

Opinion No 4/2015

(pursuant to Article 287(4) of the Treaty on the Functioning of the European Union (TFEU))

concerning the proposal for a Regulation of the European Parliament and of the Council on the European Fund for Strategic Investments and amending Regulations (EU) No 1291/2013 and (EU) No 1316/2013

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Annex – Abbreviations and references

THE COURT OF AUDITORS OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union (TEU), and in particular Article 13(2) and 17(1);

Having regard to the Treaty on the Functioning of the European Union (TFEU) and in particular Articles 172, 173, 175, third subparagraph, 182(1), 287(4), 317 to 319, 322(1);

Having regard to the Treaty establishing the European Atomic Energy Community (TEAEC), and in particular its Article 106a;

Having regard to the proposal for a Regulation of the European Parliament and of the Council on the European Fund for Strategic Investments and amending Regulations (EU) No 1291/2013 and (EU) No 1316/2013¹,

HAS ADOPTED THE FOLLOWING OPINION:

¹ COM(2015) 10 final of 13 January 2015.

I. INTRODUCTION

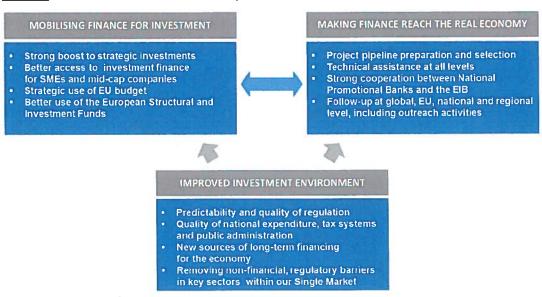
The Investment Plan for Europe

- 1. As a reaction to the decline in investment since 2007, the Commission launched in November 2014 an 'Investment Plan for Europe' ("the Plan")². The intervention logic supporting the Plan is that *'Europe has plenty of investment needs and economically viable projects in search of funding. The challenge is to put savings and financial liquidity to productive use in order to support sustainable jobs and growth in Europe'³. The Plan should not weigh on national public finances or create new debt. The Commission expects, when implemented in full, to create 1 to 1.3 million new jobs over the coming three years.*
- 2. The Plan is built around three main strands (see **Graph 1**):
- the creation of a new European Fund for Strategic Investments (EFSI) to mobilise
 over the next three years (2015 2017) at least 315 billion euro of additional (mainly long-term) investment;
- the establishment of a project pipeline coupled with an assistance programme to channel investments where they are most needed;
- a roadmap to make Europe more attractive for investment and remove regulatory bottlenecks.

² COM(2014) 903 final of 26 November 2014.

³ COM(2014) 903 final, p. 4.

Graph 1 - The Investment Plan for Europe



Source: COM(2014) 903 final, p. 5.

- 3. The Commission's proposal for a Regulation of the European Parliament and of the Council on the European Fund for Strategic Investments and amending Regulations (EU) No 1291/2013 and (EU) No 1316/2013 ("the Proposal") creates the legal framework and provides the budgetary allocations for the first two strands of the Plan⁴.
- 4. EFSI will be established within the European Investment Bank (EIB) as a trust fund⁵ with unlimited duration, to finance riskier parts of projects. A guarantee up to 16 billion euro⁶ will compensate the additional risk taken by the EIB. The guarantee will be backed by the EU budget with funds originating from the existing margins of the EU

For the third strand of the Plan, concerning the regulatory environment and the removal of barriers to investment, the Commission has set out a first set of actions in its Work Programme (COM(2014) 910 final of 16 December 2014, Annex III).

A contractual arrangement between the Commission and the EIB, see Article 1 of the Proposal and page 6, footnote 6 of the Plan.

The EU guarantee will be used mostly for supporting debt instruments for infrastructures and innovation (close to 70 %), the rest being split in equal parts for supporting equity type investments in infrastructure and innovation and for supporting SMEs and mid-caps via the European Investment Fund (EIF).

budget (2 billion euro), the Connecting Europe Facility (3.3 billion euro) and the Horizon 2020 programme (2.7 billion euro), to a total amount of 8 billion euro. The EIB would commit 5 billion euro. Member States can contribute to the EFSI either at risk-bearing level (complementing the existing contributions), via an investment platform, or by cofinancing specific projects and activities.

