Financial instruments in the next MFF
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The way forward regarding the single fund, direct access for NPBIs and the single rule book

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As new challenges arise for the EU budget, the next Multiannual Financial Framework (MFF) must rely on more efficient financial instruments. In a new framework that is expected to be more integrated (notably through the single fund "EU Invest Fund"), National Promotional Banks and Institutions[1] could play an increased role in the rolling-out of financial instruments. As pointed out in ELTI's two previous position papers[2], NPBIs are indeed natural partners of the Commission in this regard. As a matter of fact, NPBIs i) have a strong common track record in designing and implementing financial instruments; ii) combine significant financial and project engineering expertise, together with strong financing capacities; iii) have an in-depth knowledge of both local actors and European institutions, and of their respective political priorities; iv) are able to build bridges between the public and the private sectors; v) can combine national and European funding; vi) have established an effective European network.

This position paper sets out ELTI's stance with regards to core features of the ongoing discussion: a) the overall architecture of the EU Invest Fund b) the direct access for NPBIs and the governance of the EU Invest Fund c) the single rulebook and which elements it should contain. Further details on technical issues are provided in the annexes.

1- The overall architecture of the single fund "EU Invest Fund"

An overarching promotional approach. A promotional rationale should be the cornerstone of any reflexion conducted at EU level on financial instruments. Promotional activity is not about attaining the largest profits nor the greatest volumes, it is about supporting the economy where support is most

[1] Communication from the Commission to the European Parliament and the Council — Working together for jobs and growth: the role of national promotional banks (NPBs) in supporting the investment plan for Europe (COM(2015) 361 final, 22.7.2015)
[2] Future role of National Promotional Banks and Institutions in the Implementation of EU Funds, Brussels July 2017: http://www.eltia.eu/images/2017_07_17_Future_Role_EU_Funds_consolidated_-_clean.pdf
Multiannual Financial Framework for the European Union, Brussels 6. November 2017: http://www.eltia.eu/images/2017_11_03_Multiannual_Financial_Framework_for_the_European_Union.pdf

needed and being accountable to national authorities and local counterparts for the implementation of their policies. Beyond the volume of funding and the risk undertaken, the quality and the nature of covered expenses should be considered first. In particular, ELTI emphasises the need for investment in social infrastructure throughout Europe, which should be considered in the future EU Invest Fund[3].

A Single guarantee fund for a more impactful EU budget. NPBIs share the view that the current fragmentation of programmes supporting the same beneficiaries or sectors hinders their impact. A single guarantee fund could contribute to providing both a streamlined architecture and a greater risk diversification. Policy windows within this fund should have a wide scope to prevent a re-fragmentation of financial instruments, but should remain flexible so that they can evolve over time (changing priorities / unexpected circumstances). Under certain conditions (see below) it should be possible to use European Structural and Investment Funds (ESIF) to increase leverage or mitigate riskier programs through NPBIs intermediation.

Preserving existing risk coverage and efficient financial instruments. The set-up of a simpler architecture through a single guarantee fund must not be conducted with a blank slate approach and should retain some of the assets of the existing framework:

- To achieve real European added value, the future EU Invest Fund should maintain a level of risk coverage at least equivalent to that of the current MFF. Notably, the future Union budget programmes should continue taking first loss risk and provide protection on the junior tranches for implementing partners, at projects level or for investment platforms.
- However, experience proves that “budgetary guarantee” (partially funded programs) favoured debt instruments rather than riskier instruments such as equity: a high level of guarantee coverage is necessary to finance riskier equity projects with important EU added value, such as some strategic infrastructure projects.
- A better risk coverage also means that the future EU Invest Fund should be designed to facilitate the combination of grants, structural funds, centrally managed financial instruments and other resources such as NPBIs’ contributions.
- Successful programme-based instruments, such as Cosme or Innovfin, should be preserved and strengthened.

Reinforced technical assistance programmes at local level. Technical assistance is a key enabling factor for capacity-building and the development of a strong pipeline of projects. Project owners and

[3] Report by the High-Level Task Force on investing in social infrastructure in Europe chaired by Romano Prodi and Christian Sautter – January 2018:
http://www.eltia.eu/images/Boosting_investment_in_Social_Infrastructure_in_Europe.pdf

SMEs need assistance at close hand and, consequently, delivering efficient technical assistance is a matter of proximity. In order to achieve this tailor-made approach, EU public funds should no longer be used to create central support structures. On the contrary, the Commission should rely on local actors and enhanced decentralised structures at local level.

