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**PROPOSAL**

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From: Secretary-General of the European Commission,  
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 31 May 2018

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of  
the European Union

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Subject: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND  
OF THE COUNCIL on the establishment of a European Investment  
Stabilisation Function

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Delegations will find attached document COM(2018) 387 final.

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EUROPEAN  
COMMISSION

Brussels, 31.5.2018  
COM(2018) 387 final

2018/0212 (COD)

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on the establishment of a European Investment Stabilisation Function**

{SEC(2018) 277 final} - {SWD(2018) 297 final} - {SWD(2018) 298 final}

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## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE PROPOSAL**

#### **• Reasons for and objectives of the proposal**

In his 2017 State of the Union address and accompanying Letter of Intent, President Juncker announced the Commission's intention to make concrete proposals for the creation of a dedicated euro area budget line within the EU budget, providing amongst others for a stabilisation function. The idea was further detailed in the Commission's Communication on new budgetary instruments for a stable euro area within the Union framework, which is part of a package of initiatives to deepen Europe's Economic and Monetary Union<sup>1</sup>. The package builds, in particular, on the Five Presidents' Report on completing Europe's Economic and Monetary Union of 22 June 2015<sup>2</sup> and on the Commission's Reflection Paper on the deepening of the Economic and Monetary Union of 31 May 2017.<sup>3</sup>

Deepening the Economic and Monetary Union (EMU) and modernising EU public finances are key strands in the debate on the future of Europe initiated by the Commission's White Paper of 1 March 2017.<sup>4</sup> This was further highlighted in the Reflection Paper on the future of EU finances of 28 June 2017.<sup>5</sup> At the current juncture, there is a window of opportunity to launch concrete forward-looking proposals on both the future of the EMU and on how future EU public finances can help to respond to identified challenges.

European value added is at the heart of the debate on European public finances. EU resources should be used to finance European public goods. Such goods benefit the EU as a whole and cannot be ensured efficiently by any single Member State alone. In line with the principles of subsidiarity and proportionality, the EU should take action when it offers better value for every taxpayer's euro compared to action taken at national, regional or local level alone.

Deepening the EMU is good for both the euro area and the EU as a whole. A more integrated and performing euro area would bring further stability and prosperity to all in the EU while ensuring that Europe's economic voice is strongly heard on the global stage. The stabilisation function, one of the new budgetary instruments presented in the Commission's Communication seeks to tackle some of the specific needs of euro area Member States and those on their way to joining the euro which are participating in the exchange rate mechanism referred to in Article 140(1) TFEU, while keeping in mind their broader needs and aspirations as EU Member States. In doing so, it also seeks to maximise synergies between existing and future instruments, as they will be presented by the Commission in May 2018 as part of its proposals for the post-2020 EU Multiannual Financial Framework.

The deepening of the Economic and Monetary Union requires determined actions from individual Member States as well as adequate support from the EU budgetary and policy coordination instruments. This creation of a stabilisation functions, is one of the ideas on how better to use the EU budget as a way to strengthen the resilience of our interdependent economies, and thus contribute to economic and social cohesion. Progress made by both euro

<sup>1</sup> COM(2017)822 final, 6 December 2018.

<sup>2</sup> Completing Europe's Economic and Monetary Union, Report by Jean-Claude Juncker, in close cooperation with Donald Tusk, Jeroen Dijsselbloem, Mario Draghi and Martin Schulz, 22 June 2015.

<sup>3</sup> COM(2017) 358, 28 June 2017.

<sup>4</sup> COM(2017) 2025, 1 March 2017.

<sup>5</sup> COM(2017) 358, 28 June 2017.

and non-euro countries in implementing reforms and converging upwards will be beneficial to all.

Under the conditions set out in the Financial Regulation, the EU is empowered to borrow and lend in order to provide financial assistance. This is notably the case for the management for loans provided under the Balance of Payments Facility to support non-euro Member States in the event of difficulties in their balance of payments. It is also the case for loans provided under the European Financial Stabilisation Mechanism. Since the funds raised and the corresponding loans are back-to-back operations, there is no direct impact on the EU budget as long as recipient Member States honour their obligations.

While the EU budget has always promoted upward social and economic convergence and the lending firepower available at EU level was increased in recent years to respond to extreme circumstances, macroeconomic stabilisation has not yet been an explicit objective of the EU budget so far. The experience of the financial crisis years has also shown that the architecture and scope of EU public finances do not yet fully match the specific needs of the Economic and Monetary Union – neither for the euro area Member States, nor for Member States on their way to joining the euro area.

To support euro area Member States to respond better to rapidly changing economic circumstances and stabilise their economy in the event of large asymmetric shocks, a stabilisation function should be created. As a result of the unification of monetary policy in a single currency area, macroeconomic policy instruments in the hands of participating Member States are no longer the same. While each country differs and the size and structure of the economy matter in terms of likelihood of being exposed to shocks, the crisis highlighted the limitations of means available to individual euro area Member States to absorb the impact of large asymmetric shocks, with some losing access to the markets to finance themselves. In several instances, this resulted in protracted recessions and negative spill-overs to other Member States.

With this in mind, and provided Member States agree, there are ways to develop budgetary instruments at EU level that can contribute to the stability of the euro area and also benefit the EU as a whole. To ensure their success and effectiveness, and to maximise their efficiency for the taxpayer, these instruments must be conceived in full synergy with other budgetary instruments existing in the broader Union framework. In addition, in the future, the European Stability Mechanism (ESM) or its legal successor in the form of a European Monetary Fund could take up a role in support of macro-economic stabilisation if desired by the euro area Member States which are its shareholders.

The proposed Regulation on the establishment of the European Investment Stabilisation Function (EISF) is one of the initiatives translating the call to establish a stabilisation function which would help soften the effects of asymmetric shocks and prevent the risk of negative spill-overs in the Commission's Communication on "New budgetary instruments for a stable euro area within the Union framework"<sup>6</sup>. The stabilisation function is conceived for euro area Member States and should be open to non-euro area Member States which have entered the exchange rate mechanism II following a positive decision to this end by ERM II members.

The initiative takes the form of a proposal for a Regulation of the European Parliament and the Council, under Article 175(3) of the Treaty on the Functioning of the European Union

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<sup>6</sup> COM(2017)822 final, 6 December 2018.

(TFEU). Article 175(3) TFEU allows for the creation of an instrument supporting eligible public investment in Member States that are confronted with a large asymmetric shock with a view to strengthen cohesion. This action is necessary outside the Structural Funds which do not provide for a specific instrument to support macro-economic stabilisation by preserving public investment in case of large asymmetric shocks and is without prejudice to measures decided upon within the framework of other Union policies.

Member States have an interest in achieving and maintaining high quality in their public investment management systems and practices. The proposal is therefore complemented by an Annex which determines the methodology and criteria for the assessment of such public investment management systems and practices with a view to identify where they have to be strengthened to increase of the impact of public investment and potential support under the proposed instrument.

Under today's proposal, the Commission is empowered to grant financial assistance to Member States which are faced with a large asymmetric shock, by contracting borrowings on the financial markets or with financial actors, with a view to on-lend such proceeds in support of the Member State concerned in maintaining eligible public investment. In addition, an interest rate subsidy covering the interest rate costs incurred on the loan by the beneficiary Member State is foreseen.

The decision of the Commission to provide support under the instrument is conditioned upon the fulfilment by the Member State concerned of strict eligibility criteria based on compliance with decisions and recommendations under the fiscal and macro-economic surveillance framework. It is recalled that Member States should pursue sound fiscal policies and build up fiscal buffers in prosperous economic times. The criteria for activating the support under the instrument are based on a double unemployment trigger. The latter is chosen because strong increases in national unemployment rates are a relevant indicator of the impact of a large asymmetric shock in a specific Member State.

Moreover, an obligation to use the support received for investment in policy objectives under the Common Provisions Regulation and to maintain the average level of public investment of the five last years, ensures that the aim of the proposed Regulation, namely ensuring that cohesion is not imperilled by the large asymmetric shock, could be reached.

The proposal also includes formulas for determining automatically the amount of loan support and the interest rate subsidy. As regards the loan component, the amount is determined by taking into account the maximum level of eligible public investment that can be supported and the severity of the large asymmetric shock.

However, a limited and circumscribed discretion for the Commission to increase the amount of the loan up to the maximum level of public eligible investment is foreseen. The latter is also determined on the basis of a formula which reflects the ratio of eligible public investment to GDP in the EU over a period of five years before the Member State concerned requested the support and the GDP of the Member State concerned over the same period.

The proposed Regulation is accompanied by a draft intergovernmental agreement for Member States to agree among themselves on the transfer of national contributions calculated on the basis of the share of monetary income allocated to their national central banks to the Stabilisation Support Fund established under the Regulation. The main purpose of this Fund, to be endowed with national contributions, is to finance the interest rate subsidies Member

States are entitled to. Such interest rate subsidies cover 100 percent of the interest cost incurred on the loans.

The detailed eligibility and activation criteria as well as the formulas for calculating loan support and interest rate subsidies allow for a swift and lean decision-making procedure by the Commission.

It is not excluded that the European Stability Mechanism (ESM) or its legal successor would autonomously decide at a certain point in the future to provide support in parallel to the instrument established under the proposed Regulation. In such a case, the Commission shall strive to ensure that such assistance is provided in a manner that is consistent with the proposed Regulation.

To cater for such a potential parallel interaction between any future ESM assistance and this instrument, the proposal makes it possible for the Commission to adopt delegated acts in a limited number of fields. In particular, a delegated act is foreseen to regulate the exchange of information as regards the important elements of the loan under this scheme. Furthermore, the possibility to adopt delegated acts is provided for to supplement or amend the proposed Regulation by determining rules of complementarity between ESM assistance and amounts of EISF support calculated on the basis of the proposed instrument and to cater for granting interest rate subsidies for interest cost incurred on ESM assistance.

It is also important to recall that the EISF instrument established under the proposed Regulation should be seen as a first step in the development over time of a voluntary insurance mechanism for the purpose of macro-economic stabilisation. The latter mechanism would be based on voluntary contributions by euro area Member States and could have a borrowing capacity. A review of the proposed Regulation is foreseen five years after the entry into force of the Regulation to assess and address possible issues in this respect.

This proposal provides for a date of application as of 1 January 2021 and is presented for a Union of 27 Member States, in line with the notification by the United Kingdom of its intention to withdraw from the European Union and Euratom based on Article 50 of the Treaty on European Union received by the European Council on 29 March 2017.