II. GENERAL REMARKS

5. The comments in the following paragraphs refer to the Proposal. The Court remains available to provide to the Council and the European Parliament any further input in the framework of the current legislative process.

EFSI Governance

- 6. Although its legal status is not specified in the Proposal, EFSI has its own governance structure. A Steering Board shall determine the strategic orientation, the strategic asset allocation and operating policies and procedures, including the investment policy of projects that EFSI can support and the risk profile of EFSI. Membership in the Steering Board is proportional to the contributions but decisions shall be taken by consensus. Both the Commission and the EIB will have a veto right if and when new contributors join.
- 7. On the basis of investment policies and guidelines set by the Steering Board, projects eligible for support by the EU guarantee will be selected by an independent Investment Committee, on their own merits and without any geographic or sectorial allocation. A positive assessment by the Investment Committee is required for support by EFSI. However, the actual decision on financing EFSI projects will be taken by the EIB governing bodies, after consultation with the Commission, in accordance with the Statute of the EIB and its internal procedures⁷.

See Article 19(2) of the EIB Statute (Protocol No 5 to the Treaty on European Union and the Treaty on the Functioning of the European Union).

8. While the Proposal indicates that EIB financing and investment operations covered by the EU guarantee would carry a non-negligible financial risk and the probability of a call upon the guarantee is tangible⁸, the EU budget majority participation in EFSI is not reflected in its governance structure. The latter is built into a dual scheme. The Commission will be directly responsible for the management of the funds of the EU guarantee only, while the EIB governing bodies will be responsible for the actual investment of the funds.

Legislative framework

- 9. The Proposal leaves to a future agreement between the Commission and the EIB a number of essential aspects, such as the establishment of EFSI as a separate guarantee facility within EIB accounts, its governance and internal audit arrangements as well as the assessment of its performance. The terms of the agreement will have significant implications concerning the provision and use of the EU guarantee.
- 10. Furthermore, although the Financial Regulation⁹ represents the legal framework for implementing the EU budget (Article 317 TFEU) and the latter would provide the majority of EFSI funds, the specific provisions of the Financial Regulation will not apply to the EU guarantee to the EIB and the guarantee fund¹⁰. While these provisions have been introduced to address a number of weaknesses concerning the use of financial instruments¹¹, no adequate explanation is provided for such exclusion¹². It would have

⁸ COM(2015) 10 final, pp. 30-31. It is also indicated that projects themselves may be subject to implementation delays and cost overruns and that the cost-efficiency of the initiative could suffer from insufficient market-uptake of the instruments and changing market conditions over time reducing the assumed leverage effect.

Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 298, 26.10.2012, p. 1).

See Title VIII of Regulation (EU, Euratom) No 966/2012.

See Special Reports No 4/2011 'The audit of the SME guarantee facility and No 2/2012, Financial instruments for SMEs co-financed by the European Regional Development Fund'.

been useful to know whether the Financial Regulation is considered to be an obstacle for attracting private investment. In this case, broader consequences should be drawn for other similar schemes.

- 11. While the EIB's own rules will apply, it is not clear to what extent those rules will enforce fundamental principles set by the Financial Regulation, such as sound financial management, transparency, proportionality, non-discrimination, equal treatment, additionality, non-distortion of competition, alignment of interest between the Commission and the partner financial institution.
- 12. To avoid legislative loopholes, the management of EU financial instruments should be ruled by standardised provisions, thus promoting instruments with a multi-policy consistency. Derogations to the Financial Regulation provisions should be duly justified. In accordance with Article 290 TFEU, essential elements of the legislative act should remain in the hands of the legislator and be covered in the Regulation itself. If a delegation of power to the Commission is necessary, such a delegation should be limited to non-essential elements. Its objectives, content, scope and duration should be explicitly defined in the Regulation, with a view to ensuring the necessary transparency.

Accountability by the Commission

13. The Court has pointed out that instruments where the EU collaborates with the private sector need to have an adequate level of transparency and accountability of public funds. Moreover, the performance measurement of such instruments against the

The exclusion from the Financial Regulation is stated in recital 30 of the Proposal and it is simply justified by the nature of the constitution of the EU guarantee and of the guarantee fund.

intended objectives of the financed activities is also needed¹³. Several reasons for concern exist in this respect.