2- The EU Invest Fund: direct access to the EU guarantee for NPBIs and governance

Conditions for a direct access for NPBIs to the EU guarantee. The Commission is considering a greater involvement of NPBIs, which may be possible under certain conditions. First, a direct access to the EU guarantee should be granted only to "eligible" national institutions, that have successfully gone through a pillar-assessment procedure enabling them to be delegated EU policy implementation. Second, criteria to ensure the benefits of a direct access for NPBIs should capitalize on their diversity and their ability to successfully set up and manage financial instruments in various markets and across various thematic areas (e.g. joint-projects and platforms - see annex I for further development).

A neutral and inclusive governance. One of the main achievements of the new architecture for EU funded financial instruments should be to ensure a level playing field among implementing partners, eliminating previous distortions and conflicts of interest. In this regard, NPBIs suggest the following:

- Open calls of interest are the most transparent way to choose implementing partners.
- At a strategic level of governance (i.e. steering committee), all implementing partners should be represented.
- The operational management of the guarantee regarding banking related matters, including allocation and pricing, should be insured on behalf of the Commission by an advisory group of independent experts.
- Commission's assessments should rely on strong technical banking advisory capacities. Therefore, under certain conditions, NPBIs could second experts to an independent group of banking professionals to assess the risk profile, the amount of the guarantee and its pricing. A balanced representation of all implementing partners[4] should be achieved in such an advisory committee. Moreover, the participation of NPBIs would enhance cooperation both among themselves and with the Commission.
- Reference to public scoreboards could help ensure fair and transparent processes (as was developed within EFSI).

[4] Strict rules should prevent conflicts of interest (an expert should not evaluate a project submitted by his institution) and ensure that one implementing partner does not prevail on the others.

3- The Single Rulebook

A clear framework. The single rulebook should be limited to the provision of rules and principles applicable to the functioning of the EU single fund, including its structure and governance. Notably, it should provide harmonised criteria to grant direct access for eligible NPBIs to the single fund. NPBIs would welcome the opportunity to work with the Commission on concrete measures to ensure a more coherent and operational financing framework for the upcoming MFF.

A market-oriented set of rules. The upcoming revision of the framework should provide for the possibility to update and/or adapt individual instruments to respond to changing market conditions, needs and local market structures. A balance needs therefore to be found between common principles of a single rule book and sufficient flexibility in designing underlying financial instruments. This is key to ensuring the necessary complementarity between EU and national levels.

A supportive environment for the combination of different sources of funding. When considering the combination of EU centrally managed and structural funds, the following points should be taken into account:

- In the new framework, NPBIs should be given full flexibility in designing financial instruments aiming at the combination of different sources of EU funding. A one size-fit all approach would not make the scheme appealing as it could not capture the different market needs across the EU. Lessons learned from the so called “off the shelf” financial instruments proposed under ESIF in the current programming period show that flexibility is needed to ensure an efficient and well targeted deployment of financial instruments.
- In terms of reporting rules and eligibility criteria, the Managing authorities should be able to choose the most favorable set of rules (ESIF or EU centrally managed instruments) depending on the specific financial instruments.
- In this regard, state aid rules should be aligned to the more favorable treatment of centrally managed financial instruments which are less restrictive than for ESIF.
- Should Managing Authorities opt for the use of ESIF as first loss piece, state aid clearance should also be foreseen upfront, which is not the case today.

Beyond the single rule book, some pragmatic changes are proposed by the NPBIs in the annexes attached with the aim of: 1) providing criteria for granting NPBIs a direct access to the EU Invest Fund (*annex 1*) ; 2) extending eligibility criteria of EU financial instruments to better address market needs (*annex 2*) 3) simplifying reporting and audit rules (*annex 3*) and 4) state aid rules (*annex 4*). The last three annexes mainly refer to financial instruments targeting SMEs and Mid-caps.

About ELTI

ELTI members represent an European-wide network of responsible long-term investors who offer financial solutions tailored to the specific needs of their respective country and economy. Multilateral financial institutions complement the activities at national level with specific cross-boarder solutions or investments with an European impact. Following the specific public mission of each member the business model of each institution differs from country to country including different products and approaches. This is the same for multilateral ELTI members. Most of the members offer various debt-products but not all members have a mandate for investment in equity. This ensures that specific needs are adressed by a specific solution notably for investments where a "one-size-fits-all" approach doesn't lead to optimal soulutions.