- Consistency with existing policy provisions in the policy area**

The EISF instrument under the proposed Regulation is consistent with other instruments under the cohesion policy. The instrument complements programmes supported by the Union under the European Regional Development Fund, the Cohesion fund, the European Social Fund, the European Maritime and Fisheries Fund and the European Agricultural Fund for Rural Development, which have in recent years accounted for more than half of total public investment, contributing strongly to the process of strengthening the economic and social catching-up of regions and countries across the EU. In this respect it is noted that a greater link between the priorities of the European Semester and the programmes supported by the Union under the European Regional Development Fund, the Cohesion fund, the European Social Fund, the European Maritime and Fisheries Fund and the European Agricultural Fund for Rural Development has also been established, by introducing ex-ante and macroeconomic conditions via the Common Provisions Regulation<sup>7</sup>. Similar conditions determine eligibility for support under the EISF instrument. Moreover, the EISF instrument also complements other EU-level instruments that can specifically help cushion economic shocks at national or

<sup>7</sup> Regulation (EU) No 1303/2013 of the European Parliament and the Council of 17 December 2013.

local level such as the European Union Solidarity Fund, which provides financial assistance to Member States/regions affected by major disasters; and the European Globalisation Adjustment Fund, which provides support to people losing their jobs as a result of major structural changes in world trade patterns or as a result of a global economic and financial crisis.

- **Consistency with other Union policies**

The instrument under the proposed Regulation is consistent with the rules for economic policy coordination, including the Stability and Growth Pact. Eligibility under the EISF instrument is premised on compliance with decisions and recommendations under the fiscal and macroeconomic surveillance framework. The European Semester is the main tool for the coordination of Member States' economic policies at EU level where Member States discuss their economic, social and budgetary priorities and progress is monitored at specific times throughout the year. In the context of the European Semester, the Stability and Growth Pact and the Macroeconomic Imbalances Procedure serve to ensure sound public finances and to prevent risks of imbalances. Moreover, by making best use of the flexibility built into the existing rules of the Stability and Growth Pact, a strengthening of the link between investment, structural reforms and fiscal responsibility has taken place, while taking better account of the cyclical economic conditions faced by Member States.

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

- **Legal basis**

The legal basis for this proposal is Article 175(3) TFEU. To use that Article, three conditions must be fulfilled which are all met.

The first condition is that specific actions must contribute to the strengthening of economic, social and territorial cohesion. The proposed Regulation sets out a lean framework allowing to provide financial assistance to euro area Member States and non-euro area Member States participating in the exchange rate mechanism (ERM II) in support of eligible public investment in the form of loans and interest rate subsidies to cushion a large asymmetric shock to strengthen cohesion. This instrument is a complementary tool which helps beneficiary Member States preserving growth-friendly public investment in case of macroeconomic instability. This in turns helps easing the economic adjustment in the euro area Member State or Member States concerned and helps returning them to a sustainable growth path rather than deepening and lengthening the recession which negatively impacts their economic and social cohesion. The instrument should be activated in the event of a large asymmetric shock in a Member State, or several Member States, when the limits of other mechanisms and national policies materialise, and be subject to strict eligibility criteria based on the Union's fiscal and macroeconomic surveillance framework. Moreover, to be effective, support under the instrument should be channelled to support eligible public investment in support of themes under the ESI Funds. Addressing the effects of a large asymmetric shock through the instruments by supporting the maintenance of the level of public investment thus contributes to the strengthening of economic and social cohesion.

The second is that the action proves necessary outside the Structural Funds. Neither the Structural Funds cater for the purpose of macroeconomic stabilisation in case of a large asymmetric shock by preserving public investment in Member States nor any other specific instrument. The necessity of such an instrument is based on factual elements because

structural reforms, automatic fiscal stabilisers, discretionary fiscal policy measures as well as the single monetary policy of the Eurosystem cannot fully mitigate large macro-economic shocks.

Thirdly, the proposal is without prejudice to the measures decided upon within the framework of other Union policies. In particular, the eligibility for any support under the instrument is explicitly based on the premise of compliance with decisions and recommendations provided for in the Union's fiscal and macro-economic surveillance framework pursuant to Title VIII of Part III of the TFEU.

A measure based on Article 175(3) TFEU which is intended to strengthen economic, social and territorial cohesion may be designed in such a manner that only a subset of Member States fulfil the necessary conditions of eligibility for the support, where the limitation rests on an objective reason. The promotion of economic, social and territorial cohesion and the establishment of an economic and monetary union are both key objectives under Article 3 TEU. The currency union, by the nature of its current architecture, is not equipped with the possibility to mitigate large asymmetric shocks by means of a mechanism allowing effectively ensuring the maintenance of the Member States' level of public investment. The lack of monetary policy and exchange rate adjustment channels at national level limits the tools available to address asymmetric shocks in euro area Member States while placing any response to address such a shock on remaining national instruments of economic policy, namely structural reforms and fiscal policy, but also more heavily on the single monetary policy. Although non-euro area Member States remain responsible for their national monetary and exchange rate policy, those that will adopt the euro in a foreseeable future and participate in the exchange rate mechanism (ERM II) as part of fulfilling their obligations regarding the achievement of the economic and monetary union are de facto already limited in their exchange rate and monetary policies.

- **Subsidiarity (for non-exclusive competence)**

The economic stability of the economic and monetary union (EMU) and the Member States which have adopted the euro have a Union wide dimension. Euro area Member States are economically highly interconnected. It should be avoided that economic shocks and significant economic downturns result into deeper and broader situations of stress negatively impacting economic and social cohesion. However, due to the architecture of the EMU with a centralised single monetary policy but a decentralised fiscal policy at national level, euro area Member States are insufficiently capable to absorb large asymmetric shocks in isolation. There is a need to reinforce the availability of tools when the EMU is confronted with critical problems whenever large economic disruptions arise in individual Member States. Although non-euro area Member States remain responsible for their national monetary and exchange rate policy, those that will adopt the euro in a foreseeable future and participate in the exchange rate mechanism (ERM II) as part of fulfilling their obligations regarding the achievement of the economic and monetary union are de facto also already limited in their exchange rate and monetary policies. The financial and subsequent economic crisis in the euro area has evidenced strong limits to the functioning of automatic fiscal stabilisers and discretionary fiscal policy measures at national level, even in Member States with low levels of public debt and seemingly sound public finances. This has resulted in a pro-cyclical pattern for fiscal policies, which has been detrimental for the quality of public finances and in particular for public investment. The sequence of events also shows that too much weight may be put on the single monetary policy to provide for stabilisation in severe economic circumstances. These observations point to the necessity to establish a common instrument at

Union level to absorb such shocks with a view to avoid widening differences in macro-economic performance between euro area Member States and also non-euro area Member States participating in the exchange rate mechanism (ERM II) imperilling economic and social cohesion.

The objective of this proposed Regulation cannot be sufficiently achieved by the Member States individually and can therefore, by reason of the scale of the action, be better achieved at Union level in accordance with Article 5(3) TEU.

- **Proportionality**

The proposal aims to support public investment with a view to strengthen cohesion in Member States which are confronted with a large asymmetric shock. It sets out a streamlined framework for the provision of financial assistance in the form of loans and an interest rate subsidy. The instrument is a complementary tool next to existing Union instruments for financing jobs, growth and investment, national fiscal policies but also financial assistance for tackling crisis times like the EFSM and the ESM.

The decision-making procedure allows for a lean and swift mobilisation and disbursement of support by the Commission following the fulfilment of clearly defined eligibility and activation criteria as well as a criterion determining the public investment that should be supported.

At the same time the proposal does not go beyond what is necessary to achieve the objective of addressing a large asymmetric shock by supporting public investment. Any support under the proposed instrument is subject to strict eligibility criteria based on compliance with decisions and recommendations under the Union's fiscal and macro-economic surveillance framework and clear well-defined activation criteria based on a double employment trigger. Moreover, a beneficiary Member State has an obligation to use the assistance received for eligible public investment in support of the policy objectives of the Common Provisions Regulation. A control and corrective mechanism is foreseen. The amount of loans and interest rate subsidies is determined on the basis of a formula which takes due account of a maximum level of eligible public investment that can be supported and the severity of the large asymmetric shock. Moreover, with a view to ensure that as many Member States as possible could qualify for loan support under the instrument, a ceiling which is function of the remaining available means in the EU budget is set. Interest rate subsidies cover the interest cost incurred by Member States on the loans received under the instrument. Finally, with a view to increase the impact of public investment and potential support under the scheme, a process to enhance the quality of Member State's public investment systems and practices is foreseen.

- **Choice of the instrument**

This act takes the form of a Regulation because the act creates a new instrument contributing to macro-economic stabilisation and has to be binding in its entirety and directly applicable in all Member States.

### **3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

- Collection and use of expertise**

The assessment of the proposed mechanism mostly relied on internal expertise. To assess the potential activity of the stabilisation function or the insurance mechanism, simulations were run based on past data (1985 to 2017). This approach is in line with the standards of the literature on the topic (Carnot et al. 2017; Arnold et al. 2018; Claveres and Stráský, 2018). The stabilisation impact of both the stabilisation function and the insurance mechanism is assessed through simulations of a macroeconomic model (QUEST developed by the Commission and often mobilised to assess the impact of policy reforms). Results are in line with a similar exercise conducted by the IMF (Arnold et al., 2018). More generally, relevant economic and policy oriented literature on the rationale for a stabilisation function was duly taken into account. Ongoing discussions at Union level as well.

- Impact assessment**

The proposal is supported by an Impact Assessment. On 27 April 2018, the Regulatory Scrutiny Board has issued a positive opinion with reservations on it. *[inclusion of hyperlink to opinion of RSB necessary]* The issues raised by the Regulatory Scrutiny Board were addressed in the revised version of the Impact Assessment Staff Working Document *[inclusion of hyperlink to opinion of RSB necessary]*. The description of the main policy option and the interaction with other instruments were further elaborated, including the composition and funding arrangements. The conclusion on the preferred option is now presented in more detail. A specific annex in the Impact Assessment Staff Working Document further details the changes made following the Regulatory Scrutiny Board's opinion.

The impact assessment examined three policy options for a stabilisation function, besides option 1, the status quo:

Option 2 corresponds to a borrowing and lending scheme, focussed on public investment. A central agent, i.e. the European Union would provide loans together with limited grants to Member States affected by large shocks in order to maintain public investment activity. It mostly corresponds to the Commission proposal as regards the European Investment Stabilisation Function.

Option 3 is an insurance mechanism. Regular contributions, in particular in normal and good economic times, or an own resource would be accumulated in a fund. When a Member State is affected by a large shock, it would benefit from support in form of pay-outs/grants. A limited borrowing capacity would likely be needed to ensure credible and continuous operation.

Option 4 is a dedicated euro area budget. A common budget would not primarily target economic stabilisation, but rather the provision of European public goods. Still, reliance on cyclical revenues (e.g. corporate income tax) and countercyclical spending (e.g. unemployment benefits) would contribute to macroeconomic stabilisation via automatic stabilisers at the EU level. In addition, one could foresee discretionary elements, which could further foster stabilisation properties.

