COUNCIL OF
THE EUROPEAN UNION

Brussels, 6 July 2012

12070/12

Interinstitutional File:
2011/0301 (COD)

CODEC 1820
ECOFIN 662
COMPET 479
TRANS 234
RECH 309
ENER 338
ENV 592
TELECOM 134
ECO 96
PE 320

INFORMATION NOTE

from:	General Secretariat
to:	Permanent Representatives Committee/Council
Subject:	Proposal for a Regulation of the European Parliament and of the Council amending Decision Nº 1639/2006/EC establishing a Competitiveness and Innovation Framework Programme (2007-2013) and Regulation (EC) Nº 680/2007 laying down general rules for the granting of Community financial aid in the field of the trans-European transport and energy networks – Outcome of the European Parliament's first reading (Strasbourg, 2 to 5 July 2012)

I. INTRODUCTION

The Rapporteur, Göran Färm (S&D, SE), presented a report consisting of 29 amendments (amendments 1-29) to the proposal for a Regulation of the European Parliament and of the Council amending Decision Nº 1639/2006/EC establishing a Competitiveness and Innovation Framework Programme (2007-2013) and Regulation (EC) Nº 680/2007 laying down general rules for the granting of Community financial aid in the field of the trans-European transport and energy networks, on behalf of the Committee on Budgets.

Subsequently, in accordance with the provisions of Article 294 of the TFEU and the joint declaration on practical arrangements for the codecision procedure [1], a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this dossier at first reading, thereby avoiding the need for second reading and conciliation.

In this context, the rapporteur, presented a compromise amendment (amendment 30) to the proposal for a Regulation of the European Parliament and of the Council amending Decision Nº 1639/2006/EC establishing a Competitiveness and Innovation Framework Programme (2007-2013) and Regulation (EC) Nº 680/2007 laying down general rules for the granting of Community financial aid in the field of the trans-European transport and energy networks. This amendment had been agreed during the informal contacts referred to above.

II. VOTE

When it voted on 5 July 2012, the plenary adopted amendment 30 to the proposal for a Regulation of the European Parliament and of the Council amending Decision Nº 1639/2006/EC establishing a Competitiveness and Innovation Framework Programme (2007-2013) and Regulation (EC) Nº 680/2007 laying down general rules for the granting of Community financial aid in the field of the trans-European transport and energy networks. The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto [2].

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

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[1] OJ C 145, 30.6.2007, p.5

[2] The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in ***bold and italics.*** The symbol " ▌ " indicates deleted text.

ANNEX
(5.7.2012)

Financial aid in the field of the trans-European transport and energy networks ***I

European Parliament legislative resolution of 5 July 2012 on the proposal for a regulation of the European Parliament and of the Council amending Decision No 1639/2006/EC establishing a Competitiveness and Innovation Framework Programme (2007-2013) and Regulation (EC) No 680/2007 laying down general rules for the granting of Community financial aid in the field of the trans-European transport and energy networks (COM(2011)0659 – C7-0372/2011 – 2011/0301(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

– having regard to the Commission proposal to Parliament and the Council (COM(2011)0659),

– having regard to Article 294(2) and Articles 172 and 173(3) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0372/2011),

– having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

– having regard to the opinion of the European Economic and Social Committee of 23 February 2012[1],

– after consulting the Committee of the Regions,

– having regard to the undertaking given by the Council representative by letter of 30 May 2012 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,

– having regard to Rule 55 of its Rules of Procedure,

– having regard to the report of the Committee on Budgets and the opinions of the Committee on Industry, Research and Energy and the Committee on Transport and Tourism (A7-0150/2012),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

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[1] OJ C 143, 22.5.2012, p. 134.