This statement is endorsed by 27 ELTI members, representing a combined balance sheet of Euros 1.7 trillion, who are members of the European Long-Term Investors association (ELTI) a.i.s.b.l. The Association promotes and attracts quality long- term investment in the real economy, including:

- strengthening cooperation, including at an operational level, between European financial institutions as well as with other Institutions of the European Union (EU) acting as long-term financiers;
- informing the EU and its Institutions on the role and potential of the Members as institutions and agencies for long-term financing;
- strengthening the access of the Members to information on matters related to the EU;
- exchanging information and experiences among Members and with national and international organisations sharing the Association's interest in the promotion of long-term investment;
- developing the concept of long-term investment within the economic and financial sector and promoting academic research on long-term investments;
- representing, promoting and defending the shared interests of its Members in the field of Long-Term Investment in full transparency.

The Full Members of ELTI are generally national official financial institutions dedicated to the promotion of public policies at national and EU level[5]. The European Investment Bank (EIB) has the status of a permanent observer. ELTI also includes Associate Members notably multilateral financial institutions, regional financial institutions and non-banking institutions such as pension funds and associations [6].

[5] Oesterreichische Kontrollbank (OeKB) Austria, Bulgarian Development Bank (BDB) Bulgaria, Federal Holding and Investment Company (SFPI) Belgium, Croatian Bank for Reconstruction and Development (HBOR) Croatia, Ceskomoravska Zarucni a Rozvojova Banka (CMZRB) Czech Republic, Caisse des Dépôts et Consignations (CDC) France, La Banque publique d'Investissement (bpifrance) France, KfW Bankengruppe (KfW) Germany, National Bank of Greece (NBG) Greece, Hungarian Development Bank (MFB) Hungary, Strategic Banking Corporation of Ireland (SBCI) Ireland, Cassa Depositi e Prestiti (CDP) Italy, Latvian Development Finance Institution (ALTUM) Latvia, Public Investment Development Agency (VIPA) Lithuania, Société Nationale de Credit et d'Investissement (SNCI) Luxembourg, Bank of Valletta (BOV) Malta, Netherland Investment Agency (NIA) Netherlands, Bank Gospodarstwa Krajowego (BGK) Poland, Slovenska Izvozna in Razvojna Banka (SID) Slovenia, Instituto de Credito Oficial (ICO) Spain

[6] Nordic Investment Bank (NIB), Council of Europe Development Bank (CEB), Long-Term Infrastructure Investors Association (LTIIA), NRW.Bank Germany, Consignment Deposits and Loans Fund (CDLF) Greece, INVEGA Lithuania, Turkiye Sinai Kalkinma Bankasi (TSKB) Turkey

Annex I - Criteria for an NPBI involvement

The Commission is reflecting on widening the number of operators within the next MFF by providing NPBIs a direct access to the EU guarantee fund. Such an implication could enhance flexibility of EU funds as well as allow for nationally and regionally adapted solutions that are potentially quick to implement with experienced partners. Below is a first glance of what could be the criteria for granting NPBIs a direct access to the EU-Invest fund.

1. NPBI financing includes projects, (national) programmes, and platforms.
2. Eligible is NPBI financing if it meets the criteria set out in the table below:

Criteria	Brief explanation	Illustrative example
EU-policy goals	A programme, platform or project should always contribute to any single or several EU policy goals and/or priorities as set out in the treaties and/or the MFF, e. g. environmental protection, competitiveness, cohesion, etc.	A regional platform set up by NPBIs to address high capital costs for the funding of renewable energy in a certain region via a guarantee facility.
Non-duplication of existing instruments	Proposals by NPBIs should not duplicate existing programmes set up by the EU legislator whenever NPBIs can already have access, e. g. via the EIF.	COSME or InnovFin are functioning EU programmes, it would not create any EU added value to duplicate them, bypassing the EIF.
Own contribution	The NPBI(s) requesting the support from the EU-guarantee should provide an own contribution to the financing, either in the form of financing (leverage) and/or in the form of additional risk taking. This ensures alignment of interest between EU-Commission and the NPBI and provides leverage to EU funds. Particular EU added value is achieved when the NPBI further blends EU support with support from national budget.	As with COSME or InnovFin the NPBIs take additional risk. In some programmes a grant element might make sense in order to attain even higher goals or enhance the attractiveness or for a technical assistance component, which may come from national or EU budgets.