A European Investment Stabilisation Function (option 2) would contribute to the cohesion objective by offering financing support in the event of a large asymmetric shock affecting a Member State. This support would target public investments in priority sectors and be subject

to economic triggering and eligibility conditions. This provision of support will provide a strong incentive to protect key public investments and thereby preserve at an appropriate level expenditures which are essential for the future growth of the economy. As such the scheme would foster outcomes in sharp contrast to the past crisis in some countries where public investment was sizeably cut. The macroeconomic stabilisation impact in this option is limited by the fact that support takes the form of a loan. Confronted with a large shock, the concerned Member State would still face a trade-off between supporting activity via deficit spending or controlling the increase in its public debt. This trade-off would nevertheless be mitigated as the Member State would be given access to cheaper financing than on the market. Moreover, the provision of EU financing may exert a strong signalling effect to market participants, which can act as a catalyst for avoiding the loss of market access and a full-blown financial adjustment programme. This option is consistent with a requirement for no permanent transfers, in the sense that loans are by nature temporary support and the Member State concerned is legally required to pay it back. This condition is particularly important. The view of stakeholders remains divided at this juncture on the need and form of a stabilisation function, especially in the light of worries concerning cross-country neutrality. Option 2 may thus be politically more feasible, at least in the near future.

An insurance mechanism (option 3) would offer significant pay-outs in the event of a large asymmetric shock affecting a Member State, subject to economic triggering and eligibility conditions. These 'insurance pay-outs' would significantly reduce the short-term trade off faced by the concerned Member States between supporting activity and controlling the rise in their debts and deficits. The pay-outs would therefore complement the national automatic stabilisers in adverse circumstances. They would facilitate the conduct of a smoother and more counter-cyclical fiscal policy throughout the cycle, which would also be beneficial for the quality of national public finances and the avoidance of booms and busts in public investments. Depending on its parameterisation, that option can offer a powerful demand stabilisation impact, even for a limited amount of contributions. Option 3 is however relatively challenging to reconcile with the objective of cross-country neutrality, as some Member States could benefit from pay-outs more often or more than others, for example because their economies feature more volatile cycles. Some design features could be important to improve on the objective of country neutrality, such as higher contributions in good times (which would ensure that volatile economies contribute more and would accelerate the constitution of buffers), and a form of experience rating (contributions modulated as a function of past usage). However, the support of stakeholders for this option appears mixed at this stage, as some may see it as entailing too many risks and going beyond a proportionate response to the challenges at hand.

A euro area budget (option 4) would contribute to the stabilisation of large shocks through automatic fluctuations with the cycle of the revenues and/or expenditures of that budget. The effectiveness of that mechanism depends on the cyclical sensitivity of the composition of the budget and on its size. The implications of option 4 would go somewhat beyond that of providing a stabilisation function, as a full budget implies that allocative competences on the revenues and on the expenditure sides are shifted from the national to the European level, in addition to the current EU budget. The setting up of such a budget would therefore require strong political will and consensus. Further reflections and discussions would be needed to assess its content and raise its political acceptability.

It should be noted that the different policy options are not mutually exclusive and can be combined. At this stage, a European Investment Stabilisation Function (option 2) is the preferred option. It would bring an important contribution to the objectives lined out in

section 4 of the Impact Assessment Report. As such it has been retained by the Commission as part of its proposal. An insurance mechanism (option 3) can offer very effective stabilisation properties and may be consistent with country neutrality if well-designed, but further reflections and discussions are needed to assess its viability and raise its political acceptability. An insurance mechanism would significantly strengthen the EMU architecture and thus be highly valuable. While the Commission is not making a formal proposal at this stage, an insurance mechanism should be considered as part of the stabilisation function as a package, topping up and complementing option 2. Such a package would create a consistent ensemble enabling significant stabilisation. Option 4 can offer some stabilisation properties, the extent of which greatly depends on its size and composition, but further reflections and discussions are needed to assess its content and raise its political acceptability.

The impact of an investment stabilisation scheme (option 2) and an insurance mechanism (option 3) would be primarily of macroeconomic nature, along the lines discussed above. In addition, option 2, the investment stabilisation instrument, would improve the composition of public finances by protecting public investment activity. As such it partly captures a dimension of maintenance/upgrading of skills and entails thus some social benefit. In option 3, the insurance mechanism, the environmental and social impact would be fairly indirect and difficult to assess. In option 4, the euro area budget, the environmental and social impact would likely be positive, but the definition of the option is not detailed enough to allow for an in-depth assessment.

#### **4. BUDGETARY IMPLICATIONS**

The proposal could have budgetary implications. The loans which the Commission could grant under this proposed instrument to Member States are a function of a fixed ceiling of EUR 30bn. As such loans constitute contingent liabilities for the EU budget in case a Member State would default on a loan repayment granted under the scheme.

The interest rate subsidy would be financed by a Stabilisation Support Fund endowed with annual national contributions based on the share of each euro area Member State's national central bank in the monetary income of the Eurosystem. The same benchmark would be used for non-euro area Member States participating in the exchange rate mechanism (ERM II). As such these national contributions constitute externally assigned revenue and do not have a bearing on the EU budget.

#### **5. OTHER ELEMENTS**

- Implementation plans and monitoring, evaluation and reporting arrangements**

The act provides for a reporting and review of its application every five years. To this end, the Commission should present an evaluation report that assesses, among others, the effectiveness of the Regulation as well as its contributions to the conduct of the economic policies of euro Member States in such a way as to strengthen cohesion in the Union, to the achievement of the Union's strategy for growth and jobs, and to public investment in euro area Member States benefitting from support under the act. The report shall also examine the appropriateness of developing an insurance mechanism serving the purpose of macro-economic stabilisation. Where deemed appropriate, the report shall be accompanied by proposed amendments to this act. The European Parliament, Council and Eurogroup will receive the report.

Evaluations will be carried out in line with paragraphs 22 and 23 of the Interinstitutional Agreement of 13 April 2016<sup>8</sup>, where the three institutions confirmed that evaluations of existing legislation and policy should provide the basis for impact assessments of options for further action. The evaluations will assess the programme's effects on the ground based on the programme indicators/targets and a detailed analysis of the degree to which the programme can be deemed relevant, effective, efficient, provides enough EU added value and is coherent with other EU policies. They will include lessons learnt to identify any lacks/problems or any potential to further improve the actions or their results and to help maximise their exploitation/impact.

- **Detailed explanation of the specific provisions of the proposal**

**Part I** of the proposed Regulation (Articles 1 and 2) provides for the establishment of the European Investment Stabilisation Function (EISF) as a financial assistance instrument under Article [220] of the revised Financial Regulation in support of public investment for Member States being faced with a large asymmetric shock serving the goal of strengthening cohesion. Furthermore, it indicates the forms which such financial assistance would take, namely loans and interest rate subsidies. Moreover, this part also emphasizes that the Regulation should apply to euro area Member States as well as to non-euro area Member States which participate in the exchange rate mechanism (ERM II). This part also provides for the most important definitions that are used throughout the act.

**Part II** of the proposed Regulation (Articles 3 to 5) contains the criteria which would need to be fulfilled by a Member State in order to benefit from support under the EISF. A distinction should be made between two sets of criteria.

Firstly, the proposed act contains eligibility criteria based on compliance with decisions and recommendations under the Union's fiscal framework provided for in Articles 126(8) and 126(11) of the TFEU and Regulation (EU) No 1466/97 as well as under the macro-economic surveillance framework established by Regulation (EU) No 1176/2011. It should also be determined that in case a euro area Member States is under a macro-economic adjustment programme it would not benefit from support under this scheme but that any financing needs in support of public investment would be taken care off under the programme. The same system is envisaged for non-euro area Member States within the scope of the proposed act which benefit from balance of payments support. Finally, in case Member States would agree to conclude an intergovernmental agreement for financing the interest rate subsidy, payment of annual contributions should constitute an eligibility criterion before a Member State would be able to benefit from an interest rate subsidy under the scheme.

Secondly, activation criteria should be foreseen to cater for a timely and effective activation of EISF support. Such activation should be determined by a double unemployment trigger which is based on both the national unemployment rate compared to its past average and the change in unemployment compared to a certain threshold in the last year. Firstly, the choice for the activation criteria based on unemployment rates is considered for several reasons. The unemployment rate serves as an excellent indicator of the business cycle. Moreover, the effects of shocks on public finances tend to lag the growth cycle and actually more or less match the unemployment cycle. In addition, the lag reflecting the use of the unemployment

<sup>8</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016; OJ L 123, 12.5.2016, p. 1–14.

rate would not undermine the utility of the stabilisation purpose of the instrument because initially Member States would need to take recourse to their automatic stabilisers and policies. Secondly, making use of a double activation trigger would ensure with a greater degree of assurance that the Member State concerned is confronted with a large asymmetric shock with a temporary and country-specific element. The double activation trigger would also allow for support being targeted at times of sizeable economic worsening. The double trigger would target situations where unemployment is rising.

This Part also provides for an obligation by Member States in receipt of assistance under this proposed Regulation to invest the support in eligible public investment, i.e. gross fixed capital formation by the general government in support of policy objectives identified in the Common Provisions Regulation and social investment (education and training) and also to maintain the level of public investment in general compared to the average public investment over the last five years. As regards the second element, the Commission should have some discretion in its assessment to cater for situations where public investment developed in an unsustainable manner in a Member State. A corrective mechanism should be foreseen to avoid ineligible expenditure and Union bearing liability for ineligible loans. That appears necessary to protect the Union's financial interest. In case a Member State would not have respected this criterion, the Commission should be able to request the full or partial repayment of the loan and decide that upon repayment of the loan the Member State concerned would not be able to benefit from an interest rate subsidy. The result of this control should also be made public.

**Part III** of the proposed Regulation (Articles 6 to 8) contains the procedure for granting swiftly EISF support. Following a request, the Commission should verify the fulfilment of the eligibility and activation criteria and also decide on the terms of the support that takes the form of a loan. Elements such as the amount, average maturity, pricing, availability period of support should be determined. The beneficiary Member State should also be entitled to an interest rate subsidy upon repayment of the loan or when interest payments are due. Moreover this part of the proposed act also determines the forms of EISF support.

**Part IV** of the proposed Regulation (Articles 7 to 10) determines firstly the financial envelope for the instrument. As regards loans, the Commission should be able to contract borrowings on the financial markets with the purpose of on-lending them to the Member State concerned. Such borrowings should be limited to a fixed ceiling of EUR 30bn. As regards interest rate subsidies, they should serve to offset the interest costs that Member States incur on the loan. The Commission should be able to use the Stabilisation Support Fund to finance the latter. This part also sets out the formulas which the Commission should use for determining the amounts of the loan and interest subsidy under the EISF instrument.

As regards the loan component of this instrument a distinction should be made between the formula for determining the maximum level of eligible public investment ( $I_s$ ) that can be supported and the formula for calculating the amount of the support ( $S$ ) in the form of loan. Both formulas interact with each other. The maximum level of eligible public investment ( $I_s$ ) that could be supported by the EISF should be automatically set on the basis of a formula which captures the ratio of eligible public investment to GDP in the EU over a period of five years before the request for support by a Member State and the GDP of the Member State concerned over the same period. This maximum amount should also be scaled towards the available means, namely the fixed ceiling determined in the Regulation. The maximum amount of loan support should also be automatically set on the basis of a formula which takes into account the maximum level of eligible public investment that can be supported and the

severity of the large asymmetric shock. The loan should also be scaled in function of the severity of the shock. The amount of the loan could be increased up to the maximum level of eligible public investment ( $I_s$ ) in case the asymmetric shock would be particularly severe. The increase in the quarterly national unemployment rate would serve as an indicator to this end. Finally, the loan support should be limited to 30 percent of remaining available means under the ceiling set for calibrating loans to the available means in the EU budget in order to ensure that as many Member States as possible could qualify for support under this instrument.