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Position of the European Parliament adopted at first reading on 5 July 2012 with a view to the adoption of Regulation (EU) No .../2012 of the European Parliament and of the Council amending Decision No 1639/2006/EC establishing a Competitiveness and Innovation Framework Programme (2007-2013) and Regulation (EC) No 680/2007 laying down general rules for the granting of Community financial aid in the field of the trans-European transport and energy networks

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 172, and Article 173(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 Economic and Social Committee[1],

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure[2],

Whereas:

(1) Decision No 1639/2006/EC of the European Parliament and of the Council[3] establishes the Competitiveness and Innovation Framework Programme (CIP) with different types of implementing measures pursued by specific programmes, of which 'the Information and Communications Technologies (ICT) Policy Support Programme' provides support for the strengthening of the internal market for ICT products and services and ICT-based products and services, and aims at stimulating innovation through the wider adoption of, and investment in, ICT.

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1 OJ C 143, 22.5.2012, p. 134.

2 Position of the European Parliament of 5 July 2012.

3 OJ L 310, 9.11.2006, p. 15.

(2) Regulation (EC) No 680/2007 of the European Parliament and of the Council[1] lays down the general rules for the granting of Union financial aid in the field of the trans-European transport and energy networks and creates also the risk-sharing instrument 'Loan Guarantee instrument for TEN-Transport ("TEN-T") projects'.

(3) Over the next decade, ***according to Commission estimates,*** unprecedented volumes of investment in Europe's transport, energy, information and communication networks will be needed in order to ***contribute to the achievement of*** the Europe 2020 ***policy objectives, in particular climate goals and the transition to a resource-efficient low-carbon economy by developing*** smart, upgraded and fully interconnected infrastructures***, and*** to foster the completion of the internal market. ▌

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1 OJ L 162, 22.6.2007, p. 1.

(4) ***Debt capital market financing is not readily available for infrastructure projects in the Union. The difficulties for infrastructure projects in gaining access to long-term private finance or public funding should not lead to a deterioration in performance on the part of transport, telecommunication and energy systems nor the slowing down of broadband penetration. Due to the fragmentation of the bond markets across the Union, combined with unknown demand as well as the size and complexity of infrastructure projects which require long lead times for project preparation, it is appropriate to address this issue at Union level.***

(5) Financial instruments, ***as governed by Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities***[1]***,*** can***, in some cases,*** improve the efficiency of budget spending and achieve high multiplier effects in terms of attracting private sector financing***. This is particularly relevant in the context of difficult access to credit, constraints on public finances, and in view of the need to underpin Europe's economic recovery***.

[1] ***OJ L 248, 16.9.2002, p. 1.***

(6) ***In its resolution of 8 June 2011 on Investing in the future: a new Multiannual Financial Framework (MFF) for a competitive, sustainable and inclusive Europe, the European Parliament welcomed the Europe 2020 Project Bond Initiative, a risk-sharing mechanism with the EIB providing capped support from the Union budget, that is designed to leverage the Union funds and attract additional interest from private investors for participating in priority projects that are in line with Europe 2020 objectives.*** In its conclusions of 12 July 2011 on the Single Market Act, the Council recalled that financial instruments need to be assessed in terms of leverage effects in comparison to existing instruments, risks that would be added to government balance sheets and possible crowding out of private institutions. The Commission Communication on a pilot for the Europe 2020 Project Bond Initiative and the related impact assessment, which draw on a public consultation***, should be seen in this context***.

(7) ***A pilot phase for*** the Europe 2020 Project Bond Initiative should be launched, the ***aim*** of which is to help finance priority projects ***with a clear EU added value***, and ▌ to facilitate greater private sector involvement in the long-term capital market financing of ***economically viable projects in the field of transport, energy and ICT infrastructure. The instrument will benefit*** projects ***with similar financing needs and, thanks to synergies between the sectors, should produce greater benefits in terms of market impact, administrative efficiency and resource utilisation. It should provide infrastructure stakeholders such as financiers, public authorities, infrastructure managers, construction companies and operators with a coherent instrument and will be driven by market demand***.

▌

(8) ***During the pilot phase for*** the Europe 2020 Project Bond Initiative, the Union budget is to be used along with financing from ***the EIB in the form of a joint risk-sharing instrument for project bonds*** issued by project companies***. That instrument seeks to mitigate the debt-service risk of a project and the credit risk of bondholders to such an extent that capital market participants, such as pension funds, insurance companies and other interested parties, are willing to invest in a larger volume of infrastructure project bonds than would be possible without Union support***.