3. In addition eligible projects and programmes should meet at least one of the following criteria:

Criteria	Brief explanation	Illustrative example
Joint projects / platforms of NPBIs	A group of NPBIs setting up a platform supporting projects in more than one Member State or an NPBI supporting another NPBI in setting up and running a platform to support the EU orientation of its national economic policy.	A joint financing vehicle funded by NPBIs and guaranteed by the EU single fund to finance EU-scale or multi-country projects. These platforms could target innovative and industrial projects of EU interest.
Support for country specific recommendations	Where an NPBI financing supports the implementation of country specific recommendations stemming from the European Semester.	E.g. the recommendation “rolling out key e-government services” in a Member State could be supported by an NPBI financing receiving also support by EU Invest.
Anti-crises measures	Time-limited debt or equity programmes to provide special financing facilities in case of economic downturn, natural disaster… In this case, special EU procedures should allow for quick implementation.	**1.** A debt, guarantee or equity fund to support companies’ access to finance in countries under Troika supervision. **2.** A financing facility targeting countries/municipalities particularly affected by the refugees’ crisis, or house owners / enterprises /municipalities after a flood disaster…

Programmes replications where NPBIs have an expertise	EU guarantee of well-performing or innovative programmes by one NPBI which have the potential of being replicated in other Member States. In this case the NPBI would agree to provide support to other NPBIs and/or the EIB-Group once the programme has been successfully tested (through technical assistance).	**1.** The setting-up of specific programmes tackling the ageing population in one member state could be of high interest to many others and should therefore be able to benefit from support by EU invest. **2.** Only NPBIs provide unsecured or subordinated loans (financing intangible investments in key areas for competitiveness: business transfer, internationalization, factory of the future…), which is a risky loans segment. A direct support from the EU single fund would help them to perpetuate such schemes and attract new NPBIs, hence increasing the funding volume available across Europe.
Combination platforms	A NPBI operating a platform combining ESIF and central resources, with ESIF as first loss piece, to increase the leverage and encourage the use of financial instruments while ensuring a sufficient flexibility to deal with changing market conditions, needs and local structures.	

4. Whenever the EIB-Group is not able to cooperate with an NPBI despite a high EU added value of the NPBIs financing (e.g. due to capacity reasons at EIB or when EIB's mandate does not allow it to operate), the NPBI should also be allowed a support via EU Invest directly.

5. **NB:** in any case, it would be critical to make sure that rules applicable to NPBIs in the context of direct access be proportionate and flexible so as to enable a quick and smooth rolling out of these instruments on the ground.

Annex II – Eligibility criteria

When implementing EU financial instruments (be they centrally managed or in shared-management), financial intermediaries must comply with eligibility criteria. Below are some concrete proposals on how to broaden these criteria to better address market needs.

1. Centrally-managed financial instruments

1.1. Innovfin guarantee programmes for SMEs and mid-caps

- **Creating a single InnovFin Guarantee programme covering both SMEs and Mid-caps**

The InnovFin SME guarantee (SMEG) and the InnovFin mid-caps guarantee (MCG) programmes could be usefully brought into one single guarantee facility, which would streamline EU applicable rules and eligibility criteria. In this way, unnecessary thresholds would be removed, with the result of broadening their application and simplifying their use[1]. In addition, the definition of mid-caps under this new single programme could be extended to 5 000 employees (against 3 000 today).

- **Extending eligible expenses to include the buyout of private company shares**

The InnovFin MCG programme (mid-caps > 500 employees) could allow to qualify the purchase of private company shares as an eligible expense, as is currently the case for the InnovFin SMEG programme for SMEs. Buying out an innovative company entails risks that might hinder financing arrangements for the company's transfer. A European guarantee would mitigate risks and encourage banks to lend to potential buyers of new risky businesses. Such a modification could be implemented quickly by amending its terms and conditions accordingly.

- **Extending the types of eligible expenses to the InnovFin MCG programme to allow the financing of real estate programmes** (by authorizing the financing of the land share inherent to many programmes).

- **Substituting a "guarantee programme / loan approach" to the "financing plan" approach within InnovFin MCG** and therefore, by extension, abandon the notion of shortfall (which imposes real difficulties in terms of management).