The amount of the interest rate subsidy should be automatically determined as a fixed percentage of the interest costs incurred by the Member State on the loan under this instrument.

This part of the proposed Regulation finally also provides for a potential involvement by the European Stability Mechanism (ESM) or its legal successor in case the latter would autonomously decide in the future to also provide financial assistance in support of public investment to cater for macro-economic stabilisation purposes. To this end, the Commission should strive to ensure that such assistance would be awarded under conditions which are consistent with the ones under this proposed Regulation. An empowerment for the Commission should be foreseen to adopt delegated acts to supplement the proposed Regulation as regards the exchange of information on the different elements of the loan and the rules determining complementarity between ESM assistance and support under this instrument calculated on the basis of the formulas for the loan and interest rate subsidy.

**Part V** of the proposed Regulation (Articles 11 to 16) contains the procedural rules for disbursement and implementation of the loan support under this instrument. More specifically, it concerns rules on the disbursement, the borrowing and lending operations, the costs, and the administration of the loans. Finally, rules on control are foreseen.

**Part VI** of the proposed Regulation (Articles 17 to 19) provides for the establishment of the Stabilisation Support Fund (the Fund) and its use. The Fund should be endowed with contributions by Member States in accordance with an intergovernmental agreement which determines the method for calculating them and the rules regarding their transfer. For euro area Member States, national contributions should be calculated as a percentage of the monetary income allocated to the euro area Member States' national central banks. For the purpose of calculating the contributions, the ECB should every year by 30 April at the latest communicate to the Commission the amount of monetary income for each national central bank. For non-euro area Member States within the scope of application of the proposed act, a Eurosystem monetary income should serve as a calculation base for its national contribution. A specific key should be applied. Provided such an intergovernmental agreement would be concluded, the receipt of an interest rate subsidy should be conditional upon Member States having paid their annual contribution.

The Fund should only be used to pay the interest rate subsidy. Granting such a subsidy should be conditional upon the availability of resources in the Fund and a system of deferral of payment should be put in place in case resources would be insufficient. The Commission should administer the Fund on the basis of a prudent and safe investment strategy.

**Part VII** of the proposed act (Article 20) provides for an assessment by the Commission of the quality public investment systems and practices in Member States. Such an assessment should be foreseen as an accompanying measure in order to increase the impact of public investment and EISF support. The detailed methodology is provided for in an annex to the

proposed Regulation and is based on state-of-the art practices employed by the IMF and OECD.

**Part VIII** of the proposed Regulation (Articles 21 to 23) provides for rules on the exercise of delegated powers, reporting and review and the entry into force of the proposed Regulation. As regards the regular reporting, the Commission should inter alia examine the appropriateness of developing an insurance mechanism for macro-economic stabilisation purposes and whether to include social investment in education and training in the definition of eligible public investment as soon as reliable figures are available.

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL  
on the establishment of a European Investment Stabilisation Function**

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 Article 175(3) 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 Central Bank<sup>9</sup>,

Having regard to the opinion of the European Economic and Social Committee<sup>10</sup>,

Having regard to the opinion of the Committee of the Regions<sup>11</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The promotion of economic, social and territorial cohesion and the establishment of an economic and monetary union (EMU) are key objectives under the Treaties.
- (2) Strengthening economic cohesion amongst Member States whose currency is the euro would contribute to the stability of the monetary union and to the harmonious development of the Union as a whole.
- (3) Member States should conduct their economic policies and should coordinate them in such a way as to attain the objective of strengthening economic, social, and territorial cohesion.
- (4) The unprecedented financial crisis and economic downturn that hit the world and the euro area has shown that in the euro area available instruments such as the single monetary policy, automatic fiscal stabilisers and discretionary fiscal policy measures at national level are insufficient to absorb large asymmetric shocks.
- (5) In order to facilitate macroeconomic adjustment and cushion large asymmetric shocks in the current institutional set-up, Member States whose currency is the euro and other

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<sup>9</sup> OJ C , , p. .

<sup>10</sup> OJ C , , p. .

<sup>11</sup> OJ C , , p..

Member States that participate in the exchange rate mechanism (ERM II) have to rely more heavily on remaining instruments of economic policy, such as automatic fiscal stabilisers and other discretionary fiscal measures, making the adjustment more difficult overall. The sequence of the crisis in euro area also suggests strong reliance on the single monetary policy to provide for macro-economic stabilisation in severe macro-economic circumstances.

- (6) The financial crisis has resulted in a pro-cyclical pattern for fiscal policies, which has been detrimental to the quality of public finances and in particular for public investment. In turn, that shortcoming has contributed to widespread differences in macroeconomic performance between Member States, imperilling cohesion.
- (7) Additional instruments are therefore necessary to avoid in the future that large asymmetric shocks result into deeper and broader situations of stress and weaken cohesion.
- (8) In particular, in order to support Member States whose currency is the euro to respond better to rapidly changing economic circumstances and stabilise their economy by preserving public investment in the event of large asymmetric shocks, a European Investment Stabilisation Function (EISF) should be established.
- (9) EISF should not only benefit Member States whose currency is the euro but also other Member States that participate in the exchange rate mechanism (ERM II).
- (10) EISF should be a Union instrument which complements national fiscal policies. It should be recalled that Member States should pursue sound fiscal policies and build up fiscal buffers in favourable economic times.
- (11) At Union level, the European Semester of economic policy coordination is the framework to identify national reform priorities and monitor their implementation. Member States develop their own national multiannual investment strategies in support of those reform priorities. Those strategies should be presented alongside the yearly National Reform Programmes as a way to outline and coordinate priority investment projects to be supported by national and/or Union funding. They should also serve to use Union funding in a coherent manner and to maximise the added value of the financial support to be received notably from the programmes supported by the Union under the European Regional Development Fund, the Cohesion fund, the European Social Fund, the European Maritime and Fisheries Fund and the European Agricultural Fund for Rural Development, the EISF and InvestEU, where relevant.
- (12) The European Stability Mechanism (ESM) or its legal successor could provide further support in addition to support under EISF.
- (13) EISF support should be given in case one or several Member States whose currency is the euro or other Member States that participate in the exchange rate mechanism (ERM II) are confronted with a large asymmetric shock. Changes in unemployment rates are highly correlated with business cycle fluctuations in such Member States. Strong increases in national unemployment rates above their long-term averages are a clear indicator of a large shock in a specific Member State. Asymmetric shocks affect one or several Member States significantly more strongly than the average of Member States.

- (14) The activation of EISF support should therefore be determined by a double activation trigger based on both the level of national unemployment rate compared to its past average and the change in unemployment compared to a certain threshold.
- (15) Strict eligibility criteria based on compliance with decisions and recommendations under the Union's fiscal and economic surveillance framework over a period of two years before the request for EISF support should be fulfilled by the Member State requesting EISF support in order not to diminish the incentive for that Member State to pursue prudent budgetary policies.
- (16) Member States whose currency is the euro which benefit from financial assistance by the ESM, the European Financial Stabilisation Mechanism (EFSM) or the International Monetary Fund (IMF) and which are under a macro-economic adjustment programme within the meaning of Article 7(2) of Regulation (EU) No 472/2013 of the European Parliament and of the Council<sup>12</sup> should not benefit from EISF support since their financing needs including for maintaining public investment are addressed via the financial assistance granted.
- (17) Member States with a derogation which benefit from balance of payments support within the meaning of point (a) of Article 3(2) of Council Regulation (EC) No 332/2002<sup>13</sup> should not benefit from EISF support since their financing needs including for maintaining public investment are addressed via the medium-term financial assistance facility granted.
- (18) EISF support should take the form of loans to the Member States concerned. That instrument would provide them with financing to continue executing public investment.
- (19) In addition to loans, interest rate subsidies should be granted to the Member States concerned to cover the interest costs incurred on such loans, as a specific type of financial assistance under Article 220 of the Financial Regulation. Such an interest rate subsidy would provide additional support in parallel to the loan for Member States undergoing an asymmetric shock and facing tight financing conditions on the financial markets.
- (20) With a view to swiftly provide EISF support, the competence for granting the loans when the eligibility and activation criteria are fulfilled and deciding on granting interest rate subsidies should be entrusted to the Commission.
- (21) Member States should invest the support received under EISF in eligible public investment and also maintain the level of public investment in general compared to the average level of public investment over the five last years in order to ensure that the objective pursued by this Regulation is achieved. In that respect, there is the expectation that Member States should give priority to maintaining eligible investment in programmes supported by the Union under the European Regional Development

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<sup>12</sup> Regulation (EU) No 472/2013 of the European Parliament and of the Council of 21 May 2013 on the strengthening of economic and budgetary surveillance of Member States in the euro area experiencing or threatened with serious difficulties with respect to their financial stability, (OJ L 140, 27.5.2013, p. 1).

<sup>13</sup> Council Regulation (EC) No 332/2002 of 18 February 2002 establishing a facility providing medium-term financial assistance for Member States' balance of payments (OJ L 53, 23.2.2002, p.1).

Fund, the Cohesion fund, the European Social Fund, the European Maritime and Fisheries Fund and the European Agricultural Fund for Rural Development..

- (22) To that effect, the Commission should examine whether the Member State concerned has respected those conditions. In case of non-compliance the Member State concerned should repay part or the entire loan given and should not be entitled to receiving an interest rate subsidy.
- (23) The maximum level of eligible public investment that could be supported by EISF loan for a Member State should be automatically set on the basis of a formula which captures the ratio of public eligible investment to gross domestic product (GDP) in the Union over a period of five years before the Member State concerned requests a loan and its GDP over the same period. The maximum level of eligible public investment should also be scaled by means of scaling factor ( $\alpha$ ) towards the fixed ceiling in the Union budget. That factor is determined such that with hindsight of the recent crisis, all the EISF support could have been provided to the Member States concerned, had the mechanism been in place.
- (24) The amount of EISF loan should also be automatically determined on the basis of a formula which firstly takes into account the maximum level of eligible public investment that can be supported under EISF and secondly the severity of the large asymmetric shock. The support determined on the basis of that formula should also be scaled in function of the severity of the shock by means of a factor ( $\beta$ ). That factor is determined such that for a shock that increases unemployment by more than 2.5 percentage points, the maximum support is made available to the Member State concerned. An EISF loan could be increased up to the maximum level of eligible public investment in case the asymmetric shock is particularly severe as reflected by other indicators of the Member State's position in the economic cycle (e.g. confidence surveys) and a deeper analysis of the macroeconomic situation (as conducted in particular in the context of the macroeconomic forecast and the European Semester). With a view to ensure that as many Member States as possible could qualify for support under EISF, the loan to a Member State should not exceed 30 percent of the remaining available means under the ceiling set for calibrating the loans under EISF to the available means in the Union budget.
- (25) The amount of EISF interest rate subsidies should be determined as a percentage of the interest rate costs incurred by the Member State on the loan granted under the EISF.
- (26) A Stabilisation Support Fund should be established to finance the interest rate subsidy. The Stabilisation Support Fund should be endowed with national contributions from Member States whose currency is the euro and other Member States that participate in the exchange rate mechanism (ERM II).
- (27) Both the determination of the amount of the national contributions to the Stabilisation Support Fund and their transfer should be governed by an intergovernmental agreement to be concluded between Member States whose currency is the euro and other Member States that participate in the exchange rate mechanism (ERM II). That agreement should provide that the national contributions for all the Member States are calculated based on the share of the national central banks of those Member States whose currency is the euro in the monetary income of the Eurosystem. For Member States which participate in ERM II a specific key should be foreseen to determine the

national contributions. The Commission should assist the Member States for the calculation of those contributions. To that end, the European Central Bank (ECB) should communicate to the Commission the amount of monetary income the national central banks of the Eurosystem are entitled to.