(9) In light of the EIB's long-standing expertise and given that it is the major financier of infrastructure projects and the EU financial body established by the Treaty, the Commission should involve the EIB in the implementation of the pilot phase. The main terms, conditions and procedures of the risk-sharing instrument for project bonds should be laid down by means of this Regulation. More detailed terms and conditions, including risk sharing, remuneration, monitoring and control, should be laid down in a cooperation agreement between the Commission and the EIB. That cooperation agreement should be approved by the Commission and the EIB according to their respective procedures.

(10) ***The*** pilot phase for the Europe 2020 Project Bond Initiative should be launched as soon as possible during the current financial framework ***and implemented without undue delay*** in order to ***ascertain whether, and to what extent, such risk-sharing financial instruments offer added value*** in the area of infrastructure ***financing and for the development of debt capital market financing of infrastructure projects***.

(11) The pilot phase should be funded by means of budget redeployment in the 2012 and 2013 budgets from existing transport, energy and telecommunication programmes. For this purpose, it should be possible for up to EUR 200 million to be redeployed for this initiative from the TEN-T budget, up to EUR 20 million from the budget of the Competitiveness and Innovation Framework Programme and up to EUR 10 million from the TEN-Energy ("TEN-E") budget. The budgetary funds available limit both the scope of the initiative and the number of projects that can be supported.

(12) Budgetary funds should be requested by the EIB on the basis of a range of projects, which the EIB ***and the Commission*** deem to be suitable***, to be in line with the Union's long-term policy objectives*** and likely to be realised. Any such requests and the corresponding budgetary commitments should be made no later than 31 December 2013. Due to the complexity of large infrastructure projects, it should be possible for the actual approval by the EIB's Board of Directors to take place at a later date, but no later than 31 December 2014.

(13) Application for support, and selection and implementation of all projects should be subject to Union law, in particular with regard to state aid, and should seek to avoid creating or adding to market distortions.

(14) In addition to the reporting requirements under point 49 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management[1], the Commission should, with the support of the EIB, report every six months during the pilot phase to the European Parliament and the Council after the signature of the cooperation agreement and submit an interim report to the European Parliament and the Council in the second half of 2013. An independent full-scale evaluation should be carried out in 2015.

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1 OJ C 139, 14.6.2006, p. 1.

(15) ***Drawing upon that independent full-scale evaluation, the Commission should assess the relevance of the Europe 2020 Project Bond Initiative as well as its effectiveness in increasing the volume of investments in priority projects and enhancing the efficiency of Union spending.***

(16) ***The pilot phase of the Europe 2020 Project Bond Initiative should be launched in preparation for the Connecting Europe Facility proposed by the Commission. It is without prejudice to any decisions concerning the Union's Multiannual Financial Framework (MFF) after 2013 and concerning the possible re-use of reflows from financial instruments in the context of the negotiations on the proposal for a regulation of the European Parliament and of the Council on the financial rules applicable to the annual budget of the Union.***

(17) ***In order to implement the pilot phase of the Europe 2020 Project Bond Initiative, Decision No 1639/2006/EC and Regulation (EC) No 680/2007 should be amended accordingly.***

(18) In order for the measures provided for in this Regulation to be effective, in view of the limited duration of the pilot phase, this Regulation should enter into force on the day following its publication,

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments to Decision No 1639/2006/EC

Decision No 1639/2006/EC is hereby amended as follows:

(1) In Article 8, the following paragraph is added:

'5a. Without prejudice to paragraphs 1 to 5, for projects carried out under the risk-sharing instrument for project bonds referred to in Article 31(2), the Commission and the European Investment Bank (EIB) shall submit an interim report to the European Parliament and the Council in the second half of 2013. An independent full-scale evaluation shall be carried out in 2015.

On the basis of that evaluation, the Commission shall assess the relevance of the Europe 2020 Project Bond Initiative and its effectiveness in increasing the volume of investments in priority projects and enhancing the efficiency of Union spending. In the light of that assessment, taking into account all options, the Commission shall consider proposing appropriate regulatory changes, including legislative changes, in particular if the predicted market uptake is not satisfactory or in the event that alternative sources of long-term debt financing become sufficiently available.