- **Making possible to provide guarantees on long term loans going up to 18 years to finance leasing and real estate programmes.**

1.2. COSME guarantee programme for the competitiveness of SMEs

- **Adding a third additionality criterion benefiting to unsecured loans**

[1] SMEs and small mid-caps up to 500 employees for InnovFin SMEG on one hand, and mid-caps above 3000 employees for InnovFin MCG on the other hand. Another example: the eligibility criteria based on the turnover growth rate proposed under InnovFin MCG (20%) appears too high with reference to market trends and could usefully be aligned to InnovFin SMEG criteria set at 10%.

The current additionality criteria require financial intermediaries either to provide a riskier loan targeting new SMEs: Alternatively, they can present new features (option 1), or substantially increase the volume of an existing loan (option 2).

While the first option de facto prevents the overlap of a new loan programme with an existing one, even deployed at small scale, the second option may create uncertainty at the initial stage of the deployment, notably with regard to the ability to reach a sufficient loan amount to trigger the guarantee and thus benefit from an optimal level cap rate.

The existing criteria seem to be too narrow and should be interpreted more extensively based on a qualitative approach to better fit the market reality. There is a strong need for guarantees to cover unsecured loans to non-innovative SMEs and small mid-caps, financing intangible investments in key areas for their competitiveness such as robotization, digitization, energy efficiency and internationalization.

These investments are also key in supporting the conception of the future priority. However, SMEs experience difficulties with access to credit to finance intangible investments as well as their working capital. There is a clear market failure since these financing needs require unsecured or subordinated loans or a loan with low value collateral that private banks hardly offer. Only NPBIs provide this type of risky loan financing solutions.

This financing gap justifies a specific support from the EU targeting these investments which are essential for the development and competitiveness of businesses. Thus, a third additionality criterion should be added, considering the intrinsic additionality of subordinated loans.

- **Bringing more flexibility to COSME current additionality criterion**

As mentioned above, option 2 of COSME's additionality criteria requires the financial intermediary to substantially increase its debt financing volume to SMEs to an average growth rate increase of + 130% over 3 years. Based on available evidence, this target appears far too high.

1.3. Connecting Europe Facility

To achieve real European added value in the infrastructure area, the future EU Invest guarantee fund should ensure at least the same level of risk coverage than that provided within the current MFF. Preserving the current risk appetite is key to tackle sub-optimal investments situations and to provide efficient financial instruments.

As explained by the Commission[2], NPBIs expect the logic of providing a risk continuum coverage through Union budget programmes, such as the European Structural and Investment Funds (ESIF) or the Connecting Europe Facility (CEF), to be safeguarded in the next MFF. Non-reimbursable forms of support coming from the UE budget should continue to take the riskier (junior) tranches while EU-centrally managed financial instruments bear the risk on the mezzanine tranches.

Centrally-managed financial instruments intervention is consistent with actions undertaken by Member States. This new framework should be safeguarded through a strong and continued cooperation between the Commission and competent national authorities.

[2] [2] Commission Staff Working Document EFSI 1 Evaluation EFSI SWD(2016) 297 final/2 (22/09/2016)

2. Structural funds (ESIF) financial instruments

- **Recognising repayable advances as financial instruments under the Common Provision Rules**

Repayable advances ("aides récupérables") are widely used instruments in several members States (Finland, Spain, France, Austria…) to support the early stages of projects mainly in the innovation sector. They have the features of financial instruments:

- In contrast with grants, they need to be entirely repaid in case of technical success of the project;
- They are recorded in the liability section of SMEs' balance sheet as conditional advances, in contrast with grants which appear in the income statement;
- Unlike repayable assistances ("aides remboursables") mentioned and treated as grant in the current CPR, a minimum flat-rate reimbursement (25% minimum as an average) is applied even in case of technical or economical failure.

Yet, repayable advances are still neither defined nor included in the definition of financial instruments as set out in the Common Provisions and the financial regulations. This legal vacuum should be urgently addressed especially since repayable advances are explicitly defined as loans and thus risk-sharing instruments in the EU State Aid regulation: "repayable advance" means a loan for a project which is paid in one or more instalments and the conditions for the reimbursement of which depend on the outcome of the project" (Framework for State aid for research, development and innovation n° 2014/C 198/01). Besides, the General Block exemption regulation (GBER) n°651/2014 considers repayable advances, along with guarantees and loans, as "risk-sharing instruments" that "should be promoted, since (...) they are conducive to strengthened incentive effect of aid » in contrast with grants (recital 23 of the GBER).