- (28) After that intergovernmental agreement has entered into force, payment of the interest rate subsidy to the Member State concerned should be conditional upon the Member State transferring its yearly contribution to the Stabilisation Support Fund. Payment of interest rate subsidies should be conditional upon the availability of sufficient means in the Stabilisation Support Fund. Payment of interest rate subsidies from the Stabilisation Support Fund would be postponed in case the interest rate subsidy to a specific Member State would exceed 30 percent of the available means in the Stabilisation Support Fund at the moment when such payment is due.
- (29) The Commission should be in charge for managing the assets of the Stabilisation Support Fund in a safe and prudent manner.
- (30) In order to increase the impact of public investment and potential EISF support the quality of Member States' public investment systems and practices should be ensured and where appropriate strengthened. An assessment by the Commission should be carried out regularly and take the form of a report and if warranted contain recommendations to improve the quality of public investment systems and practices in Member States. A Member State could request technical assistance from Commission. The latter could undertake technical missions.
- (31) In order to determine the rules for the involvement of the ESM or its legal successor in providing financial assistance in parallel to the Commission in support of public investment, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the exchange of relevant information as regards the EISF loan, the impact of the ESM's involvement for calculating the amount of EISF support, and the granting of an interest rate subsidy by the Stabilisation Support Fund to the Member State for costs incurred on ESM financial assistance. The Commission should also be empowered to adopt delegated acts determining the percentage in the formula for calculating the interest rate subsidy, the detailed rules for the administration of the Stabilisation Support Fund and the general principles and criteria for its investment strategy. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016<sup>14</sup>. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (32) Pursuant to paragraph 22 and 23 of the Inter-institutional agreement for Better Law-Making of 13 April 2016, there is a need to evaluate this Regulation in order in particular to assess its effectiveness, its contribution to the conduct of economic policies in Member States and the Union's strategy for jobs and growth, and to

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OJ L 231, 12.5.2016, p. 1

determine possible further developments that are needed in order to create an insurance mechanism serving the purpose of macro-economic stabilisation. This will be done on the basis of information collected through specific monitoring requirements, while avoiding overregulation and administrative burdens, in particular on Member States. These requirements, where appropriate, can include measurable indicators, as a basis for evaluating the effects of the Regulation on the ground.

- (33) EISF should be considered as a first step in the development over time of a fully-fledged insurance mechanism to cater for macro-economic stabilisation. Currently, EISF would be based on loans and granting of interest rate subsidies. In parallel, it is not excluded that the ESM or its legal successor would be involved in the future by providing financial assistance to Member States whose currency is the euro facing adverse economic conditions in support of public investment. Moreover, a voluntary insurance mechanism with a borrowing capacity based on voluntary contributions by Member States could be set up in the future to provide for a powerful instrument for the purpose of macro-economic stabilisation against asymmetric shocks.
- (34) In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council , Council Regulation (Euratom, EC) No 2185/96 and Council Regulation (EU) 2017/1939, the financial interests of the Union are to be protected through proportionate measures, including the prevention, detection, correction and investigation of irregularities and fraud, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, the imposition of administrative sanctions. In particular, in accordance with Regulation (EU, Euratom) No 883/2013 and Regulation (Euratom, EC) No 2185/96 the European Anti-Fraud Office (OLAF) may carry out investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. In accordance with Council Regulation (EU) 2017/1939, the European Public Prosecutor's Office may investigate and prosecute fraud and other illegal activities affecting the financial interests of the Union as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council. In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the Union's financial interests, to grant the necessary rights and access to the Commission, OLAF, the EPPO and the European Court of Auditors (ECA).
- (35) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 of the Treaty on the Functioning of the European Union apply to this Regulation. These rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes, indirect implementation, and provide for checks on the responsibility of financial actors. Rules adopted on the basis of Article 322 TFEU also concern the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States, as the respect for the rule of law is an essential precondition for sound financial management and effective EU funding.
- (36) Since the objective of this Regulation, namely setting up a European Investment Stabilisation Function to absorb large asymmetric shocks which risk imperilling economic and social cohesion cannot be sufficiently achieved by Member States due to the architecture of the EMU with a centralised monetary policy but national fiscal policies, but can rather, by reason of the scale of action required be better achieved at

the Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives,

HAVE ADOPTED THIS REGULATION:

## PART I

### INTRODUCTORY PROVISIONS

#### *Article 1*

##### **Subject matter and scope**

1. This Regulation establishes a European Investment Stabilisation Function (EISF).
2. The EISF shall provide financial assistance in the form of loans and interest rate subsidies for public investment to a Member State which is experiencing a large asymmetric shock.
3. EISF support shall be available for Member States whose currency is the euro and for other Member States that participate in the exchange rate mechanism referred to in Article 140(1) of the Treaty on the Functioning of the European Union.

#### *Article 2*

##### **Definitions**

For the purposes of this Regulation, the following definitions apply:

- (1) 'agreement' means the intergovernmental agreement concluded between all Member States whose currency is the euro and other Member States that participate in the exchange rate mechanism (ERM II) determining the calculation and the transfer of their financial contributions to the Stabilisation Support Fund;
- (2) 'public investment' means: general government gross fixed capital formation as defined in Annex A to Regulation (EU) No 549/2013 of the European Parliament and of the Council<sup>15</sup>;
- (3) 'eligible public investment' means: (a) the public investment in support of policy objectives as defined in Regulation (EU) No [XX] of [XX] [insert reference to new Common

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<sup>15</sup> Regulation (EU) No 549/2013 of the European Parliament and of the Council of 21 May 2013 on the European System of national and regional accounts in the European Union, OJ L 174, 26.6.2013, p. 1

*Provisions Regulation]*<sup>16</sup> and (b) any expenditure in areas of education and training as defined in Annex A to Regulation (EU) No 549/2013 and not covered in point (a);

(4) 'EISF support' means Union financial assistance within the meaning of Article [220] of the Financial Regulation in the form of loans and interest rate subsidies under the EISF in support of eligible public investment;

(5) 'public investment management systems and practices' means the Member States' internal processes of planning, allocating and implementing public investment;

(5) 'Union strategy for smart, sustainable and inclusive growth' means the targets and shared objectives guiding the action of Member States and the Union set out in the Conclusions adopted by the European Council of 17 June 2010 as Annex I (New European Strategy for Jobs and Growth, EU Headline Targets), Council Recommendation (EU) 2015/1184<sup>17</sup> on broad guidelines for the economic policies of the Member States and of the European Union of 14 July 2015 and in Council Decision (EU) 2016/1838<sup>18</sup>, and any revision of such targets and shared objectives.

## **PART II**

### **CRITERIA**

#### *Article 3*

##### **Eligibility criteria**

1. A Member State shall be eligible for EISF support where it is not subject to:

(a) a decision of the Council establishing that no effective action has been taken to correct its excessive deficit under Article 126(8) or Article 126(11) of the Treaty on the Functioning of the European Union in the two years prior to requesting support from the EISF;

(b) a decision of the Council in accordance with Article 6(2) or Article 10 of Council Regulation (EU) No 1466/97<sup>19</sup> establishing that no effective action has been taken to address the observed significant deviation in the two years prior to requesting support from the EISF;

(c) two successive recommendations of the Council in the same imbalance procedure in accordance with Article 8(3) of Regulation (EU) No 1176/2011 of the European Parliament and of the Council<sup>20</sup> on grounds that the Member State concerned has submitted an insufficient corrective action plan in the two years prior to requesting support from the EISF;

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<sup>16</sup> [Insert correct reference to new version of Common Provisions Regulation]

<sup>17</sup> OJ L 192, 18.7.2015, p. 27

<sup>18</sup> OJ L 280, 18.10.2016, p. 30

<sup>19</sup> Council Regulation (EC) No 1466/97 of 7 July 1997 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies OJ L 209, 2.8.1997, p. 1

<sup>20</sup> Regulation (EU) No 1176/2011 of the European Parliament and of the Council of 16 November 2011 on the prevention and correction of macroeconomic imbalances OJ L 306, 23.11.2011, p. 25

(d) two successive decisions of the Council in the same imbalance procedure in accordance with Article 10(4) of Regulation (EU) No 1176/2011 of the European Parliament and of the Council having established non-compliance by the Member State concerned on grounds that it has not taken the recommended corrective action in the two years prior to requesting support from the EISF;

(e) a decision of the Council approving a macroeconomic adjustment programme within the meaning of Article 7(2) of Regulation (EU) No 472/2013;

(f) a decision of the Council implementing a medium-term financial assistance facility within the meaning of point (a) of Article 3(2) of Council Regulation (EC) No 332/2002<sup>21</sup>.

2. When the agreement has entered into force, a Member State shall only be eligible for receiving an interest rate subsidy if it complies with its obligations under the agreement.

## *Article 4*

### **Activation criteria**

1. A Member State shall be considered to experience a large asymmetric shock if the following activation criteria are simultaneously fulfilled:

a) the quarterly national unemployment rate exceeded the average unemployment rate in the Member State concerned over a period of 60 quarters preceding the quarter during which the request is made;

b) the quarterly national unemployment rate increased above one percentage point in comparison to the unemployment rate observed in same quarter of the previous year.

2. The unemployment rate for the purposes of paragraph 1 shall be determined by reference to Regulation (EC) No 577/98<sup>22</sup>

In particular, it refers to the unemployment rate for the total population, all age categories, in percentage of active population.

3. The quarterly national unemployment rate used for the purposes of paragraph 1 of this Article and point (c) of Article 8(1) shall be adjusted for seasonality.

## *Article 5*

### **Supported investment**

<sup>21</sup> Council Regulation (EC) No 332/2002 OJ L 53/1, 23.02.2002, p. 1

<sup>22</sup> Council Regulation (EC) No 577/98 of 9 March 1998 on the organisation of a labour force sample survey in the Community OJ L 77, 14.3.1998, p. 3

1. A Member State benefitting from EISF support shall, in any given year in which it receives an EISF loan do the following:

(a) invest in eligible public investment an amount corresponding to at least the amount of the EISF loan,

(b) maintain the same level of its public investment compared to the average level of its public investment in the five previous years.

