Commission Implementing Regulation (EU) 2016/1157 of 11 July 2016 amending Implementing Regulation (EU) No 964/2014 as regards standard terms and conditions for financial instruments for a co-investment facility and for an urban development fund

COMMISSION IMPLEMENTING REGULATION (EU) 2016/1157

of 11 July 2016

amending Implementing Regulation (EU) No 964/2014 as regards standard terms and conditions for financial instruments for a co-investment facility and for an urban development fund

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006[(1)], and in particular the second subparagraph of Article 38(3) thereof,

Whereas:

(1) To facilitate the use of financial instruments which are set up at national, regional, transnational or cross-border level and managed by or under the responsibility of the managing authority in accordance with Article 38(3)(a) of Regulation (EU) No 1303/2013, Commission Implementing Regulation (EU) No 964/2014[(2)] established rules on standard terms and conditions for three financial instruments: a portfolio risk sharing loan, a capped portfolio guarantee and a renovation loan.

(2) To further facilitate the delivery of European Structural and Investment Funds to final recipients it is necessary to provide for rules on standard terms and conditions for two further financial instruments: a Co-Investment Facility and an Urban Development Fund.

(3) A Co-Investment Facility is an appropriate financial instrument for supporting entrepreneurial development of small and medium-sized enterprises (SMEs) at different stages of development. The Co-Investment Facilities should develop the local equity market and attract additional equity investments in SMEs through a partnership approach with private investors.

(4) An Urban Development Fund is an appropriate financial instrument for addressing the high concentration of economic, environmental and social problems of urban areas located in assisted areas identified in a regional aid map in accordance with Articles

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2016/1157. (See end of Document for details)*

107(3)(a) and (c) of the Treaty. Urban Development Funds should be used to mobilise co-investment from private investors to support implementation of urban development projects and should aim at addressing market failures by supporting sustainable urban development strategies where there is limited availability of funding or relatively low interest of investors in supporting urban development projects.

(5) Implementing Regulation (EU) No 964/2014 should therefore be amended accordingly.

(6) The measures provided for in this Regulation are in accordance with the opinion of the Coordination Committee for the European Structural and Investment Funds,

HAS ADOPTED THIS REGULATION:

Article 1

Implementing Regulation (EU) No 964/2014 is amended as follows:

(1) Article 1 is replaced by the following:

Article 1

Subject matter

This Regulation lays down rules concerning the standard terms and conditions for the following financial instruments:

(a) a portfolio risk sharing loan (“RS Loan”);

(b) a capped portfolio guarantee;

(c) a renovation loan;

(d) a co-investment facility;

(e) an Urban Development Fund.;

(2) in Article 3 the title is replaced by the following:
Article 3

Grants under the standard terms and conditions;

(3) the following Articles 8a and 8b are inserted:

Article 8a

Co-investment Facility

1 The Co-investment Facility shall take the form of an equity fund managed by a financial intermediary investing contributions from the European Structural and Investment Funds (ESIF) programme into small and medium-sized enterprises (SMEs). The Co-investment Facility shall attract additional investments in SMEs through a partnership approach with private co-investors on a deal by deal basis.

2 The Co-investment Facility shall comply with the terms and conditions set out in Annex V.

Article 8b

Urban Development Fund

1 The Urban Development Fund shall take the form of a loan fund and shall be set up and managed by a financial intermediary with contributions from the ESIF programme and a mobilisation of co-financing of at least 30 % from the financial intermediary and co-investors. The Urban Development Fund shall finance and support implementation of urban development projects in assisted areas which are designated in a regional aid map for the period 1 July 2014 to 31 December 2020 in accordance with points (a) and (c) of Article 107(3) of the Treaty, as well as mobilise co-investment from private sources.

2 The Urban Development Fund shall comply with the terms and conditions set out in Annex VI.;

(4) Annexes V and VI as set out in the Annex to this Regulation are added.

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.

Done at Brussels, 11 July 2016.

