21.11.2016

# Common Provision Regulation 1303/2013 - Revision of Article 38

## Recommendations from the European Long Term Investors Association

### Brussels, November 2016

### Rationale for an active role of NPBIs in managing Financial Instruments and Structural Funds

In the framework of the Investment Plan for Europe (IPE), the European Commission recognised that "the principal **economic rationale for a promotional bank/institution** is that market failures may lead to less investment and thus, slower future growth than would be economically efficient, and that **an institution with a public mandate is better placed than private operators to overcome these market failures".**

**The same economic rationale may also apply to the scope of Financial Instruments within the ESI Funds Regulation** currently under review.

**NPBIs typically have a public mandate and a promotional mission like the EIB Group and IFIs** in their respective countries and in some cases also beyond their national borders**.** They are powerful actors of the national and local economic development of Member States, with a significant financial and project engineering expertise, strong financing capacity and knowledge of their respective territories.

**NPBIs should play the same relevant role as the EIB Group and IFIs within the Regulation of ESI Funds to address market failures more efficiently at local level.**

**Therefore, they should be equalized to the EIB Group and IFIs within the legal framework**.

NPBIs have been demonstrating their added-value in the framework of IPE "and they could in the future play a **greater role in ESI Funds deployment**" also to **enhance the synergies between EFSI and ESI Funds**.

**Therefore, direct award of implementation tasks** related to Financial Instruments from Managing Authorities (MAs) **can be granted also to NPBIs with equivalent conditions currently granted to the EIB Group and IFIs.**

The revision of article 38 is the opportunity to make this happen.

### A comprehensive definition of NPBIs already exists[1]

The Regulation (EU) 2015/1017, the so called "EFSI Regulation" [Article 2(3)] **already provides a definition of NPBIs** as "legal entities carrying out financial activities on a professional basis which are given a mandate by a Member State or a Member State's entity at central, regional or local level, to carry out development or promotional activities" [of.

*"*This definition comprises **NPBs in very different forms**, distinctive promotional products being offered according to **country-specific needs**. It remains up to individual Member States to decide whether an NPB should be established, **as well as on its shape and form**".

Furthermore, the European Commission recognised that "the EU's Financial Regulation [966/2012] has established the legal basis for **NPBs to assume the role of entrusted entity (like the EIB or EIF) for EU centrally-managed financial instruments**. Such activity, however, can be carried out only insofar as the NPB is provided with a national regulatory framework enabling internationalisation

[1] All quotes - if not otherwise specified - refer to COM(2015)361: "Working together for jobs and growth: The Role of National Promotional Banks (NPBs) in supporting the Investment Plan for Europe

European Association of Long-Term Investors (ELTI) a.i.s.b.l.
Square de Meeûs, 37 – B-1000 Brussels (Belgium) - Transparency Register Identification No.: 977980112556-82
secretariat@eltia.eu; www.eltia.eu

and cross-border operations. In order to maintain their focus on addressing market failures, NPBs are encouraged to operate in consortia and engage in international co-financing operations. **There is thus further scope for NPBs to expand their role in the implementation of both centrally managed EU programmes and ESI Funds"**.

Therefore, we suggest that **the EFSI definition approved by the European Commission within the Investment Plan for Europe is extended to the Framework of Regulation n. 1303/2013** with specific reference to the implementation tasks of Financial Instruments and ESI Funds also to enhance the synergies between EFSI and ESIF.

### ELTI's proposed revision of article 38 of CPR Regulation 1303/2013

**The draft revision** of the Regulation No. 1303/2013 proposed **by the European Commission refers to "publicly-owned bank or financial institution"** (article 38.4 of the CPR Regulation), **without specific mentioning of NPBIs**, that indeed play a crucial and pivotal role in promoting investments at local level to address market failures.

**The Commission has already acknowledged and supported NPBIs in playing such an important role** within the context of IPE, also envisaging the possibility for them to actively implementing financial instruments in the framework of ESI Funds.

On the other hand, **the conditions proposed for amending article 38.4** *(*e.g. inter alia being *"subject to the supervision of an independent authority"* and *"not a direct recipient of deposits from the public")* **do not seem to be aligned with these principles, as they do not comprise NPBIs in their *very different forms.***

ELTI's proposition, instead, in an attempt to emphasise the extended role fully recognized by the Commission to all NPBIs in **continuity with the EFSI Regulation**, also to ensure **quick and efficient implementation** of the foreseen **synergies between EFSI and ESIF**.

**ELTI suggests that the definition of NPBIs as in article 2 (3) of EFSI Regulation (EU) 2015/1017 should therefore be applied: "legal entities carrying out financial activities on a professional basis which are given a mandate by a Member State or a Member State's entity at central, regional or local level, to carry out development or promotional activities".**

Such definition comprises, amongst the others, **NPBIs established by national law** in accordance with EFSI legal framework and **new NPBIs created consequently.**

Should **any amendment of article 38 be required, full consistency** with Regulation (EU) 2015/1017 is **necessary** to ensure **protection of legitimate expectations and legal certainty.**

Although the wording of the art. 38 CPR constitutes the key matter to NPBIs, ELTI Members would also like to stress very briefly further issues related to other articles of the revised CPR. With regard to the **combination of ESIF and EFSI**, ELTI proposes to adopt maximum **simplification**: such as not to introduce additional requirements for the ex-ante assessment; to adopt a simplified costs method for fees calculation; reporting rules on expense justification should not be the same as of grants, but simplified in comparison to them. Also clarification on statistical treatment using ESIF/EFSI is relevant.

**This declaration is endorsed by 29 major long-term investors who are members or observer of the European Long Term Investors association a.i.s.b.l. (ELTI)[2]**

[2] Oesterreichische Kontroll Bank (OeKB Austria, Bulgarian Development Bank (BDB) Bulgaria, Federal Holding and Investment Company (SFPI) Belgium, Danish Growth Fund Danmark, Croatian Bank for Reconstruction and Development (HBOR) Croatia, Ceskomoravska Zarucni a Rozvojova Banka (CMZRB) Czech Republic, Danish Growth Fund (Vaekstfonden) Denmark, 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, PIDA Lithuania, Société Nationale de Credit et d'Investissement (SNCI) Luxembourg, Bank of Valletta (BOV) Malta, Bank Gospodarstwa Krajowego (BGK) Poland, Banco BPI (BPI) Portugal, Slovenska Izvozna in Razvojna Banka (SID) Slovenia, Instituto de Credito Oficial (ICO) Spain, European Investmen Bank (EIB),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, Algemene Pensioen Group (APG) The Netherlands, Turkiye Sinai Kalkinma Bankasi (TSKB) Turkey