The Commission may nevertheless conclude when adopting the decision in accordance with Article 6(2) that such level of public investment is unsustainable, in which case it shall determine the level of public investment to be maintained.

2. The year following the disbursement of the EISF loan, the Commission shall examine whether the Member State concerned has respected the criteria referred to in paragraph 1. In particular, the Commission shall also verify the extent to which the Member State concerned has maintained eligible public investment in programmes supported by the Union under the European Regional Development Fund, the Cohesion fund, the European Social Fund, the European Maritime and Fisheries Fund and the European Agricultural Fund for Rural Development.

If the Commission, after having heard the Member State concerned, concludes that the conditions referred to in paragraph 1 have not been complied with, it shall adopt a decision:

(a) requesting the early repayment of whole or part of the EISF loan, as appropriate; and

(b) deciding that upon repayment of EISF loan the Member State concerned shall not be entitled to receive the interest rate subsidy.

The Commission shall adopt its decision without undue delay and shall make it public.

### **PART III**

#### **PROCEDURE AND FORM OF EISF SUPPORT**

##### *Article 6*

###### **Procedure for granting EISF support**

1. Where a Member State fulfils the eligibility criteria referred to in Article 3 and is experiencing the large asymmetric shock referred to in Article 4, it may request the Commission once a year to receive EISF support. The Member State shall indicate its needs for support.

The Commission shall assess and answer the requests in the order it receives them. It shall act without undue delay.

2. The Commission shall decide the terms of the EISF support. The decision shall contain the amount, the average maturity, the pricing formula, and the availability period of EISF loan and the amount of the interest rate subsidy, and the other detailed rules needed for the implementation of the support. When deciding on the terms of the EISF support, the Commission shall take into account the amount deemed to be sustainable within the meaning of Article [210(3)] of Regulation (EU, Euratom) No XX (the ‘Financial Regulation’) under the own resources ceiling for payment appropriations.

## **PART IV**

### **AMOUNT OF EISF SUPPORT**

#### *Article 7*

##### **Maximum amount of loans**

The outstanding amount of loans granted to Member States under this Regulation shall be limited to EUR 30 billion in principal.

#### *Article 8*

##### **Amount of EISF loan**

1. Without prejudice to paragraph 3, the amount of an EISF loan ( $S$ ) shall be determined in accordance with the following formula:

$$S = \beta \times I_S \times (\text{Increase in unemployment}_{\text{MS}} - \text{threshold level}) \\ \text{subject to } S \leq I_S$$

For the purpose of this formula, the following definitions apply:

- (a) ' $\beta$ ' is 0.66;
- (b) ' $I_S$ ' means the maximum level of eligible public investment that the EISF may support in the Member State concerned referred to in paragraph 2;
- (c) '*Increase in unemployment<sub>MS</sub>*' means the increase in the quarterly national unemployment rate referred to in point (b) of Article 4(1) expressed in percentage points;
- (d) 'threshold level' means the threshold defined in point (b) of Article 4(1) expressed in percentage points.

The Commission may nevertheless increase the amount of an EISF loan ( $S$ ) up to the amount of  $I_S$  in case of particular severity of the large asymmetric shock experienced by the Member State concerned.

2. The maximum level of eligible public investment that the EISF may support in a Member State ( $I_S$ ) shall be determined in accordance with the following formula:

$$I_S = \alpha \times \frac{\text{Average Public Investment}_{\text{EU}}}{GDP_{\text{EU}}} \times GDP_{\text{MS}}$$

For the purposes of this formula the following definitions apply:

(a) ' $\alpha$ ' is 11.5;

(b) ' $\frac{\text{Average Public Investment}_{\text{EU}}}{GDP_{\text{EU}}}$ ' means the ratio of eligible public investment to GDP in the Union, in current prices and on average over a period of five full years before the request for EISF support in accordance with Article 6(1);

(c) ' $GDP_{\text{MS}}$ ' means the GDP of the Member State concerned in current prices and on average over a period of five full years before the request for support in accordance with Article 6(1);

3. An EISF loan shall not exceed 30 percent of the available amount referred to in Article 7 after deduction of the total amount of outstanding loans awarded under EISF.

## *Article 9*

### **Amount of EISF interest rate subsidies**

1. An interest rate subsidy (IRS) shall contribute to the interest costs of the EISF loan incurred by the Member State. The amount of an EISF interest rate subsidy shall be determined in accordance with the following formula:

$$IRS = 100 \text{ percent of } interest \text{ rate cost}_{\text{MS}}$$

For the purpose of this provision, 'interest rate cost' means the amount of interest based on the pricing formula determined in the decision of the Commission referred to in Article 6(2) taking into account any refinancing in accordance with Article 12(4);

2. The Commission shall be empowered to adopt delegated acts in accordance with the procedure laid down in Article 21, to amend this Regulation by determining the percentage referred to in paragraph 1 if this appears necessary in view of the implementation of the agreement or the eventual deferral of payments under Article 18(2).

## *Article 10*

### **Financial support by the ESM or its legal successor**

1. In case the ESM or its legal successor provides financial assistance to Member States in support of eligible public investment under modalities and conditions consistent with this Regulation, the Commission shall be empowered to adopt delegated acts in accordance with the procedure laid down in Article 21 in order to:

- (a) supplement this Regulation by specifying the exchange of information between the Commission and the ESM or its legal successor as regards the elements referred to in Article 6(2);
- (b) supplement this Regulation by determining rules of complementarity between the financial assistance from the ESM or its legal successor and amounts of EISF support calculated in accordance with Articles 8 and 9;
- (c) amend or supplement Articles 9 and 18 to allow for granting an interest rate subsidy by the Stabilisation Support Fund to Member States for interest costs incurred on financial assistance granted by the ESM or its legal successor to Member States in support of eligible public investment.

## **PART V**

### **PROCEDURES FOR DISBURSMENT AND IMPLEMENTATION**

#### **Title I**

##### **Loans**

## *Article 11*

### **Disbursement of the loan**

1. The EISF loan shall, in principle, be disbursed in one instalment.

## *Article 12*

### **Borrowing and lending operations**

- 1. The borrowing and lending operations shall be carried out in euro.
- 2. After the Commission has adopted a decision in accordance with Article 6(2), the Commission is authorised to borrow on the capital markets or from financial institutions at the

most appropriate time in between planned disbursements so as to optimise the cost of funding and preserve its reputation as issuer in the markets. Funds raised but not yet disbursed shall be kept at all times on a dedicated cash or securities account which are handled in accordance with the rules applying to off-budget operations and cannot be used for any other goal than to provide financial support to Member States under the present mechanism.

3. Where a Member State receives an EISF loan carrying an early repayment clause and decides to exercise this option, the Commission shall take the necessary steps.
4. At the request of the Member State or at the initiative of the Commission and where circumstances permit an improvement in the interest rate on the EISF loan, the Commission may refinance all or part of its initial borrowing or restructure the corresponding financial conditions.

### *Article 13*

#### **Costs**

Without prejudice to Article 9, the costs incurred by the Union in concluding and carrying out each operation shall be borne by the Member State receiving the EISF loan.

### *Article 14*

#### **Administration of loans**

1. The Commission shall establish the necessary arrangements for the administration of the loans with the ECB.
2. The Member State concerned shall open a special account with its national central bank for the management of EISF support received. It shall also transfer the principal and interest due under the EISF loan to an account with the ECB fourteen TARGET2 business days prior to the corresponding due date.

#### **Title II**

##### **Interest rate subsidy**

### *Article 15*

#### **Disbursement of the interest rate subsidy**

Without prejudice to Article 5(2) and Article 16, the interest rate subsidy shall be paid to the Member State concerned at the moment when the Member State repays the EISF loan or interest due.

#### **Title III**

## Control

### *Article 16*

#### **Control and audits**

1. Without prejudice to Article 27 of the Statute of the System of European Central Banks and of the European Central Bank, the European Court of Auditors shall have the right to carry out in the Member State concerned any financial controls or audits that it considers necessary in relation to the management of the EISF support.
2. The Commission, including the European Anti-Fraud Office, shall in particular have the right to send its officials or duly authorised representatives to carry out in the Member State concerned any technical or financial controls or audits that it considers necessary in relation to EISF support.
3. Audits on the use of the Union contribution carried out by persons or entities, including by others than those mandated by the Union institutions or bodies, shall form the basis of the overall assurance pursuant to Article [127] of the Financial Regulation.

## PART VI

### **THE STABILISATION SUPPORT FUND**

### *Article 17*

#### **Constitution of the Stabilisation Support Fund**

1. The Stabilisation Support Fund is hereby established.
2. The Stabilisation Support Fund shall be endowed with the following:
  - (a) contributions from Member States in accordance with the agreement;
  - (b) returns on invested resources of the Stabilisation Support Fund;
  - (c) repayments of interest rate subsidies by Member States in accordance with point (b) of Article 5(2).
3. Revenues of the Stabilisation Support Fund as provided for in point (a) of paragraph 2 shall constitute external assigned revenue, and revenues as provided for in point (c) of paragraph 2 shall constitute internal assigned revenue in accordance with Article [21(4)] of the Financial Regulation.
4. For the purpose of calculating the contributions referred to in point (a) of paragraph 2, the ECB shall, by 30 April at the latest in any given year, communicate to the Commission the amount of monetary income allocated to the national central banks of the Eurosystem

pursuant to Article 32 of Protocol No 4 on the Statute of the European System of Central Banks and the European Central Bank.

*Article 18*

**Use of the Stabilisation Support Fund**

1. The resources of the Stabilisation Support Fund may only be used for the purpose of payment of interest rate subsidies to Member States referred to in Article 9.
2. Payment of an interest rate subsidy shall not exceed 30 percent of the available means in the Stabilisation Support Fund at the moment when such payment to the Member State concerned is due. Any further payment shall be deferred. Any new contributions to the Stabilisation Support Fund referred to in Article 17(2) shall be firstly used for honouring deferred payments to the Member States concerned. In case of more than one deferred payment, the order in which such payments shall be honoured shall be determined by the length of time of the deferral starting with the longest time.

*Article 19*

**Administration of the Stabilisation Support Fund**

1. The Commission shall directly administer the Stabilisation Support Fund in accordance with this Regulation and delegated acts referred to under paragraph 3.
2. The Commission shall have a prudent and safe investment strategy that is provided for in the delegated acts referred to in paragraph 3 in accordance with the principle of sound financial management following appropriate prudential rules, and shall invest the amounts held in the Stabilisation Support Fund in cash and cash equivalent money market instruments, debt and credit related securities, such as term deposits, bonds, notes, obligations or asset backed securities, including with floating or zero coupons as well as index-linked securities. Investments shall be sectorally, geographically and proportionally diversified sufficiently. The return on those investments shall benefit the Stabilisation Support Fund.
3. The Commission shall be empowered to adopt delegated acts supplementing this Regulation by setting the detailed rules for the administration of the Stabilisation Support Fund and general principles and criteria for its investment strategy, in accordance with the procedure laid down in Article 21.

