 % in 2015, but unemployment rates remain above their pre-crisis levels. The comprehensive efforts initiated with the Investment Plan are already delivering concrete results, despite the fact that it is not yet possible to estimate the full impact that the European Fund for Strategic Investments (EFSI) has had on growth as the macroeconomic effects of larger investment projects cannot be immediate. Investment has been picking up gradually throughout 2017 but the pace is still rather slow and remains below historical levels.

(2) That positive investment momentum should be maintained and efforts should be continued to bring investment back to a long-term sustainable trend in such a way that it reaches the real economy. The mechanisms of the Investment Plan work, and should be reinforced to continue the mobilisation of private investments in such a way as to generate a substantive macroeconomic impact and to contribute to the creation of jobs

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in sectors that are important to the Union's future and where market failures or sub-optimal investment situations remain.

(3) On 1 June 2016, the Commission issued a Communication entitled 'Europe investing again — Taking stock of the Investment Plan for Europe and next steps' outlining the achievements of the Investment Plan and the envisaged next steps, including the extension of the EFSI beyond its initial three-year period, the scaling-up of the small and medium-sized enterprises (SME) window within the existing framework and the enhancement of the European Investment Advisory Hub (EIAH).

(4) On 11 November 2016, the European Court of Auditors adopted an opinion concerning the proposal for a Regulation of the European Parliament and of the Council amending Regulations (EU) No 1316/2013 and (EU) 2015/1017 and the accompanying Commission evaluation, in accordance with Article 18(2) of Regulation (EU) 2015/1017, entitled 'EFSI: an early proposal to extend and expand'.

(5) The EFSI, implemented and co-sponsored by the European Investment Bank (EIB) Group, is on track, from a quantitative perspective, to deliver the objective of mobilising at least EUR 315 000 000 000 in additional investments in the real economy by mid-2018. The market response and absorption have been particularly quick under the SME window where the EFSI is delivering well beyond expectations and building on the initial use of the existing European Investment Fund (EIF) facilities and mandates (InnovFin SME Guarantee Facility, COSME Loan Guarantee Facility (LGF) and the EIB Risk Capital Resources (RCR) mandate) to have an accelerated kick-start. In July 2016, the SME window was therefore scaled-up by EUR 500 000 000 within the existing parameters of Regulation (EU) 2015/1017 of the European Parliament and of the Council[(4)]. Given the exceptional market demand for SME financing under the EFSI, a larger share of financing is to be targeted at SMEs. In this regard, 40 % of the increased risk-bearing capacity of the EFSI should be targeted at increasing access to financing for SMEs.

(6) On 28 June 2016, the European Council concluded that the Investment Plan, in particular the EFSI, had already delivered concrete results and had been a major step in helping mobilise private investment while making smart use of scarce budgetary resources. The European Council noted that the Commission intended to put forward proposals soon on the future of the EFSI, which would need to be examined as a matter of urgency by the European Parliament and the Council.

(7) The EFSI was established for an initial period of three years and with the aim of mobilising at least EUR 315 000 000 000 in investments, thereby supporting the objective of fostering growth and jobs. However, the drive to meet the headline target should not prevail over the additionality of the projects selected. The Union is therefore committed not only to extending the investment period and financial capacity of the EFSI, but also to increasing the focus on additionality. The extension covers the period of the current multiannual financial framework and should provide at least EUR 500 000 000 000 of investments by 2020. In order to enhance the firepower of the EFSI even further and to achieve the aim of doubling the investment target, Member States should also contribute as a matter of priority.

(8) The EFSI and its implementation cannot fully realise their potential without the implementation of activities aimed at strengthening the single market, creating a favourable business environment and the implementation of socially balanced and sustainable structural reforms. In addition, well-structured projects, as part of investment and development plans at Member States level, are of key importance for the success of the EFSI.

(9) For the period after 2020, the Commission intends to put forward the necessary proposals to ensure that strategic investment will continue at a sustainable level. Any legislative proposal should be based on the conclusions of a Commission report and an independent evaluation including a macroeconomic assessment of the usefulness of maintaining a scheme to support investment. That report and independent evaluation should also examine, to the extent applicable, the application of Regulation (EU) 2015/1017 as amended by this Regulation, over the extended period of the implementation of the EFSI.

(10) The EFSI, as extended by this Regulation, should address remaining market failures and sub-optimal investment situations and continue to mobilise with strengthened additionality private sector financing in investments crucial for Europe's future job creation, including for youth, growth and competitiveness. Such investments include investments in the areas of energy, environment and climate action, social and human capital and related infrastructure, healthcare, research and innovation, cross-border and sustainable transport, as well as the digital transformation. In particular, the contribution of operations supported by the EFSI to achieving the ambitious Union targets set at the 21st Conference of the Parties to the United Nations Framework Convention on Climate Change (COP21) and the Union commitment to reduce greenhouse gas emissions by 80 to 95 % should be reinforced. In order to reinforce the climate action element under the EFSI, the EIB should build on its experience as one of the largest providers of climate finance worldwide and use its state-of-the-art internationally agreed methodology to credibly identify climate action project components or cost shares. Projects should not be artificially structured with a view to falling under the definitions of SMEs and small mid-cap companies. Energy interconnection priority projects and energy efficiency projects should also be increasingly targeted.
In addition, EFSI support for motorways should be limited to supporting private and/or public investment in transport in cohesion countries, in less developed regions or in cross-border transport projects or if it is necessary to upgrade, maintain or improve road safety, develop intelligent transportation system (ITS) devices, guarantee the integrity and standards of existing motorways on the trans-European transport network, in particular safe parking areas, alternative clean fuels stations and electric charging systems, or contribute to the completion of the trans-European transport network by 2030 in accordance with Regulations (EU) No 1316/2013[(5)] and (EU) No 1315/2013[(6)] of the European Parliament and of the Council. In the digital sector, and within the scope of the ambitious Union policy on the Digital Economy, new digital infrastructure targets should be set in order to ensure that the digital divide will be bridged and that the Union will be a global pioneer in the new age of the so-called internet of things, blockchain technology, cybersecurity and network security. For reasons of clarity, although they are

already eligible, it should be explicitly laid down that projects in the fields of agriculture, forestry, fishery and aquaculture and other elements of a wider bioeconomy fall within the general objectives eligible for EFSI support.