- 14. While the actual setting of key performance indicators will be left to the subsequent EFSI agreement, the accountability set-up seems focused, so far, on outputs rather than outcomes and impacts¹⁴. It is also not clear whether the Commission intends to complement the EIB reporting with its own assessment; and to what extent the Commission will include the EFSI in the annual evaluation report on the Union's finances based on the results achieved (Article 318 TFEU, second subparagraph), in particular concerning the underlying assumptions of the Plan in terms of new investment generated and jobs created. Finally, the managing director, as a member of the Investment Committee that does not decide on actual financing, is made responsible for the performance of the EFSI. The main decision makers (the EFSI Steering Board and the EIB governing bodies) do not seem to be subject to any public accountability procedure before the budgetary authorities.
- 15. The Commission plays several roles in relation to the EFSI scheme. It is the manager of the EU guarantee fund and a member of the Steering Board responsible for setting the strategic orientations and appointing the Investment Committee. It is also a member of the EIB Board of Directors and is consulted before EIB approval of each financing and investment operation. Each of these roles provide the Commission with the necessary authority and relevant information to take on full responsibility for the actual use of EU funds, as provided by Articles 17(1) TEU and 317 TFEU. The Regulation does not explicitly state this responsibility.

Landscape review 2014, Gaps, overlaps and challenges, a landscape review of the EU accountability and public audit arrangements, paragraph 52; Landscape review 2014, Making the best use of EU money: a landscape review of the risks to the financial management of the EU budget, paragraph 12(e).

See Article 2(1)(g) of the Proposal and page 27, point 1.4.4.

16. As commented above (see paragraph 8), the EFSI governance is built into a dual scheme. However, this choice should not undermine the Commission's full responsibility in implementing the EU budget. A diffused accountability framework would also inevitably undermine the significance of the EU budget discharge procedure.

Audit mandate of the European Court of Auditors

- 17. The Proposal provides that the Court has the right to audit 'the EU guarantee and the payments and recoveries under it that are attributable to the general budget of the Union'¹⁵. That provision would limit the Court's audit rights, in that its wording seems to include only payments and recoveries under the EU guarantee and excludes the audit of the operations carried out under the EFSI, of the instruments/entities/facilities which will be set up according to the draft EFSI Regulation, such as the European Investment Advisory Hub (EIAH) and the EU Guarantee Fund, and of the management by the EIB and EIF of financing and investment operations carried out using the EU guarantee. As such, the essence of EFSI activities would be outside the Court's audit scope.
- 18. The Treaty on the Functioning of the European Union confers on the Court the mandate to audit the legality, regularity and sound financial management of <u>all</u> revenue and expenditure of the European Union. Furthermore, to ensure transparency in the management of public funds, the Court should report publicly on the results of its audits. To fulfil its mandate, the Court enjoys unrestricted access to any document or information it considers 'necessary to carry out its task', including on the premises of any natural or legal person in receipt of payments from the budget (Article 287(3), first subparagraph, TFEU)¹⁶. It is therefore for the Court to define the extent of its audits,

See Article 14 of the Proposal.

The Treaty adds that in respect of EIB's activity in managing Union expenditure and revenue, the Court's rights of access to information held by EIB shall be governed by a tripartite agreement between the Court, the EIB and the Commission. In the absence of an agreement, the Court shall nevertheless have access to information necessary for the audit

taking into account also international auditing standards¹⁷. EFSI does not constitute an exception in this respect. In particular, no limitation to the Court's mandate can result from the envisaged non-application of the Financial Regulation.

- 19. In this context, the Commission should ensure that all parties concerned by activities undertaken in accordance with the EFSI Regulation and the EFSI agreement (including financial intermediaries and final recipients) are made aware of the right of the Court, as enshrined in Article 287(3), first subparagraph, TFEU, to have access to all the information it needs to carry out its audits.
- 20. In order to fully reflect the Court's mandate, Article 14 of the Proposal should be replaced by the following text: "The external audit of the activities undertaken in accordance with the EFSI Regulation is carried out by the European Court of Auditors in accordance with Article 287 TFEU".

Financial liabilities for public finances

21. The risk sharing arrangements will be defined in the EFSI agreement. Assuming that the risk sharing will be set according to the 'first-loss' principle, the loans signed by beneficiaries with banks would be brought together in the instrument's portfolio. In case of a loan default the EU budget would cover the most risky part¹⁸. The main financial

of Union expenditure and revenue managed by the EIB (Article 287(3), third subparagraph, TFEU).