**PART VII**

**QUALITY OF PUBLIC INVESTMENT MANAGEMENT SYSTEMS AND PRACTICES**

## *Article 20*

### **Quality of public investment management systems and practices**

1. In order to increase the impact of public investment and potential EISF support, Member States shall take the necessary actions to achieve and maintain public investment management systems and practices of high quality.
2. By [DATE *two years after the entry into force of this Regulation*] at the latest, and every five years after, the Commission shall examine the quality of the public investment management systems and practices in Member States. The Commission shall prepare a report containing a qualitative assessment and a score based on a set of indicators and, if necessary, recommendations to improve the quality of the public investment management systems and practices. The report shall be made public.
3. The methodology for assessing the quality of public investment management systems and practices of Member States is set out in the Annex. The Commission shall assess on a regular basis the appropriateness of the methodology and criteria used, and it shall adjust or modify them where necessary. The Commission shall make changes in the underlying methodology and criteria public.
4. The Commission shall be empowered to adopt delegated acts amending or supplementing this Regulation by updating the methodology and criteria referred to in paragraph 3, in accordance with the procedure laid down in Article 21.

## **PART VIII**

### **FINAL PROVISIONS**

## *Article 21*

### **Exercise of delegation**

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The delegation of power referred to in Article 10, Article 19(3), and Article 20(5) shall be conferred on the Commission for an indeterminate period of time from [DATE/*entry into force of this Regulation*].
3. The delegation of power referred to in Article 10, Article 19(3) and Article 20(5), may be revoked at any time by the European Parliament or the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and the Council.

6. A delegated act adopted pursuant to Article 10, Article 19(3) and Article 20(5) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of three months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or the Council.

## *Article 22*

### **Reporting and review**

1. Indicators to report on progress of the Regulation towards the achievement of the objectives set out in recital 36 and Article 1 are set in Annex 2.

2. To ensure effective assessment of progress of the Programme towards the achievement of its objectives, the Commission is empowered to adopt delegated acts in accordance with Article 21 to amend Annex II to review or complement the indicators where considered necessary and to supplement this Regulation with provisions on the establishment of a monitoring and evaluation framework.

3. The performance reporting system shall ensure that data for monitoring implementation and results are collected efficiently, effectively, and in a timely manner. To that end, proportionate reporting requirements shall be imposed on recipients of EISF support.

4. Evaluations shall be carried out in a timely manner to feed into the decision-making process.

5. An interim evaluation of the EISF shall be performed once there is sufficient information available about the implementation of the EISF. A final evaluation of the EISF shall be carried out by the Commission four years after the entry into force of this Regulation,

This evaluation shall assess, among other things,

(a) the effectiveness of this Regulation;

(b) the contribution by EISF to the conduct of the economic policies of Member States in such a way as to strengthen cohesion in the Union;

(c) the contribution of this Regulation to the achievement of the Union's strategy for growth and jobs;

(d) the appropriateness of developing a voluntary insurance mechanism serving the purpose of macroeconomic stabilisation.

Where appropriate, the evaluation shall be accompanied by a proposal for amendments to this Regulation.

6. The Commission shall communicate the conclusions of the evaluation accompanied by its observations, to the European Parliament, the Council, the Eurogroup, the European Economic and Social Committee and the Committee of the Regions.

*Article 23*

**Entry into force**

This Regulation shall enter into force on the [twentieth day following] that of its publication in the *Official Journal of the European Union*.

Paragraph (b) of Article 2(2) shall enter into force on [DATE].

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the European Parliament  
The President*

*For the Council  
The President*

## **LEGISLATIVE FINANCIAL STATEMENT**

### **1. FRAMEWORK OF THE PROPOSAL/INITIATIVE**

- 1.1. Title of the proposal/initiative
- 1.2. Policy area(s) concerned (programme cluster)
- 1.3. Nature of the proposal/initiative
- 1.4. Grounds for the proposal/initiative
- 1.5. Duration and financial impact
- 1.6. Management mode(s) planned

### **2. MANAGEMENT MEASURES**

- 2.1. Monitoring and reporting rules
- 2.2. Management and control system
- 2.3. Measures to prevent fraud and irregularities

### **3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE**

- 3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected
- 3.2. Estimated impact on expenditure
  - 3.2.1. *Summary of estimated impact on expenditure*
  - 3.2.2. *Estimated impact on appropriations of an administrative nature*
  - 3.2.3. *Third-party contributions*
- 3.3. Estimated impact on revenue

## **LEGISLATIVE FINANCIAL STATEMENT**

### **1. FRAMEWORK OF THE PROPOSAL/INITIATIVE**

#### **1.1. Title of the proposal/initiative**

Proposal for a Regulation of the European Parliament and of the Council on the establishment of a European Investment Stabilisation Function

#### **1.2. Policy area(s) concerned (Programme cluster)**

Economic and Monetary Union

#### **1.3. The proposal/initiative relates to:**

**a new action**

**a new action following a pilot project/preparatory action<sup>23</sup>**

**the extension of an existing action**

**a merger or redirection of one or more actions towards another/a new action**

#### **1.4. Grounds for the proposal/initiative**

##### *1.4.1. Requirement(s) to be met in the short or long term including a detailed timeline for roll-out of the implementation of the initiative*

The initiative is a follow-up to the Commission Communication of 6 December 2017 on new budgetary instruments for a stable euro area within the Union framework which is part of a package of initiatives to deepen Europe's Economic and Monetary Union. It builds in particular on the Five President's Report on completing Europe's Economic and Monetary Union of 22 June 2015 and on the Commission's Reflection Paper on the deepening of the Economic and Monetary Union of 31 May 2017.

It will be applied to euro area Member States as well as to Member States having joined ERMII provided they meet the eligibility and activation criteria established in the regulation.

The Regulation will enter into force on the [20<sup>th</sup> day following] its publication in the Official Journal of the European Union.

##### *1.4.2. Added value of Union involvement (it may result from different factors, e.g. coordination gains, legal certainty, greater effectiveness or complementarities). For the purposes of this point 'added value of Union involvement' is the value resulting*

<sup>23</sup>

As referred to in Article 58(2)(a) or (b) of the Financial Regulation.

*from Union intervention which is additional to the value that would have been otherwise created by Member States alone.*

Reasons for action at European level (ex-ante): In a currency union there are several lines of defence against disruptive shocks: flexible markets, including efficient financial markets, sound government policies (including the build up of fiscal buffers in good economic times to have space to absorb shocks when they occur) and a set of common instruments to deal with crisis situations. However, even with all these elements in place, in the event of large shocks, they are insufficient to ensure proper economic stabilisation especially in small open economies, as shown by the recent financial crisis. A fiscal instrument at the euro area level is needed to cope with large shocks so as to overcome an overburdening of national subsidiarity. As a vital complementary element, the stabilisation function should be active in the event of large shocks affecting a Member State, or several Member States, when the limits of other mechanisms and national policies materialise, posing great economic risks for the Member State itself but also for the area as a whole. It would be important to avoid that shocks and significant downturns result into deeper and broader situations of stress. A stabilisation function would avoid such situations through the possibility to support Member States under large stress. More adequate and countercyclical fiscal policies at national level would also contribute to a more consistent aggregate fiscal stance, entailing positive spillovers for other Member States as well. Moreover, the stabilisation function would support Member States when means for stabilisation at the national level are narrowing down, but before recourse to financial assistance is needed, thereby potentially decreasing the costs of adjustment.

Expected generated Union added value (ex-post) The European Investment Stabilisation Function should stabilise eligible public investment in Member States hit by large asymmetric shocks when the operation of national automatic stabilisers is insufficient, national fiscal policy faces a complex trade-off between stabilisation and sustainability, monetary policy is constrained and fiscal policy coordination has reached its limits. By supporting public investment, the scheme could help prevent a substantial fall in medium and long term growth as a result of adjustment at national level and could also contribute to the affected Member State not having to request financial assistance as a result of the shock.

#### 1.4.3. *Lessons learned from similar experiences in the past*

This is the first time that a stabilisation function is introduced as part of EMU deepening reforms. The last financial crisis has shown the vulnerability of Member States, including those with sound public finances ex-ante, to large economic shocks. These shocks led to substantial deteriorations in the affected Member States' fiscal positions and in many cases led these Member States to request financial assistance programmes. However, by the time financial assistance programmes were requested, the economic adjustment costs were already very high and the adjustment that followed had a significant impact on their medium and long term growth rates. The stabilisation function would aim to avoid a repetition of such a scenario in future crisis.

#### *1.4.4. Compatibility and possible synergy with other appropriate instruments*

The EISF instrument under the proposed Regulation is consistent with other instruments under the cohesion policy. The instrument complements programmes supported by the Union under the European Regional Development Fund, the Cohesion fund, the European Social Fund, the European Maritime and Fisheries Fund and the European Agricultural Fund for Rural Development, which have in recent years accounted for more than half of total public investment, contributing strongly to the process of strengthening the economic and social catching-up of regions and countries across the EU. In this respect it is noted that a greater link between the priorities of the European Semester and the programmes supported by the Union under the European Regional Development Fund, the Cohesion fund, the European Social Fund, the European Maritime and Fisheries Fund and the European Agricultural Fund for Rural Development has also been established by introducing ex-ante and macroeconomic conditions via the Common Provisions Regulation. Similar conditions determine eligibility for support under the EISFinstrument. Moreover, the EISF instrument also complements other EU-level instruments that can specifically help cushion economic shocks at national or local level such as the European Union Solidarity Fund, which provides financial assistance to Member States/regions affected by major disasters; and the European Globalisation Adjustment Fund which provides support to people losing their jobs as a result of major structural changes in world trade patterns or as a result of a global economic and financial crisis.

## **1.5. Duration and financial impact**

**limited duration**

in effect from [DD/MM]YYYY to [DD/MM]YYYY

Financial impact from YYYY to YYYY for commitment appropriations and from YYYY to YYYY for payment appropriations.

**unlimited duration**

Implementation with a start-up period on the [20<sup>th</sup> day] following the publication of the regulation in the Official Journal of the European Union. The proposal will only be implemented once the beneficiary Member State has met the eligibility and activation criteria. It would apply as long as the double trigger condition is met.

## **1.6. Management mode(s) planned<sup>24</sup>**

**Direct management** by the Commission

by its departments, including by its staff in the Union delegations;

by the executive agencies

**Shared management** with the Member States

**Indirect management** by entrusting budget implementation tasks to:

third countries or the bodies they have designated;

international organisations and their agencies (to be specified);

the EIB and the European Investment Fund;

bodies referred to in Articles 70 and 71 of the Financial Regulation;

public law bodies;

bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees;

bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that provide adequate financial guarantees;

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<sup>24</sup>

Details of management modes and references to the Financial Regulation may be found on the BudgWeb site:

<https://myintradcomm.ec.europa.eu/budgweb/EN/man/budgmanag/Pages/budgmanag.aspx>

- persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.