The interim report referred to in the first subparagraph shall include a list of the projects which have benefited from the risk-sharing instrument for project bonds referred to in Article 31(2a) to (2e), with information on the terms of the bonds issued and the types of current and potential future investors.'

(2) In Article 26(2), point (b) is replaced by the following:

'(b) stimulation of innovation through the wider adoption of, and investment in, ICT and broadband;'

(3) Article 31 is amended as follows:

(a) Paragraph 2 is replaced by the following:

'2. The projects referred to in paragraph 1(a) shall aim to promote innovation, technology transfer and the dissemination of new technologies that are ready for market uptake.

The Union may award a grant to contribute to the budget of those projects.

The Union may, alternatively, make***, during a pilot phase in 2012 and 2013,*** a financial contribution to the EIB towards the provisioning and capital allocation for ***debt instruments*** or guarantees to be issued by the EIB from its own resources under the risk-sharing instrument for project bonds.'

(b) The following ***paragraphs*** are inserted:

'2a. The risk-sharing instrument for project bonds referred to in the third subparagraph of paragraph 2 ***is a joint instrument by the Commission and the EIB which provides added value as a Union intervention, addresses sub-optimal investment situations when projects do not receive adequate financing from the market, and provides additionality. It avoids distortion of competition, aims to secure a multiplier effect and aligns interests in the form of*** a credit enhancement. The risk-sharing instrument for project bonds shall:

(a) take the form of a ***debt instrument*** or a guarantee granted by the EIB ***with the support of a Union budget contribution*** in favour of financing provided to projects in the field of ICT and broadband***, complementing or attracting financing by Member States or the private sector***;

(b) ***mitigate*** the debt service risk of a project and ▌ the credit risk of bond holders;

(c) be used only for projects whose financial viability is based on project revenues.

2b. The Union exposure to the risk-sharing instrument for project bonds, including management fees and other eligible costs, shall ***in no case exceed*** the amount of the Union contribution to the risk-sharing instrument for project bonds ***nor extend beyond the maturity of the underlying portfolio of credit enhancement facilities***. There shall be no further liability on the general budget of the Union. The residual risk ***related to project bond*** operations shall ***always*** be borne by the EIB.

2c. ***The main terms, conditions and procedures of the risk-sharing instrument for project bonds are laid down in Annex IIIa.*** The detailed terms and conditions for implementing the risk-sharing instrument for project bonds, including ***risk sharing, remuneration,*** monitoring and control, shall be laid down in a ***cooperation*** agreement between the Commission and the EIB. ***That cooperation agreement shall be approved by the Commission and the EIB according to their respective procedures.***

2d. In 2013, an amount of up to EUR 20 million may be used from the budget allocated for the pursuance of ICT and broadband policy in accordance with the rule set out in point (b) of Annex I. ***Given the limited duration of the pilot phase,*** the risk-sharing instrument for project bonds may reuse any revenues received ***before 31 December 2013*** for new ***debt instruments*** and guarantees ***within the same risk-sharing facility and for projects fulfilling the same eligibility criteria in order to maximise the volume of investments supported. In the event that the risk-sharing instrument for project bonds is not extended into the next multiannual financial framework, any remaining funds shall be returned to the revenue side of the general budget of the Union***.

2e. ***In addition to the reporting requirements set out in point 49 of the Interinstitutional Agreement of 17 May 2006 on budgetary discipline and sound financial management, and without prejudice to any other regulatory reporting requirements, the Commission shall report to the European Parliament and the Council every six months during the pilot phase on the performance of the risk-sharing instrument for project bonds, including the financial terms and placement of any project bonds issued.'***

(4) ***The following Annex is added:***

'ANNEX IIIa

Main terms, conditions and procedures of the risk-sharing instrument for project bonds referred to in Article 31(2c)

The EIB shall be a risk-sharing partner and shall manage the Union contribution to the risk-sharing instrument for project bonds on behalf of the Union. More detailed terms and conditions for implementing that instrument, including its monitoring and control, shall be laid down in a cooperation agreement between the Commission and the EIB, taking into account the provisions laid down in this Annex.