- For example, ISSAI 5000 (Principles for Best Audit Arrangements for International Institutions) provides that all international Institutions financed with or supported by public money should be subject to audit by supreme audit institutions, to promote better governance, transparency and accountability; ISSAI 5010 (Guidance for Supreme Audit Institutions) points out the background, the results and the principles for best audit arrangements for international institutions.
- The 'first-loss' principle applies in the Loan Guarantee Instrument for Trans-European Transport Network projects LGTT and in the EU 2020 Project Bond Initiative PBI where the portfolio is divided into two tranches: the 'Portfolio first loss piece (PFLP)' and the 'Residual Risk Tranche' (RRT). The PFLP is considered the most risky tranche in case of a loan default. It is split between the EU Budget and the EIB, with the former retaining 95 % of the

liability is represented by the EU guarantee (up to 16 billion euro). In addition, the EU budget will be liable for the yearly costs of up to 20 million euro related to the EIAH (until 31 December 2020). Finally, the EU budget will be liable to pay unspecified additional costs when the EIB provides funding to the European Investment Fund (EIF) on behalf of EFSI.

- 22. It is important to be aware that the guarantees given may ultimately lead to further risks to the EU budget. The Proposal does not explicitly exclude contingent liabilities for the EU budget beyond the committed funds¹⁹ and does not set a ceiling for EIB expenses. So that the Commission is not liable beyond the EU guarantee (funded by the EU budget) there should be a general immunity and waivers against legal claims by EFSI beneficiaries²⁰. In addition, EIB expenses incurred on behalf of EFSI should be unconditionally capped.
- 23. Although the Plan is not meant to weigh on national public finances or create new debt, the Commission encourages Member States to contribute to EFSI, either directly or through financing of investment projects. These contributions will not be taken into account by the Commission when assessing the fiscal adjustment under either the preventive or the corrective arm of the Stability and Growth Pact²¹. In addition, Member

PFLP, and the EIB 5 %. The PFLP is set at 30 % and in case of default the EU Budget will be exposed up to 28,5 % of the portfolio value. Although the EIB could bear the entire risk for the RRT, in practice there is a low probability that the RRT will be touched. The PFLP will normally absorb the losses.

See Article 140(3) of Regulation (EU, Euratom) No 966/2012.

EFSI beneficiaries (not defined in the Proposal) include borrowers of EU-guaranteed financial instruments implemented by the EIB under the EFSI agreement.

In case of an excess over the deficit reference value, the Commission will not launch an Excessive Deficit Procedure if this excess is only due to the contribution and is small and expected to be temporary. When assessing an excess over the debt reference value, contributions to the EFSI will not be taken into account by the Commission (see COM(2015) 12 final of 13 January 2015, pp. 5-7).

States may also increase European Structural and Investment Funds (ESIF) national cofinancing beyond the minimum legal requirement. Under certain circumstances, a temporary deviation from Member States' medium-term budgetary objectives will be tolerated in relation to the national co-financing of investments under ESIF, the Trans-European Networks scheme and the Connecting Europe facility²².

24. An increase in the public debt cannot therefore be excluded. Indeed, to make such contributions, Member States (and/or their National Promotional Banks) may have to borrow funds. Where Member States provide counter-guarantees to the EFSI the risk of further debt is only postponed. Finally, projects guaranteed by EFSI may need additional public funding beyond the completion of the project (due to, for example, maintenance). This might trigger adverse reactions in financial markets, resulting in higher debt servicing costs especially for countries most affected by the economic and financial crisis. It is also of the utmost importance that due consideration is given to the overall impact of EFSI on public debt and deficits and that this is assessed according to transparent and consistent criteria.

Mid-term review/revision of the Multiannual Financial Framework

25. The creation of EFSI is deemed to respond to an urgent need. It has not been validated by an *ex-ante* evaluation²³ that would have been expected to identify, among other things: the policy options available to meet the same objectives through existing instruments²⁴; the basis for choosing the Connecting Europe Facility and Horizon 2020 as

²² See COM(2015) 12 final, pp. 7-9.

The requirements for an *ex-ante* evaluation are set by Articles 30, 31, 140 of Regulation (EU, Euratom) No 966/2012 and its recital 53. See also Articles 18 and 224 of the Commission delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ L 362, 31.12.2012, p. 1).

