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## INFORMATION NOTE

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From: General Secretariat of the Council  
To: Permanent Representatives Committee/Council

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Subject: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EC, Euratom) No 480/2009 establishing a Guarantee Fund for external actions.  
- Outcome of the European Parliament's First Reading  
(Strasbourg, 5 to 8 February 2018)

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## I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the joint declaration on practical arrangements for the codecision procedure <sup>1</sup>, 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, Eider GARDIAZABAL RUBIAL (S&D, ES) presented one compromise amendment (amendment 7) to the proposal for Regulation, on behalf of the Committee on Budgets. This amendment had been agreed during the informal contacts referred to above.

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<sup>1</sup> OJ C 145, 30.6.2007, p.5

## II. VOTE

When it voted on 8 February 2018, the plenary adopted one compromise amendment (amendment 7) to the proposal for a Regulation. 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<sup>2</sup>.

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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<sup>2</sup> 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.

## **Guarantee Fund for external actions \*\*\*I**

**European Parliament legislative resolution of 8 February 2018 on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC, Euratom) No 480/2009 establishing a Guarantee Fund for external actions (COM(2016)0582 – C8-0374/2016 – 2016/0274(COD))**

### **(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2016)0582),
  - having regard to Article 294(2) and Articles 209 and 212 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0374/2016),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the provisional agreement approved by the committee responsible under Rule 69f(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 1 December 2017 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 59 of its Rules of Procedure,
  - having regard to the report of the Committee on Budgets and the opinions of the Committee on Development, the Committee on Foreign Affairs and the Committee on International Trade (A8-0132/2017),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

**P8\_TC1-COD(2016)0274**

**Position of the European Parliament adopted at first reading on 8 February 2018 with a view to the adoption of Regulation (EU) .../... of the European Parliament and of the Council amending Council Regulation (EC, Euratom) No 480/2009 establishing a Guarantee Fund for external actions**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 209 and 212 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure<sup>3</sup>,

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<sup>3</sup> Position of the European Parliament of 8 February 2018.

Whereas:

- (1) The Guarantee Fund for external actions (the "Fund") is regulated by Council Regulation (EC, Euratom) No 480/2009<sup>4</sup>.
- (2) The Fund is endowed by one annual payment from the general budget of the Union, by interest on Fund resources invested and by amounts recovered from defaulting debtors.
- (3) Risk-premium revenues generated under the financing operations of the European Investment Bank (EIB) that benefit from a Union budgetary guarantee should be paid into the Fund.
- (4) Where the amount of the Fund exceeds 10 % of the Union's total outstanding capital liabilities, the surplus should be paid back into the general budget of the Union in order to better protect the general budget of the Union against potential additional risk of default of the EIB financing operations addressing *the long-term economic resilience of refugees, migrants, host and transit communities, and communities of origin as a strategic response to addressing* root causes of migration.
- (5) Regulation (EC, Euratom) No 480/2009 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

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<sup>4</sup> Council Regulation (EC, Euratom) No 480/2009 of 25 May 2009 establishing a Guarantee Fund for external actions (OJ L 145, 10.6.2009, p. 10).

## Article 1

Regulation (EC, Euratom) No 480/2009 is amended as follows:

(1) in Article 2, the following indent is added:

‘— risk-premium revenues generated under the financing operations of the EIB for which the Union provides a guarantee **which is remunerated.**’;

(2) in Article 3, the third paragraph is replaced by the following:

‘If the amount of the Fund exceeds 10 % of the Union's total outstanding capital liabilities, the surplus shall be paid back into the general budget of the European Union. That surplus shall be paid in one transaction to a special heading in the statement of revenue in the general budget of the European Union of the year  $n + 1$  on the basis of the year-end  $n-1$  difference between 10 % of the Union's total outstanding capital liabilities amount and the value of the Fund's net assets, calculated at the beginning of the year  $n$ .’;

(3) Article 7 is replaced by the following:

‘Article 7

The Commission shall **entrust** the financial management of the Fund **to the EIB.**

*By 30 June 2019, the Commission shall submit to the European Parliament and to the Council an independent external evaluation of the advantages and disadvantages of entrusting the financial management of the assets of the Fund and of the European Fund for Sustainable Development to the Commission, the EIB, or a combination of the two, taking into account the relevant technical and institutional criteria used in comparing asset-management services, including the technical infrastructure, a comparison of costs for the services given, the institutional set-up, reporting, performance, accountability and the expertise of each institution and the other asset-management mandates for the general budget of the European Union. The evaluation shall, where appropriate, be accompanied with a legislative proposal.’;*

(4) Article 8 is replaced by the following:

‘Article 8

*The Commission* shall, by 31 May of each year, submit to the European Parliament, to the Council and to the Court of Auditors an annual report on the management of the Fund in the previous calendar year. The annual report shall contain a presentation of the financial position *and information on the functioning* of the Fund at the end of the previous calendar year, the financial flows as well as the significant transactions and any relevant information on the financial accounts, *such as detailed information on the outstanding capital of guaranteed loans or the Fund's assets during the previous calendar year, as well as conclusions and lessons learned.* The report shall also include information about the financial management and performance and the risk of the Fund at the end of the previous *calendar year. As of 2019 and every third year thereafter, it shall also include an assessment on the adequacy of the 9 % target and the 10% threshold for the Fund, as referred to in the second and third paragraphs of Article 3 respectively.*’.



*Article 2*

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

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

Done at ...,

For the European Parliament

For the Council

The President

The President

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