(a) The EIB facility

1. The risk-sharing instrument for project bonds will be designed for each eligible project as a subordinated facility, in the form of a debt instrument or a contingent (guarantee) facility or both, in order to facilitate the issue of a project bond.

2. Should the EIB be or become a creditor to a project, the EIB's rights under the risk-sharing instrument for project bonds shall rank behind the debt service of the senior debt and ahead of equity and any financing related to equity.

3. The facility shall not exceed 20 % of the total amount of the senior debt issued.

(b) ***Budget***

ICT:

2013: Up to EUR 20 million.

The request for transfer of the sums above shall be issued by 31 December 2012 and shall be supported by a forecast of the need for the scheduled Union contribution.

If necessary, that forecast may serve as the basis for a demand-based reduction of the 2013 amount which shall be decided in accordance with the procedure referred to in Article 46(2).

(c) Fiduciary account

1. The EIB shall set up a fiduciary account to hold the Union contribution and revenues resulting from the Union contribution.

2. Given the limited duration of the pilot phase, the interest earned on the fiduciary accounts and other revenues resulting from the Union contribution, such as guarantee premiums, interest and risk margins on sums disbursed by the EIB, shall be added to the resources of the fiduciary account. However, the Commission may decide, in accordance with the procedure referred to in Article 46(2), that they are to be returned to the CIP ICT budget line.

(d) Use of the Union contribution

The Union contribution shall be used by the EIB:

1. towards risk provisioning on a first-loss basis for the subordinated facilities of the eligible project portfolio, in accordance with the relevant rules of the EIB and a risk assessment performed by the EIB under its applicable policies,

2. to cover any non-project-related eligible costs associated with the establishment and administration of the risk-sharing instrument for project bonds, including its evaluation.

(e) Risk and revenue sharing

The risk-sharing pattern resulting from point (d) shall be reflected in an appropriate sharing between the Union and the EIB of the risk remuneration charged by the EIB to its counterpart in respect of each facility within the project portfolio.

(f) Pricing

The pricing of the project bond facilities is based upon the risk remuneration in accordance with relevant standard rules and criteria of the EIB.

(g) Application procedure

Applications for risk coverage under the risk-sharing instrument for project bonds shall be addressed to the EIB in accordance with the EIB's standard application procedure.

(h) Approval procedure

The EIB shall carry out risk, financial, technical and legal due diligence and shall decide upon the use of the risk-sharing instrument for project bonds and select the appropriate type of subordinated facility in accordance with its standard rules and criteria, notably EIB Credit Risk Policy Guidelines, and the EIB's selection criteria in the social, environmental and climate field.

(i) Duration

1. The Union contribution to the risk-sharing instrument for project bonds shall be committed no later than 31 December 2013. The actual approval of project bond facilities by the EIB's Board of Directors shall be finalised by 31 December 2014.

2. In the event of termination of the risk-sharing instrument for project bonds during the current multiannual financial framework, any balances on the fiduciary account, other than funds committed and funds needed to cover other eligible costs and expenses, shall be returned to the CIP ICT budget line.

3. Funds allocated to the risk-sharing instrument for project bonds shall be reimbursed to the relevant fiduciary account as facilities expire or are repaid, provided risk coverage remains sufficient.

(j) Reporting

Annual reporting methods on the implementation of the risk-sharing instrument for project bonds shall be agreed between the Commission and the EIB.

In addition, the Commission shall, with the support of the EIB, report on implementation every six months to the European Parliament and the Council, starting six months after the signature of the cooperation agreement referred to in Article 31(2c).

(k) Monitoring, control and evaluation

The Commission shall monitor the implementation of the instrument, including through on-the-spot controls as appropriate, and shall perform verification and controls in line with Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities*.

The EIB shall manage subordinated facilities in accordance with EIB's own rules and procedures, including appropriate audit, control and monitoring measures. Furthermore, the EIB's Board of Directors, on which the Commission and Member States are represented, shall approve each subordinated facility and monitor that the EIB is managed in accordance with its Statute and with the general directives laid down by its Board of Governors.