*If more than one management mode is indicated, please provide details in the 'Comments' section.*

## **2. MANAGEMENT MEASURES**

### **2.1. Monitoring and reporting rules**

*Specify frequency and conditions.*

Following a request by the Member State, the Commission will assess whether the Member State concerned meets the activation and eligibility criteria for being entitled to benefit from the stabilisation function. Moreover, in the year following the disbursement of the EISF loan, the Commission will examine whether the Member State concerned has respected the condition that the loans are invested in eligible public investment and that the Member State has maintained the same level of public investment compared to the average level of its public investment in the five previous years. However, the Commission may conclude that the level of public investment that should be maintained by the Member State is unsustainable, in which case it will determine the level of public investment to be maintained.

To calculate the contributions to the Stabilisation Support fund, the ECB is required to report to the Commission by 30 April at the latest of any given year the amount of monetary income allocated to the national central banks pursuant to Article 32 of Protocol No 4 on the Statute of the European System of Central Banks and the European Central Bank for euro area Member States

For non-euro area Member States, their contributions to the Stabilisation Support fund shall be calculated on the basis of the same benchmark (Eurosystem monetary income) but subject to a specific calculation key.

Within two years after the entry into force of the regulation and every five years thereafter the commission will examine the quality of the public investment management systems and practices in the Member States. It will prepare a report containing a qualitative assessment and a score based on a set of indicators. If necessary, it will also provide recommendations to improve the quality of public investment management systems and practices. The report of the Commission will be made public.

Every five years the Commission will review and report on the application of this regulation. This report will be sent to the European Parliament, the Council and the Eurogroup. Based on the results of the report, where appropriate the commission will accompany the report by a proposal for amendments to this Regulation.

## **2.2. Management and control system(s)**

### **2.2.1. Justification of the management mode(s), the funding implementation mechanism(s), the payment modalities and the control strategy proposed**

Article 16 of the Regulation gives the right to the European Court of Auditors to carry out in the Member State concerned any financial controls or audits that it considers necessary in relation to the management of the EISF support. The Commission, including the European Anti-Fraud Office has the right to send its officials or duly authorised representatives to carry out in the Member state concerned any technical or financial controls or audits that it considers necessary in relation to EISF support.

As regards the loan component of the scheme, the Commission will decide on the terms of the loan (i.e. amount, average maturity, pricing formula, availability period of the loan and the amount of the interest rate subsidy and the other detailed rules needed for the implementation of the support). The costs incurred by the Union in concluding and carrying out each operation will be borne by the Member state receiving the EISF loan. The Commission will establish the necessary arrangements for the administration of the loans with the ECB. The Member State concerned will open a special account with its national central bank for the management of EISF support received. It will transfer the principal and interest due under the EISF loan to an account with the ECB fourteen TARGET2 business days prior to the corresponding due date.

As regards the administration of the Stabilisation Support Fund for the interest rate subsidy, article 19 of the regulation foresees that the Commission will have a prudent and safe investment strategy in accordance with the principle of sound financial management following appropriate prudential rules. The Commission will invest the amounts held in the Stabilisation Support Fund in cash and cash equivalent money market instruments, debt and credit related securities such as term deposits, bonds, notes, obligations or asset backed securities, including with floating or zero coupons as well as index-linked securities. Investments will be sufficiently sectorally, geographically and proportionally diversified. The return on those investments will benefit the Stabilisation Support Fund.

The funding of the Stabilisation Support Fund will consist in contributions from Member States, returns on invested resources of the Stabilisation Support Fund and repayments by Member States in accordance with Article 5(2)(b) of the regulation.

### **2.2.2. Information concerning the risks identified and the internal control system(s) set up to mitigate them**

The EISF loans granted to Member States are covered by a guarantee from the EU budget and carry a financial risk. The maximum amount of loans that can be granted to Member States under this regulation is limited to EUR 30 bn in principal. The EU budget has the necessary provisions to cater for the financial risk linked to these loans.

The Stabilisation Support Fund for interest rate subsidies does not receive resources from the EU budget.

- 2.2.3. *Estimation and justification of the cost-effectiveness of the controls (ratio of "control costs ÷ value of the related funds managed"), and assessment of the expected levels of risk of error (at payment & at closure)*

The Commission shall verify one year after loan support under the instrument is disbursed whether the beneficiary Member State has invested it in eligible public investment corresponding to at least the amount of the loan and maintained the same level of public investment compared to the average level of its public investment over the previous five years, unless the Commission deemed this level is unsustainable. In case this criterion is not respected, a decision shall be adopted to request the early repayment of the loan (fully or partially) and not pay the interest rate subsidy. This corrective mechanism intends to ensure that the Union budget does not incur contingent liabilities for ineligible investment.

### **2.3. Measures to prevent fraud and irregularities**

*Specify existing or envisaged prevention and protection measures, e.g. from the Anti-Fraud Strategy.*

The European Court of Auditors has the right to carry out in the Member State concerned any financial controls or audits that it considers necessary in relation to the management of the EISF support.

The Commission, including the European Anti-Fraud Office will have the right to send its officials or duly authorised representatives to carry out in the Member state concerned any technical or financial controls or audits that it considers necessary in relation to EISF support.

### **3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE**

#### **3.1. Heading of the multiannual financial framework and new expenditure budget line(s) proposed**

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
			from EFTA countries <sup>26</sup>	from candidate countries <sup>27</sup>	from third countries	within the meaning of Article [21(2)(b)] of the Financial Regulation
	Number 2 Heading Cohesion and Values	Diff./Non-diff. <sup>25</sup>				
		Non-diff.	NO	NO	NO	YES

<sup>25</sup> Diff. = Differentiated appropriations / Non-diff. = Non-differentiated appropriations.

<sup>26</sup> EFTA: European Free Trade Association.

<sup>27</sup> Candidate countries and, where applicable, potential candidates from the Western Balkans

### 3.2. Estimated impact on expenditure

#### 3.2.1. Summary of estimated impact on expenditure

EUR million (to three decimal places)

Heading of multiannual financial framework	<...>	2 Heading Cohesion and values
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		2021	2022	2023	2024	2025	2026	2027	Post 2027	TOTAL
Operational appropriations (split according to the budget lines listed under 3.1)	Commitments Payments	(1) (2)								
Appropriations of an administrative nature financed from the envelope of the programme <sup>28</sup>	Commitments = Payments	(3)								
<b>TOTAL appropriations for the envelope of the programme</b>	Commitments Payments	=1+3 =2+3								

Heading of multiannual financial framework	7	'Administrative expenditure'
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<sup>28</sup> Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

EUR million (to three decimal places)

	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>	<b>Post 2027</b>	<b>TOTAL</b>
Human resources	0.715	0.715	0.715	0.715	0.715	0.858	<b>0.858</b>		<b>5.291</b>
Other administrative expenditure									
<b>TOTAL appropriations under HEADING 7 of the multiannual financial framework</b>	(Total commitments = Total payments)	0.715	0.715	0.715	0.715	0.858	<b>0.858</b>		<b>5.291</b>

EUR million (to three decimal places)

	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>	<b>Post 2027</b>	<b>TOTAL</b>
<b>TOTAL appropriations across HEADINGS of the multiannual financial framework</b>	Commitments	0.715	0.715	0.715	0.715	0.858	<b>0.858</b>		<b>5.291</b>
	Payments	0.715	0.715	0.715	0.715	0.858	0.858		<b>5.291</b>

**3.2.2. Summary of estimated impact on appropriations of an administrative nature**

The proposal/initiative does not require the use of appropriations of an administrative nature

The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

EUR million (to three decimal places)

Years	2021	2022	2023	2024	2025	2026	2027	TOTAL
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HEADING 7 of the multiannual financial framework								
Human resources	0.715	0.715	0.715	0.715	0.715	0.858	<b>0.858</b>	<b>5.291</b>
Other administrative expenditure								
<b>Subtotal HEADING 7 of the multiannual financial framework</b>	<b>0.715</b>	<b>0.715</b>	<b>0.715</b>	<b>0.715</b>	<b>0.715</b>	<b>0.858</b>	<b>0.858</b>	<b>5.291</b>

Outside HEADING 7 <sup>29</sup> of the multiannual financial framework								
Human resources								
Other expenditure of an administrative nature								
<b>Subtotal outside HEADING 7 of the multiannual financial framework</b>								

TOTAL	0.715	0.715	0.715	0.715	0.715	0.858	0.858	5.291
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The appropriations required for human resources and other expenditure of an administrative nature will be met by appropriations from the DG that are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

<sup>29</sup> Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

### 3.2.2.1. Estimated requirements of human resources—

The proposal/initiative does not require the use of human resources.

The proposal/initiative requires the use of human resources, as explained below:

*Estimate to be expressed in full time equivalent units*

Years	2021	2022	2023	2024	2025	2026	2027
<b>• Establishment plan posts (officials and temporary staff)</b>							
Headquarters and Commission's Representation Offices	5	5	5	5	5	6	6
Delegations							
Research							
<b>• External staff (in Full Time Equivalent unit: FTE) - AC, AL, END, INT and JED<sup>30</sup></b>							
Heading 7							
Financed from HEADING 7 of the multiannual financial framework	- at Headquarters						
	- in Delegations						
Financed from the envelope of the programme <sup>31</sup>	- at Headquarters						
	- in Delegations						
Research							
Other (specify)							
<b>TOTAL</b>	<b>5</b>	<b>5</b>	<b>5</b>	<b>5</b>	<b>5</b>	<b>6</b>	<b>6</b>

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

Description of tasks to be carried out:

Officials and temporary staff	
External staff	

<sup>30</sup> AC= Contract Staff; AL = Local Staff; END = Seconded National Expert; INT = agency staff; JPD= Junior Professionals in Delegations.

<sup>31</sup> Sub-ceiling for external staff covered by operational appropriations (former 'BA' lines).

### 3.2.3. *Third-party contributions*

The proposal/initiative:

- does not provide for co-financing by third parties
- provides for the co-financing by third parties estimated below:-

Appropriations in EUR million (to three decimal places)

Years	2021	2022	2023	2024	2025	2026	2027	TOTAL
Specify the co-financing body								
TOTAL appropriations co-financed								

### 3.3. **Estimated impact on revenue**

- The proposal/initiative has no financial impact on revenue.

- The proposal/initiative has the following financial impact:

- on own resources

- on other revenue

please indicate, if the revenue is assigned to expenditure lines  X

EUR million (to three decimal places)

Budget revenue line:	Impact of the proposal/initiative <sup>32</sup>						
	2021	2022	2023	2024	2025	2026	2027
Article: X pm line needed							

For assigned revenue, specify the budget expenditure line(s) affected.

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Other remarks (e.g. method/formula used for calculating the impact on revenue or any other information).

There would be internally assigned revenues from the asset management of the Stabilisation Support Fund
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<sup>32</sup>

As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 20 % for collection costs.