For the Commission

The President

Jean-Claude JUNCKER

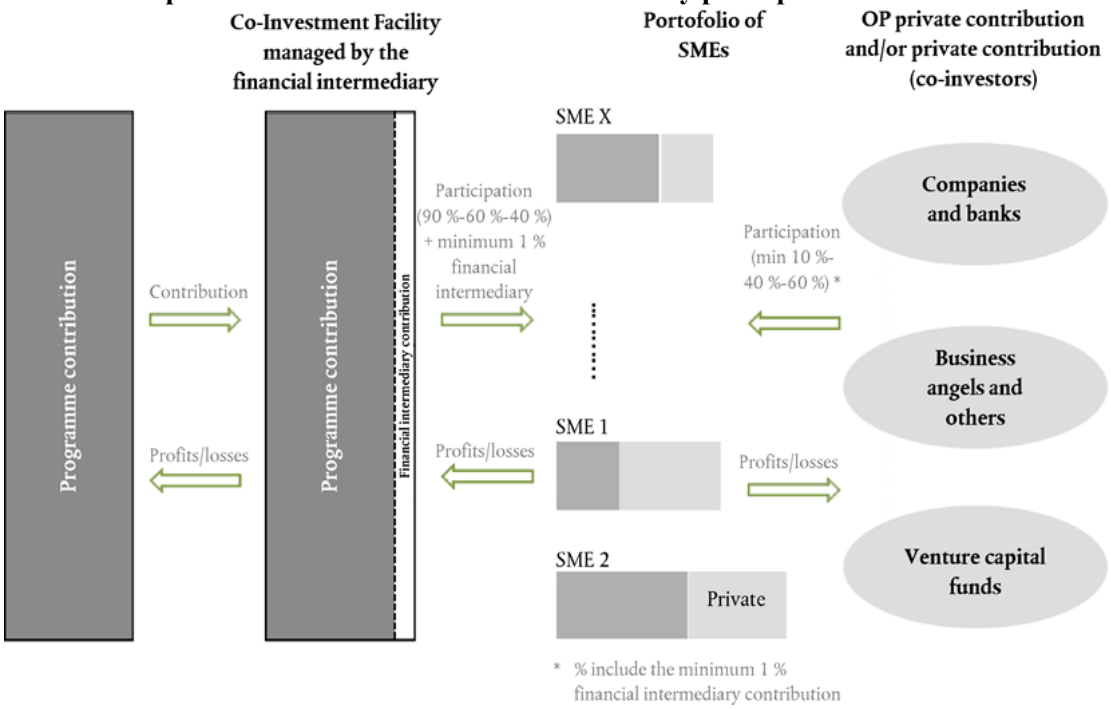
Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2016/1157. (See end of Document for details)*

ANNEX

ANNEX V

CO-INVESTMENT FACILITY

Schematic representation of the Co-Investment Facility principle



Terms and conditions for the Co-Investment Facility

Structure of the financial instrument	The Co-Investment Facility shall invest in the equity of SMEs with the contributions of the ESIF programme, the financial intermediary's own resources and private co-investors. The financial intermediary shall be a private entity that takes all investment and divestment decisions with the diligence of a professional manager in good faith. The financial intermediary shall be economically and legally independent from the managing authority and from fund of funds. Private co-investors shall be private bodies and shall be legally independent from the financial intermediary. The Co-Investment Facility shall be made available in the framework of an operation which is part of the priority axis defined in the programme funded by the ESI Funds and specified in the context of the *ex ante*

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	assessment required under Article 37 of Regulation (EU) No 1303/2013.
Aims of the instrument	The aims of the instrument shall be to: (1) Invest in SMEs at seed, start-up, and expansion stage or for the realisation of new projects, penetration of new markets or new developments by existing enterprises through co-investment agreements (partnership approach) with co-investors on a deal by deal basis. Such investments shall be made within the scope of Commission Regulation (EU) No 651/2014[a]. (2) Provide more capital to increase investment volumes for SMEs. The aims are linked with the following conditions. The ESIF programme contribution to the Co-Investment Facility shall not crowd out financing available from other public or private investors. The Co-Investment Facility amount and rates shall be set to fill the equity gap identified in the *ex ante* assessment of the financial instrument in accordance with Article 37 of Regulation (EU) No 1303/2013. The ESIF programme shall provide funding to the Co-Investment Facility to build up a portfolio of investments in SMEs. The Co-Investment Facility shall participate with the financial intermediary and co-investors on a deal by deal basis. In the case of fund of funds structure, the fund of funds shall transfer the contribution from the ESIF programme to the financial intermediary in charge of the Co-Investment Facility. In addition to the ESIF programme contribution, the fund of funds may provide its own resources. State aid rules apply where the resources provided by the fund of funds are State resources. Where fund of funds resources are combined with other State resources Article 21 of Regulation (EU) No 651/2014 also apply.
State aid implication	The investment of the Co-Investment Facility shall be implemented as an instrument entailing State aid. It shall be considered compatible with the internal market and not requiring an ad hoc notification, provided