The Commission and the EIB shall submit an interim report on the functioning of the pilot risk-sharing instrument for project bonds to the European Parliament and the Council in the second half of 2013 with a view to optimising the design of that instrument.

A full-scale independent evaluation shall be undertaken in 2015 after approval of the final project bond operations. It shall cover, inter alia, the value added, additionality compared to other Union or Member State instruments and other existing forms of long-term debt financing, the achieved multiplier effect, an assessment of the risks involved as well as the creation or correction of distortive effects, if any. The evaluation shall also cover the impact on projects' financial viability, volume, terms and costs of bond issuance, the effect on the wider bond markets as well as controlling creditor and procurement aspects. It shall also provide, if possible, a cost comparison with alternative means of project finance including bank loans. During the pilot phase, each selected project shall be assessed.

****	OJ L 248, 16.9.2002, p. 1.*'.**

Article 2

Amendments to Regulation (EC) No 680/2007

Regulation (EC) No 680/2007 is hereby amended as follows:

(1) In Article 2 the following points are added:

'(14) ***The*** 'risk-sharing instrument for project bonds' ***means a joint instrument by the Commission and the EIB which provides added value as a Union intervention, addresses sub-optimal investment situation when projects do not receive adequate financing from the markets, and provides additionality, by complementing or attracting financing by Member States or the private sector. It avoids distortion of competition, aims to secure a multiplier effect and aligns interests.***. The risk-sharing instrument for project bonds ***takes the form of*** a credit enhancement ▌ to projects of common interest, ***mitigates*** the debt service risk of a project and ▌ the credit risk of bond holders and is used only for projects whose financial viability is based on project revenues.

(15) 'Credit enhancement' means the improvement of the credit quality of a project debt by means of a subordinated facility in the form of an EIB ***debt instrument*** or of an EIB guarantee or both, ***supported by a contribution from the Union budget***.'

(2) In the first paragraph of Article 4 the following sentence is added:

'Applications for risk coverage under the risk-sharing instrument for project bonds under Article 6(1)(g) shall be addressed to the EIB in accordance with the EIB's standard application procedure.'

(3) Article 6(1) is amended as follows:

(a) In point (d), the following sentence is added:

'In 2012 and 2013, an amount of up to EUR 200 million may be redeployed for ***the pilot phase of*** the risk-sharing instrument for project bonds in the transport sector.'

(b) The following point is added:

'(g) ***during a pilot phase in 2012 and 2013,*** a financial contribution to the EIB towards the provisioning and capital allocation for ***debt instruments*** or guarantees to be issued by the EIB from its own resources under the risk-sharing instrument for project bonds in the field of TEN-T and TEN-E. The Union exposure to the risk-sharing instrument, including management fees and other eligible costs, shall ***in no case exceed*** the amount of the Union contribution to the risk-sharing instrument for project bonds***, nor extend beyond the maturity of the portfolio of underlying credit enhancement facilities.*** There shall be no further liability on the general budget of the Union. The residual risk ***related to these project bond*** operations shall ***always*** be borne by the EIB.

The main terms, conditions and procedures of the risk-sharing instrument for project bonds are laid down in Annex Ia. The detailed terms and conditions for implementing the risk-sharing instrument for project bonds, including ***risk-sharing, remuneration,*** monitoring and control, shall be laid down in a ***cooperation*** agreement between the Commission and the EIB. ***This cooperation agreement shall be approved by the Commission and the EIB according to their respective procedures.***

In 2012 and 2013, an amount of up to EUR 210 million, of which up to EUR 200 million for transport projects and up to EUR 10 million for energy projects, may be redeployed for the risk-sharing instrument for project bonds in accordance with the procedure referred to in Article 15(2) from the budget lines for the loan guarantee instrument for TEN-T projects, referred to in Annex I, and for TEN-E respectively.

In addition to the reporting requirements set out in point 49 of the Interinstitutional Agreement of 17 May 2006 on budgetary discipline and sound financial management, and without prejudice to any other regulatory reporting requirements, the Commission shall report to the European Parliament and the Council every six months during the pilot phase on the performance of the risk-sharing instrument, including the financial terms and placement of any project bonds issued.