- **Removing existing constraints on support to transfer of proprietary rights in enterprises**

Art 37.4 of the CPR stipulates that transfer costs of proprietary rights in enterprises can be supported by ESIF funds provided that such transfers take place between independent investors. This concept of "independent investors"[2] is not defined in the CPR regulation and therefore raises legal uncertainty.

For the sake of clarity it should be explicitly mentioned in the CPR that the acquisition of a company by another company of the same group only is considered as a buy-out between dependent investors, enabling all other types of transfer of proprietary rights to be supported by ESIF financial instruments. It is indeed essential to make sure in the CPR that acquisition of a company can be supported with ESIF to support among others:

- Family buy-out, i.e. the acquisition of a company by a family member of the transferor(s);
- The takeover of a company by an employee (company officer or not).

Acquiring a company entails high risks that might hinder the financing arrangements for the passing on of the company. A takeover by someone who already knows the company (family member or employee) is positive and economically grounded and should hence be explicitly supported.

- **Making eligible the financial charges linked to ESIF** (such as taxes, costs related to the opening of bank accounts, or financial placement of ESIF (if negative)). This is even more important in a context of low interest rates.

- **Introducing the possibility for Managing authorities to supplement / modify ex-ante evaluations without recourse to external advice in the event of changes in the economic environment or exogenous factors**.

- **Simplified costs option: the Commission could publish standard grading scales to make their use more transparent** .

3. <u>New market segment for future EU financial instruments</u>: supporting small technology stocks

The market for small cap stocks, particularly technology stocks, is not lively since these stocks are often subject to erratic fluctuations, to the detriment of the SMEs present on that market. A more vibrant market would have the benefit of providing technology companies with a number of alternatives instead of just being bought out by major corporations, often American ones. An EU Equity support in national or multi-country funds that invest in promising listed SMEs and mid-caps to play a contra-cyclical role would be likely to provide springboards for the development of European technology companies.

<u>Annex III – Reporting & audit</u>

Below are specific recommendations regarding reporting and audit obligations that financial intermediaries need to respect in order to smooth the implementation of EU financial instruments on the ground.

- **Making clearer the evidencing of the proper use of financial instruments funding to beneficiaries of ESIF under the Common Provision Rules**

The Common Provisions Rules (CPR) applicable to structural funds and its delegated Regulation (480/2014) stipulate that financial intermediaries shall "*evidence that the support provided through the financial instrument is used for its intended purpose*". This provision raises interpretation issues on how far financial intermediaries need to go in collecting documents and justifications of expenditure from beneficiaries. The depth of the audit trail is unclear.

Given the revolving nature of financial instruments, their management should be adequate and not overly burdensome. In that perspective and to enhance legal certainty, it should be explicitly stated by the CPR that the evidencing that the financial instrument is used for its intended purpose is limited to the ex-ante check of the eligibility of the beneficiary and its project by the financial intermediary in compliance with the financial instrument conditions. No other bill or expenditure justification should be asked to the beneficiary once the funding agreement is given, unless there is a suspicion of fraud. Auditing procedures as set out in the CPR ensure adequate ex post controls.

- **Combination of ESIF and centrally-managed instruments**

From a legal perspective, the combination of centrally-managed instruments and structural funds remains complex. Currently, financial intermediaries willing to do so need to comply both with ESIF and centrally-managed legal requirements which are different (in terms of eligibility criteria, expense justification, management fee cost, reporting rules, state aid rules, etc). This makes the combination very difficult and far from market practices.

In case of combination of ESIF and centrally-managed instruments, state aid regulation should be aligned with centrally managed financial instruments. As for the other management aspects, the most favourable and simple rules should apply (either ESIF or centrally-managed), to be decided by the managing authorities.

- **Ensuring legal predictability**

To ensure an effective and efficient roll out of EU funding, it is desirable that the regulation, the delegated regulation as well as related guidance be published before the beginning of the programming period, i.e. before end of 2020.

- **Increasing legal certainty of shared implementation of EU budget by setting up an EU web platform consolidating Q&As on reporting issues and audit precedents**

It would be very useful to set up a "help desk" at the EU level where Managing authorities and financial intermediaries could address to the Commission and if possible Audit Authorities questions on reporting and audit as well as legal interpretation issues. This web platform could consolidate and publish all Q&As as well as audit precedents to better inform financial intermediaries and Managing Authorities. Replies to questions should ideally be given in a reasonable period of time (max 3 to 4 weeks).

