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PROPOSAL

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

date of receipt: 16 July 2020

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

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Subject: ANNEX to the proposal for a COUNCIL DECISION amending Decision
2003/77/EC laying down multiannual financial guidelines for managing the
assets of the ECSC in liquidation and, on completion of the liquidation, the
Assets of the Research Fund for Coal and Steel

Delegations will find attached document COM(2020) 321 final ANNEX.

Encl.: COM(2020) 321 final ANNEX



Brussels, 16.7.2020
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ANNEX

ANNEX

to the

COUNCIL DECISION

amending Decision 2003/77/EC laying down multiannual financial guidelines for managing the assets of the ECSC in liquidation and, on completion of the liquidation, the Assets of the Research Fund for Coal and Steel

ANNEX

Financial guidelines for managing the assets of the ECSC in liquidation and, on completion of the liquidation, the Assets of the Research Fund for Coal and Steel

1. USE OF FUNDS

The assets of the ECSC in liquidation, including both its loan portfolio and its investments, shall be used as necessary to meet the remaining obligations of the ECSC, in terms of its outstanding borrowings, of its commitments resulting from previous operating budgets, and of any unforeseeable liability.

To the extent that the assets of the ECSC in liquidation and, upon completion of the liquidation, the assets of the Research Fund for Coal and Steel are not needed to meet obligations as described in the first subparagraph, those assets shall be prudently invested in accordance with the chosen investment horizon in order to achieve returns that can be used to continue funding of research in the sectors related to the coal and steel industry.

The assets of the ECSC in liquidation and, upon completion of the liquidation, the assets of the Research Fund for Coal and Steel shall be used to provide annual payments, within the limits of the annual allocation of EUR [111 million], for research in the sectors related to the coal and steel industry. Those payments are to be generated by the net revenue from the investments. Where that net revenue is insufficient to honour the annual allocation, it shall be supplemented by the proceeds generated by selling part of the assets of the ECSC in liquidation and, upon completion of the liquidation, the assets of the Research Fund for Coal and Steel. After the year 2027, the Assets of the Research Fund for Coal and Steel shall be invested in a manner as to provide income that can be used to fund the continuation of research in the sectors related to the coal and steel industry.

2. INVESTMENT HORIZON, OBJECTIVE AND RISK TOLERANCE

The assets of the ECSC in liquidation and, upon completion of the liquidation, the assets of the Research Fund for Coal and Steel, shall be invested with the objective of preserving and where possible enhancing the value of those assets (the “investment objective”). The investment objective shall be pursued over the investment horizon, and delivered with a high confidence level.

The assets shall be managed in accordance with prudential rules and the principles of sound financial management and in accordance with the rules and procedures set out by the accounting officer of the Commission.

The investment objective shall be served through the implementation of a prudent investment strategy based on a high degree of diversification across eligible asset classes, geographical areas, issuers and maturities (the “investment strategy”). The investment strategy shall be set out taking into account the investment horizon and to ensure that necessary funds are available in a sufficiently liquid form as and when needed.

The investment strategy shall be expressed in the form of a strategic asset allocation, which shall set out the indicative target allocations to different categories of eligible financial assets.

The Commission shall reflect the Strategic Asset Allocation in a strategic benchmark (the “benchmark”) against which the performance of the assets of the ECSC in liquidation and, on completion of the liquidation, the assets of the Research Fund for Coal and Steel shall be compared.

The investment strategy and the benchmark shall be proposed by the Commission and agreed with the Accounting Officer of the Commission, after consulting the Commission's authorising officers by delegation.

The investment strategy and the benchmark may be modified by the Commission in the event of a duly documented and motivated change in economic conditions, substantial change in the needs and situation of the contributing instruments or of a significant change in inflow/outflow estimates. The procedure for modification of the investment strategy shall be the same as for its initial adoption.

The investment strategy shall be established taking into account the investment horizon and risk tolerance of the assets of the ECSC in liquidation and, on completion of the liquidation, the assets of the Research Fund for Coal and Steel.

3. ASSET ALLOCATION PRINCIPLES AND ELIGIBLE INVESTMENTS

Sufficient diversification among and within all asset classes shall be assured to reduce investment risks. In principle, the riskier and/or less liquid an asset, the less concentrated should the exposure be.

Exposure to the different asset classes and diversification may also be achieved via investments into collective investment undertakings or exchange traded products.

The assets of the ECSC in liquidation and, on completion of the liquidation, the assets of the Research Fund for Coal and Steel shall be invested only in:

- (a) euro-denominated money market assets;
- (b) fixed income securities, and;
- (c) regulated collective investments in debt and equity.

The assets of the ECSC in liquidation and, on completion of the liquidation, the assets of the Research Fund for Coal and Steel shall obtain exposure to the asset classes referred to in the previous subparagraph through investment in the following instruments or by engaging in the following operations:

- (a) deposits;
- (b) money market instruments and money market funds, which offer daily liquidity, regulated by Regulation (EU) 2017/1131 of the European Parliament and of the Council¹;
- (c) debt instruments, such as bonds, bills and notes, and securitized instruments in line with the Simple, Transparent, and Standardised (STS) criteria set out in Regulation (EU) 2017/2402 of the European Parliament and of the Council²;
- (d) collective investment undertakings covered by Directive 2009/65/EC of the European Parliament and of the Council³ including exchange-traded funds

¹ Regulation (EU) 2017/1131 of the European Parliament and of the Council of 14 June 2017 on money market funds (OJ L 169, 30.6.2017, p. 8).

² Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation, and amending Directives 2009/65/EC, 2009/138/EC and 2011/61/EU and Regulations (EC) No 1060/2009 and (EU) No 648/2012 (OJ L 347, 28.12.2017, p. 35).

³ Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (recast) (OJ L 302, 17.11.2009, p. 32), as later amended.

which invest in equity or in debt instruments where maximum losses cannot exceed amounts invested;

- (e) repurchase agreements in accordance to the principle established by Article 212(2) of the Financial Regulation⁴;
- (f) reverse repurchase agreements;
- (g) securities lending operations with recognised clearing systems such as Clearstream and Euroclear, or with leading financial institutions specialising in this type of operations.

Derivatives, in the form of forward and future contracts and swaps, shall be used solely for the purposes of efficient portfolio management and not for the purposes of speculation or leveraging of positions. Those derivatives may be used for adjustment of duration, mitigation of credit or other relevant risk or changes in asset allocation consistent with the investment policy.

The assets of the ECSC in liquidation and, on completion of the liquidation, the assets of the Research Fund for Coal and Steel may be invested in highly liquid bonds denominated in US dollars issued by sovereign and supranational entities solely for the purposes of diversification and exposure to another interest rate curve. Any currency risk shall be hedged making appropriate use of swaps or other instruments for foreign exchange hedging, as specified in the previous subparagraph.

The Commission may, subject to the agreement of the accounting officer, enlarge the scope of eligible investments to include other asset classes and investment operations consistent with the investment strategy and objectives, as well as currencies of other advanced economies, as listed from time to time by the International Monetary Fund and subject to hedging of currency risk. Any decision to include new asset classes, investment operations or currencies of advanced economies shall be supported by a substantiated justification per asset class, operation or currency, of how the expanded investment possibilities will enhance the risk-return performance of the assets of the ECSC in liquidation and, on completion of the liquidation, the assets of the Research Fund for Coal and Steel. That justification shall include an assessment of the operational capacities needed to support these new investment possibilities.

4. ENVIRONMENTAL, SOCIAL, GOVERNANCE AND MORAL CONSIDERATIONS

The following environmental, social and governance criteria shall apply:

- (a) the investments of the assets of the ECSC in liquidation and, on completion of the liquidation, the assets of the Research Fund for Coal and Steel shall be implemented in line with the Union's policy objective to foster sustainable finance and social fairness to the extent consistent with the preservation of the capital of the assets;
- (b) the implementation of the investment policy shall comply with all relevant legislation promoting environmental, social and governance (ESG)

⁴ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

financial instruments and shall respect the relevant standards, systems, criteria and processes established in the regulatory framework of the Union;

(c) the Commission may consult the EU Technical Expert Group on Sustainable Finance, or its successor, on the implementation of ESG factors in the investment strategy for the assets of the ECSC in liquidation and, on completion of the liquidation, the assets of the Research Fund for Coal and Steel.

(d) the Commission shall monitor the ESG profile of the assets of the ECSC in liquidation and, on completion of the liquidation, the assets of the Research Fund for Coal and Steel, and report on it within the annual report referred to in point 7 (Management procedures).

The following list of activities shall be excluded for investment purposes on ethical or moral grounds:

(a) investments in securities issued by entities that, to the Commission's knowledge, have been found, by a final judgement or a final administrative decision, to be engaged in one of the following:

(i). activities deemed illegal or banned on ethical or moral grounds under the Union regulatory framework and international conventions and agreements;

(ii). activities related to the development, production and trade of ammunition or weaponry that are prohibited by the applicable international law.

(b) investments in securities issued by undertakings that, to the Commission's knowledge, generate more than 25% of their overall annual revenues from the activities listed below:

(i). gambling activities (production, construction, distribution, processing, trade or software related activities);

(ii). tobacco related products and activities (production, distribution, processing, and trade);

(iii). sex trade and related infrastructure, services and media.

5. TRANSFER TO THE BUDGET OF THE EUROPEAN UNION

The net revenue from the investments of the assets of the ECSC in liquidation and, on completion of the liquidation, the assets of the Research Fund for Coal and Steel, and the proceeds generated by selling part of the assets, will be committed to the general budget of the European Union as dedicated revenue and will be transferred from the ECSC in liquidation and, on completion of the liquidation, the assets of the Research Fund for Coal and Steel when necessary to meet the obligations from the budget line directed to research programmes for sectors related to the coal and steel industry.

6. ACCOUNTING

The management of the funds shall be accounted for in the annual accounts for the ECSC in liquidation and, on completion of the liquidation, the Assets of the Research Fund for Coal and Steel. These shall be based upon and presented in accordance with the Commission's Accounting Rules as adopted by the Commission's Accounting Officer, taking into account the specific nature of the ECSC in liquidation and, upon completion of the liquidation, the

Assets of the Research Fund for Coal and Steel. The accounts will be approved by the Commission and examined by the Court of Auditors. The Commission shall engage external firms to carry out an annual audit of its accounts.

7. MANAGEMENT PROCEDURES

The Commission shall carry out, in relation to the ECSC in liquidation and, on completion of the liquidation, the Assets of the Research Fund for Coal and Steel, the abovementioned management operations in accordance with these guidelines and under its internal rules and procedures in force for the ECSC at the time of its dissolution or as modified thereafter.

A detailed report on management operations carried out under these financial guidelines shall be drawn up annually by the Commission and sent to the Member States. In the annual report, the Commission shall include information on the use of the different asset classes, on the reasons behind its choice of investing in specific asset classes and on the observed performances by each asset class.