Given the limited duration of the pilot phase, interest and other revenue generated by the risk-sharing instrument for project bonds ***which is*** received ***before 31 December 2013 may be reused*** for new ***debt instruments*** and guarantees ***within the same risk-sharing facility and for projects fulfilling the same eligibility criteria in order to maximise the volume of investments supported. If the risk-sharing instrument for project bonds is not extended into the next financial framework, any remaining funds shall be returned to the revenue side of the general budget of the Union.'***

(4) In Article 16, the following paragraph is added:

'2a. Without prejudice to paragraphs 1 and 2, for projects carried out under the risk-sharing instrument for project bonds referred to in Article 6(1)(g), the Commission and the EIB shall submit an interim report to the European Parliament and the Council in the second half of 2013. An independent full-scale evaluation shall be carried out in 2015.

On the basis of that evaluation, the Commission shall assess the relevance of the Europe 2020 Project Bond Initiative and its effectiveness in increasing the volume of investments in priority projects and enhancing the efficiency of Union spending. In the light of that assessment, taking into account all options, the Commission shall consider proposing appropriate regulatory changes, including legislative changes, in particular if the predicted market uptake is not satisfactory or in the event that alternative sources of long-term debt financing become sufficiently available.'

(5) In Article 17(1), the following subparagraph is added:

'The interim report referred to in Article 16(2a) shall also contain a list of the projects which have benefited from the risk-sharing instrument for project bonds referred to in Article 6(1)(g), with information on the terms of the bonds issued and the types of current and potential future investors.'

(6) The Annex is renumbered Annex I and the words 'the Annex' in Article 6(1)(d) are accordingly replaced with 'Annex I'.

(7) The following Annex is added:

'Annex Ia

Main terms, conditions and procedures of the risk-sharing instrument for project bonds referred to in Article 6(1)(g)

The EIB shall be a risk-sharing partner and shall manage the Union contribution to the risk-sharing instrument for project bonds on behalf of the Union. More detailed terms and conditions for implementing that instrument, including its monitoring and control, shall be laid down in a cooperation agreement between the Commission and the EIB, taking into account the provisions laid down in this Annex.

(a) The EIB facility

1. ***The risk-sharing instrument for project bonds will be designed for each eligible project as a subordinated facility, in the form of a debt instrument or a contingent (guarantee) facility or both, in order to facilitate the issue of a project bond.***

2. ***Should the EIB be or become a creditor to a project, the EIB's rights under the risk-sharing instrument for project bonds shall rank behind the debt service of the senior debt and ahead of equity and any financing related to equity.***

3. ***The facility shall not exceed 20 % of the total amount of the senior debt issued.***

(b) Budget

TEN-T:

– 2012: Up to EUR 100 million

– 2013: Up to the cumulated amount of EUR 200 million

to be reallocated from the TEN-T budget dedicated to the loan guarantee instrument for TEN-T projects, referred to in Annex I, but unspent.

TEN-E:

2013: Up to EUR 10 million.

The request for transfer of the 2012 amount shall be issued without undue delay following the signature of the cooperation agreement.

The transfer requests in subsequent years shall be issued by 31 December of the preceding year.

In all cases the transfer request shall be supported by a forecast of the need for the scheduled Union contribution.

If necessary, that forecast may serve as the basis for a demand-based reduction of the amounts which shall be decided in accordance with the procedure referred to in Article 15(2).

(c) Fiduciary account

1. The EIB shall set up two fiduciary accounts (one for projects under TEN-T, the other for projects under TEN-E) to hold the Union contributions and revenues resulting from the Union contributions. The fiduciary account for TEN-T may be merged with the fiduciary account set up for the loan guarantee instrument for TEN-T projects, referred to in Annex I, provided such measure does not impede the quality of reporting and monitoring as stipulated under points (j) and (k).