(11) Cultural and creative industries play a key role in re-industrialising Europe, are a driver for growth and are in a strategic position to trigger innovative spill-overs in other industrial sectors, such as tourism, retail, and digital technologies. In addition to the Creative Europe Programme established by Regulation (EU) No 1295/2013 of the European Parliament and of the Council[(7)] and the Cultural and Creative Sectors Guarantee Facility established pursuant to that Regulation, the EFSI should help to overcome capital shortages in those sectors by providing additional support which should be complementary to the support provided under the Creative Europe Programme and the Cultural and Creative Sectors Guarantee Facility, so that a higher volume of these high-risk projects could be financed.

(12) Operations involving entities located in the Union and extending outside it should also be supported by the EFSI, when they promote investment in the Union, in particular when they include cross-border elements. The EIAH should provide proactive support to promote and encourage such operations.

(13) Additionality, which is a key feature of the EFSI, should be strengthened in the selection of projects. In particular, operations should only be eligible for EFSI support if they address clearly identified market failures or sub-optimal investment situations. Operations in physical infrastructure under the infrastructure and innovation window linking two or more Member States, including e-infrastructure and in particular broadband infrastructure, as well as services necessary for the construction, implementation, maintenance or functioning of such infrastructure, should be considered to be strong indications of additionality given their inherent difficulty and their high added value for the Union.

(14) The EFSI should typically target projects with a higher risk profile than projects supported by EIB normal operations and the EFSI Investment Committee (the 'Investment Committee') should, when assessing additionality, have regard to risks which hinder investment, such as country-, sector- or region-specific risks and the risks associated with innovation, in particular in growth-, sustainability- and productivity-enhancing unproven technologies.

(15) With a view to ensuring a wider geographical coverage of the EFSI and to increasing the efficiency of the EFSI intervention, combination and/or blending operations combining non-reimbursable forms of support and/or financial instruments from the general budget of the Union, such as European Structural and Investment Funds or those available under the Connecting Europe Facility (CEF) established by Regulation (EU) No 1316/2013 and Horizon 2020 — the Framework Programme for Research and Innovation established by Regulation (EU) No 1291/2013 of the European Parliament and of the Council[(8)], and financing from the EIB Group, including EIB financing under the EFSI, as well as other investors should be encouraged. Combination and/or blending aim to enhance the added value of Union spending by attracting additional resources from private investors and to ensure that the supported actions become

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economically and financially viable. To that end, EUR 1 000 000 000 of appropriations were transferred in parallel with the presentation of the Commission proposal for this Regulation from the CEF financial instruments to the grant part of the CEF with a view to facilitating blending with the EFSI. A blending call to that effect was successfully launched in February 2017. Another EUR 145 000 000 is being transferred to other relevant instruments, in particular those dedicated to energy efficiency. Further action is necessary to ensure that Union funds and EFSI support can be easily combined. Although the Commission has already published concrete guidance on this matter, the approach on the issue of combining Union funds and the EFSI should be further developed aiming to increase the investments benefiting from the leverage provided by combining Union funds and the EFSI, taking into account possible legislative developments. In order to ensure economic efficiency and adequate leverage such combination of finances should, in principle, not exceed 90 % of total project costs for the less developed regions and 80 % for all other regions.

(16) In order to reinforce the take-up of the EFSI in less developed regions and transition regions, the scope of the general objectives eligible for EFSI support should be enlarged. Projects would remain subject to examination by the Investment Committee and need to adhere to the same eligibility criteria for the use of the guarantee established pursuant to Regulation (EU) 2015/1017 (the 'EU guarantee') including the principle of additionality. Given the fact that there should be no restriction on the size of the projects eligible for EFSI support, small-scale projects should not be deterred from applying for EFSI financing. Moreover, further action to strengthen technical assistance and the promotion of the EFSI in less developed regions and transition regions is necessary.

(17) Investment platforms are an essential tool to deal with market failures, especially in the financing of multiple, regional, or sectorial projects, including energy efficiency projects and cross-border projects. It is also important to encourage partnerships with national promotional banks or institutions, including with a view to setting up investment platforms. Cooperation with financial intermediaries can also play an important role in this respect. In that context, the EIB should, where appropriate, delegate the appraisal, selection and monitoring of small-scale sub-projects to financial intermediaries or approved eligible vehicles.

(18) In the case of delegation of the appraisal, selection and monitoring of small-scale projects to financial intermediaries or approved eligible vehicles, the Investment Committee should not retain the right to approve the use of the EU guarantee for sub-projects under such EIB financing and investment operations where the EFSI contribution to such small-scale sub-projects is below a defined threshold. The EFSI Steering Board (the 'Steering Board') should, where appropriate, provide guidance on the procedure to be used by the Investment Committee for evaluating sub-projects above that threshold.

(19) For the full investment period, the Union should provide the EU guarantee which should not, at any time, exceed EUR 26 000 000 000 in order to enable the EFSI to support investments, of which a maximum of EUR 16 000 000 000 should be available before 6 July 2018.