In addition, it would be also helpful if the Commission could encourage audit bodies (national and European ones) having a dialogue with financial intermediaries in case of questions regarding the compliance of their reporting and audit procedures with the EU and / or national regulation. Furthermore, the division of roles between European and national audit bodies in the assessment of EU financial instruments or EU grant programme could be clarified.

- **Simplifying the EU definition of SMEs**

The European definition of SMEs is somehow complex to handle and could be simplified in two ways:

- o Removing the overly complex concept of a "partner company" (companies with external equity participation <50 %) resulting in proportionate consolidation;
- o Shareholders like private equity (PE) and venture capital (VC) funds should be treated as a multitude of investors and therefore the majority stake of a PE and VC fund should not make companies lose their SME status.

An IT tool could also be created (e.g. an institutional website/web portal), with a view to simplifying measuring and monitoring elements (like the assessment of ownership), which today prove to be operationally challenging and burdensome.

➢ **AUDIT**

- **Equity Funds and fund of funds backed with European Commission funding**

1) On the spot audit checks on the General partners' portfolio companies: the ability to convene a spontaneous audit on the portfolio companies of general partners (GPs), is something that GPs are uncomfortable with. Such a provision which was not required by the EU before EFSI is not proportionate and too far from market practices given that GPs are already supervised by national authorities realizing audits based on national and EU regulation. Such a provision makes some GPs reluctant to have an EU support which is not performing in terms of access to a qualified deal flow (top tier 1) and efficiency of EU funding.

   Based on a subsidiarity principle, the Commission and the EIF should rely on audits made by national supervisory authorities and GP's external auditors as well as the fund's advisory board. The existing legal framework gives today all required insurance for well performing audits and checks on the GPs and their funds under management. In case of recognized fraud, it is also possible for Limited partners (i.e. investors in the fund), as set forth in the Agreement with the fund, to have access to the books and accounts of the fund.

2) Document retention: the timeline for retaining the legal documentation related to EU/ EIF investment in the fund should be aligned with national practices when it comes to other limited partners investment, meaning 5 years instead of 7 years after the termination of the fund.

- **Streamlining audit procedures**

- Templates presenting the audit trail could be shared on demand by audit Authorities to financial intermediaries based on Audit Authorities' previous audits;

- Reliance on previous audits in relation to one financial instrument run by a financial intermediary should be stated in the regulation as a principle to avoid numerous audits with the potential of having conflicting results and recommendations;
- Audit should be more targeted at assessing the impact of the funding programme than technical processes. To that end, standardised KPIs should be defined (e.g. by thematic objective) and guidelines for ensuring easy and homogenous calculation approach should be provided.
- With reference to EIF audit: a web platform with financial intermediaries for centralizing requests, exchanges and sending of documents could be explored to avoid the multiplication of document sending.
- With reference to the Audit Upon Procedures of the EIB group, possibility should be given to NPBIs to acceded to the same simplified audit/reporting framework.

Annex IV- State Aid

Below are some suggested technical improvements for the implementation of state aid rules in the next MFF.

- **State aid rules should account for combinations of financial instruments that blend state-aid-free sources (eg. counter-guarantees under InnovFin) with state-aid-relevant sources (eg. national guarantee programmes including State aid)**. Currently there is an inequality between direct guarantees for bank loans granted by commercial banks on the one hand and counter-guarantees for national guarantee institutions or guarantees for NPBIs on the other hand. It should be foreseen that only the state-aid-relevant part should be accounted for. As the computation of the actual aid amount for the final borrower proves to be complex notably in such cases, the development of a specific formula would help increasing transparency of the process.