2. ***Given the limited duration of the pilot phase, the interest earned on the fiduciary accounts and other revenues resulting from the Union contribution, such as guarantee premiums, interest and risk margins on sums disbursed by the EIB, shall be added to the resources of the fiduciary account. However, the Commission may decide, in accordance with the procedure referred to in Article 15(2), that they are to be returned to the TEN-T or TEN-E budget lines.***

(d) Use of the Union contribution

The Union contribution shall be used by the EIB:

1. ***towards risk provisioning on a first-loss basis for the subordinated facilities of the eligible project portfolio, in accordance with the relevant rules of the EIB and a risk assessment performed by the EIB under its applicable policies,***

2. ***to cover any non-project-related eligible costs associated with the establishment and administration of the risk-sharing instrument for project bonds including its evaluation.***

(e) Risk and revenue sharing

The risk-sharing pattern resulting from point (d) shall be reflected in an appropriate sharing between the Union and the EIB of the risk remuneration charged by the EIB to its counterpart in respect of each facility constituting the portfolio.

Notwithstanding the provisions applying to risk sharing for the loan guarantee instrument for TEN-T projects, referred to in Annex I, the risk-sharing pattern for project bonds shall also apply to that instrument including the operations of its existing portfolio.

(f) Pricing

The pricing of the project bond facilities is based upon the risk remuneration in accordance with relevant standard rules and criteria of the EIB.

(g) ***Application procedure***

Applications for risk coverage under the risk-sharing instrument for project bonds shall be addressed to the EIB in accordance with the EIB's standard application procedure.

(h) ***Approval procedure***

The EIB shall carry out risk, financial, technical and legal due diligence and shall decide upon the use of the risk-sharing instrument for project bonds and select the appropriate type of subordinated facility in accordance with its standard rules and criteria, notably EIB Credit Risk Policy Guidelines, and the EIB's selection criteria in the social, environmental and climate field.

(i) ***Duration***

1. The last tranche of the Union contribution to the risk-sharing instrument for project bonds shall be committed no later than 31 December 2013. The actual approval of project bond facilities by the EIB's Board of Directors shall be finalised no later than 31 December 2014.

2. ***In the event of termination of the risk-sharing instrument for project bonds during the current multiannual financial framework any balances on the fiduciary accounts, other than funds committed and funds needed to cover other eligible costs and expenses, shall be returned to the TEN-T, TEN-E budget lines.***

3. ***Funds allocated to the risk-sharing instrument for project bonds shall be reimbursed to the relevant fiduciary account as facilities expire or are repaid provided risk coverage remains sufficient.***

(j) Reporting

Annual reporting methods on the implementation of the risk-sharing instrument for project bonds shall be agreed between the Commission and the EIB.

In addition, the Commission shall, with the support of the EIB, report on implementation every six months to the European Parliament and the Council, starting six months after the signature of the cooperation agreement referred to in Article 6(1)(g).

(k) Monitoring, control and evaluation

The Commission shall monitor the implementation of the instrument, including through on-the-spot controls as appropriate, and shall perform verification and controls in line with Regulation (EC, Euratom) No 1605/2002.

The EIB shall manage subordinated facilities in accordance with EIB's own rules and procedures, including appropriate audit, control and monitoring measures. Furthermore, the EIB's Board of Directors, on which the Commission and Member States are represented, shall approve each subordinated facility and monitor that the EIB is managed in accordance with its Statute and with the general directives laid down by its Board of Governors.

The Commission and the EIB shall submit an interim report on the functioning of the pilot risk-sharing instrument for project bonds to the European Parliament and the Council in the second half of 2013 with a view to optimising the design of that instrument.

A full-scale independent evaluation shall be undertaken in 2015 after approval of the final project bond operations. It shall cover, inter alia, the value added, additionality compared to other Union or Member State instruments and other existing forms of long-term debt financing, the achieved multiplier effect, an assessment of the risks involved as well as the creation or correction of distortive effects, if any. The evaluation shall also cover the impact on projects' financial viability, volume, terms and costs of bond issuance, the effect on the wider bond markets as well as controlling creditor and procurement aspects. It shall also provide, if possible, a cost comparison with alternative means of project finance including bank loans. During the pilot phase, each selected project shall be assessed.'.

Article 3

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

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

Done at

For the European Parliament	*For the Council*
The President	*The President*