For example, an increase of the EIB capital would have been one the alternative options.

the main funding sources despite a high leverage on investment²⁵; and the consequences that a reduction of funds for those programmes would have in filling investment gaps, removing bottlenecks and contributing to the Europe 2020 targets²⁶.

26. On the basis of the above, and in conjunction with possible additional actions to be considered by mid-2016 by the Commission²⁷, the upcoming mid-term review/revision of the Multi-annual Financial Framework (MFF)²⁸ provides the opportunity for the Legislator to assess the progress achieved by EFSI and for taking any corrective measure needed. On this occasion the Commission should also report on the progress of a first set of actions adopted in December 2014 to address the regulatory environment and the removal of barriers to investment²⁹.

III. SPECIFIC COMMENTS

27. This section contains further comments on the Proposal.

Article 1(1) - Risk bearing capacity

28. It would be appropriate to give a definition of 'risk bearing capacity'.

The expectation for TEN-T funding (almost 80 % of the Connecting Europe Facility) was that every million spent at European level would generate 5 million in investment from Member States. In addition, every million would generate 20 million from the private sector: a ratio of 1:25. It was also anticipated that one euro from the EU Framework Programme for Research would have led to an increase in industry added value of between 7 euro and 14 euro (see European Commission, Memo/11/469, 29 June 2011).

For example, by reference to the projects pre-identified by the Connecting Europe Facility (see Annex I to Regulation (EU) No 1316/2013 of the European Parliament and of the Council (OJ L 348, 20.12.2013, p. 129)).

COM(2014) 903 final, p. 16.

Article 2 of Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the years 2014-2020 (OJ L 347, 20.12.2013, p. 884).

²⁹ COM(2014) 910 final, Annex III.

Article 2(2) - European Investment Advisory Hub

- 29. A European Investment Advisory Hub (EIAH) shall provide advisory support for investment project identification, preparation and development and act as a single technical advisory hub (including on legal issues) for project financing within the EU. This shall include support on the use of technical assistance for project structuring, use of innovative financial instruments, and use of public-private partnerships. There are other advisory entities involving the EIB, the Commission and Member States, such as the 'European PPP Expertise Centre' (EPEC) and the 'Financial Instruments Technical Advisory Platform (FI-TAP) for ESIF'. It should be clarified how the EIAH will add value and coordinate with other available expertise.
- 30. The EIAH will be primarily funded from existing envelopes for EIB technical assistance under existing EU programmes (Connecting Europe Facility, Horizon 2020). However, additional funding of up to a maximum of 20 million euro per year until 2020 is foreseen. In this respect, no details or benchmarks are indicated to justify this additional funding.
- 31. The Proposal neither specifies the legal form of EIAH nor its operational structure.

Article 5(3) – EIB expenses

32. The risk of non-recovery of EIB expenses is entirely borne by EFSI, up to 160 million euro. These expenses are not defined and may be increased by the management fees incurred by the EIB when it provides funding to the EIF. As there is no limit to the duration of the EFSI, the consolidated total of EFSI management costs (including the EIAH) is unknown and, moreover, uncapped.

Article 5(4) - Co-funding by ESIF

33. Considering the current pipeline of projects advertised on EFSI's website, most of the projects could in principle be eligible for funding by already existing EU instruments. Financial assistance of the same project by different funding sources, under several legal

frameworks, might create a conflict of applicable rules. These issues are not addressed in the Proposal.

Article 7(2) - Provision of a full guarantee

34. The Proposal provides for the EU guarantee to cover in full (up to 2.5 billion euro) funding provided to the EIF in order to conduct SME financing and investment operations, subject to the EIB providing an equal amount of funding without EU guarantee. In practice, for the part of the EU guarantee managed by the EIF, the leverage will not originate from the EIF, but only from the participating financial intermediaries.

Article 8 – EU guarantee fund

- 35. The Proposal neither provides for what legal form the fund will take nor how it will function.
- 36. The fund is intended to provide a liquidity cushion for the Union budget against losses incurred by the EFSI in pursuit of its objectives. A ratio of 50 % between the payments from the EU budget and EU total guarantee obligations has been set on the basis of experience. The Proposal provides that the Commission can adopt a delegated act in view of adjusting the above mentioned ratio by a maximum of 10 %, i.e. 800 million euro (Articles 8(6) and 17(2)).
- 37. While this adjustment could either increase or decrease the ratio, there is no provision concerning the MFF headings and budget lines that would be concerned by a possible increase of the liquidity cushion in order to face the situation where the 50 % payments of the guarantee obligations will not be sufficient. This aspect should be covered by the Commission's first assessment of the adequacy of the level of the guarantee, to be provided by 31 December 2018.