- **It should be noted at the outset that EIB scheme (dealing directly with commercial banks) should always be additional and complementary to existing NPBIs schemes.**

- **Under the specific "firms in difficulty regime", significant adjustments remain to be made to exempt capital-intensive innovative companies.**

  - The current regulation on firms in difficulty seems inappropriate for innovative companies. Under the current definition of the General Block Exemption Regulation (GBER), a company is considered in difficulty "when more than half of its subscribed capital has disappeared because of accumulated losses".
  - It does not seem realistic to assess the real financial capacity of a company only based on a single balance sheet criterion. Companies entering the definition of "firms in difficulty" can nevertheless have positive cash flows and very good market prospects. This is the case of innovative companies, which generally invest significant amounts of resources in Research, development and innovation in comparison with their incomes and sometimes with long investment cycles (more than ten years for example in the biotech and microelectronics sectors). This imbalance ("losses" linked to huge expenses that reduce dramatically their own funds) is nevertheless inherent to the development model of innovative and capital-intensive companies, some of which are therefore excluded from the scope of the GBER and RDI aid eligibility.

  o <u>Therefore:</u>

  - If the GBER provides for the exemption of firms under five years age life from the scheme of « firms in difficulty », this would not be sufficient as this provision is limited with regard to the forms of aid that may be proposed under this scheme. It should therefore be extended to the various aids authorized by the "State aid for research, development and innovation" framework to ensure coherence across European regulations.
  - A pure and simple exemption of the "firms in difficulty" regime should be allowed for companies whose business models are by nature very capital-intensive without any age limit such as in the biotech, microelectronics and deep tech hardware sectors.

ELTI members information
February 2018

	Member	Country	Financing Activities											2016 Balance sheet total* (in mio €)	2016 total new commit-ments (in mio €)
			Infra-structure	Municipal Finance	SMEs	Inno-vation	Housing	Education	Export-financing	Agriculture	ESIF	EFSI	other		
1	OeKB	Austria	no	no	yes	no	no	no	yes	no	no	no		26.505	4.794
2	SFPI-FPIM	Belgium	yes	no	yes	yes	no	no	no	no	no	no		2.217	82
3	BDB	Bulgaria	no	no	yes	yes	no	no	yes	yes	yes	yes		968	606
4	HBOR	Croatia	yes	yes	yes	yes	no	yes	yes	yes	yes	yes	Industry, Tourism	3.624	869
5	CMZRB	Czech Rp	no	yes	yes	yes	no	no	no	no	no*	yes		1.022	333
6	Bpifrance	France	no	no	yes	yes	no	no	yes	no	yes	yes	Export Credit Agency (export insurance)	68.500	22.000
7	CDC	France	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No	Yes		360.000	23.000
8	KfW	Germany	yes	yes	yes	yes	yes	yes	yes	no	no	yes	no	507.000	81.000
9	NRW.Bank	Germany	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes, heat infrastructure development loan and urban development loan	142.066	11.161
10	CDLF	Greece	yes	yes	no	no	no	no	no	no	no	no		7.975	38
11	NBG	Greece	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	no	68.268	1.190
12	MFB	Hungary	yes	yes	yes	yes	yes	yes	no	yes	yes	no		4.925	207
13	SBCI	Ireland	no	No	yes	yes Inno Fin	No	Not currently	No	Yes	no	yes COSME, InnoFin	no	679	372
14	CDP	Italy	yes	yes	yes	yes	yes	no	yes	yes	yes	yes		357.000	15.454
15	ALTUM	Latvia	no	no	yes	yes	yes	no	yes	yes	yes	yes		443	132
16	INVEGA	Lithuania	no	no	yes	yes	no	no	yes	no	yes	no	-	11	
17	VIPA	Lithuania	yes	yes	no	no	yes	no	no	no	yes	no	cultural heritage	127	0
18	SNCI	Luxembourg	no	no	yes	yes	no	no	no	no	no	yes		1.419	177
19	BoV	Malta	yes	yes	yes	yes	yes	yes	yes	yes	yes	no		10.000	1.372
20	BGK	Poland	yes	yes	yes	yes	yes	yes	yes	no	yes	yes		15.200	2.870
21	SID Banka	Slovenia	yes	yes	yes	yes	no	no	yes	yes	yes	yes		2.549	381
22	ICO	Spain	yes	yes	yes	yes	yes(1)	yes	yes	no	yes	yes		48.851	5.406
23	TSKB	Turkey	yes	no	yes	yes	no	yes	yes	yes	no	no	Energy, Resource Efficiency, Gender Equality, Occupational Health and Safety, Tourism	6.529	1.794
24	CEB	International	yes	yes	yes	yes	yes	yes	no	yes	no	no	cultural heritage	25.600	3.200
25	NIB	International	yes	yes	yes	yes	Yes	yes	yes	no	no	no	Energy & Environment	27.611	4.363
	TOTAL													**1.689.089**	**180.801**

* or assets under management