Article 10 - Reporting and accounting

- 38. The criteria for assessing the added value, the mobilisation of private sector resources, the estimated and actual outputs, outcomes and impact of EIB financing and investment operations at an aggregated basis referred to in paragraph (2)(b) should be indicated.
- 39. The EFSI financial statements referred to in paragraph 2(f) should be accompanied by an opinion of an independent external auditor.
- 40. The due dates for the reporting referred to in paragraphs 1 to 3 should be indicated. In particular, deadlines should be set in view of enabling the Commission to incorporate the relevant information in the annual accounts.
- 41. The timing of the annual report on the situation of the EU guarantee fund referred to in paragraph 6 should be aligned with the timing of the provisional annual accounts or with the timing of the report on budgetary and financial management as requested by article 142 of the Financial Regulation, i.e. 31 March.

Article 12 - Evaluation and review

- 42. The evaluations foreseen should be undertaken by independent external parties.
- 43. It would be more appropriate to report on the EFSI projects based on the nature of the sub-programmes, so as to match the lifecycle of the targeted investments.

Article 13 - Transparency and public disclosure of information

44. In case the detailed arrangements will be set in an agreement between the Commission and the EIB, it would be advisable to publish such agreement.

Article 20 - Transitional provision

45. The EU guarantee may also cover projects financed by the EIB and the EIF outside their usual profile in the course of 2015 before the entry into force of the Regulation. In

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this case, the Commission shall assess whether those operations can be covered by the EU guarantee. This would be a derogation to the provisions according to which projects are selected by an independent Investment Committee, on their own merits and without any geographic or sectorial allocation, on the basis of investment policies and guidelines set by the Steering Board.

This Opinion was adopted by the Court of Auditors in Luxembourg at its meeting of 12 March 2015.

For the Court of Auditors
Vitor Manuel da SILVA CALDEIRA

President

In his absence

Igors LUDBORŽS

Member of the Court

ABBREVIATIONS AND REFERENCES

Abbreviation	Full text	Reference document/website
EFSI	European Funds for Strategic Investments	See: Proposal, the
EIB	European Investment Bank	www.eib.org
EIF	European Investment Fund	www.eif.org
EIAH	European Investment Advisory Hub	See article 2 of the Proposal
EPEC	European PPP Expertise Centre'	http://www.eib.org/epec/
ESIF	European Structural and Investment Funds	http://ec.europa.eu/contracts_grants/funds_en.htm
EU	European Union	
Plan, the	Investment Plan for Europe	COM(2014) 903 final 26 November 2014 http://ec.europa.eu/priorities/jobs-growth-investment/plan/docs/an-investment-plan-for-europe_com_2014_903_en.pdf
LGTT	Loan Guarantee Instrument for Trans- European Transport Network projects	http://www.eib.org/about/documents/ lgtt-fact-sheet.htm
MFF	Multi-annual financial framework	Council Regulation (EU, Euratom) No 1311/2013
		http://ec.europa.eu/budget/mff/ index_en.cfm
PBI	EU 2020 Project Bond Initiative	http://ec.europa.eu/economy_finance/ financial_operations/investment/ europe_2020/index_en.htm
Proposal, the	Proposal for a Regulation of the European Parliament and of the Council on the European Fund for Strategic Investments and amending Regulations (EU) No 1291/2013 and (EU) No 1316/2013	COM(2015) 10 final of 13 January 2015 http://ec.europa.eu/priorities/jobs-growth- investment/plan/docs/ proposal_regulation_efsi_en.pdf
SME	Small and medium-sized enterprises	http://ec.europa.eu/enterprise/policies/sme/ facts-figures-analysis/ sme-definition/index_en.htm
TEN-T	Trans-European Transport Network	http://inea.ec.europa.eu/en/ten-t/ten-t.htm
Treaty or TFEU	Treaty on the Functioning of the European Union	http://eur-lex.europa.eu/legal- content/EN/TXT/?qid=1425369741778&uri=C ELEX:C2012/326/01