

Statutes of the European Investment Fund approved on 14 June 1994 and amended on 19 June 2000

Caption: Statutes of the European Investment Fund approved on 14 June 1994 and amended on 19 June 2000 by the General Meeting.

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EUROPEAN INVESTMENT FUND

STATUTES OF THE EUROPEAN INVESTMENT FUND

approved 14 June 1994 and amended 19 June 2000 by the General Meeting

(2001/C 225/02)

Article 1

Establishment

A European Investment Fund, hereinafter called the 'Fund', is hereby established with legal personality and financial autonomy.

Article 2

Task and activities

1. The task of the Fund shall be to contribute to the pursuit of Community objectives.

The Fund shall pursue this task through activities consisting of:

— the provision of guarantees as well as of other comparable instruments for loans and other financial obligations in whatever form is legally permissible,

— the acquisition, holding, managing and disposal of participations in any enterprise subject to the conditions laid down in Article 12(2)(i) of these Statutes.

2. In addition, the Fund may engage in other activities connected with or resulting from the tasks set out in this Article. The activities of the Fund may include borrowing operations.

3. The activities of the Fund shall be based on sound banking principles or other sound commercial principles and practices as applicable. Without prejudice to the provisions of Article 28, the said activities shall be pursued in close co-operation between the Fund and its founder members or between the Fund and its actual members at the relevant time, as the case may be.

Article 3

Seat

The seat of the Fund shall be in Luxembourg.

Article 4

Members

1. The founder members of the Fund shall be:

— the European Community, hereinafter called the 'Community', represented by the European Commission, hereinafter called the 'Commission',

— the European Investment Bank, hereinafter called the 'Bank',

— the financial institutions, the list of which is annexed to these Statutes (Annex I), hereinafter called the 'financial institutions'.

2. On the terms and conditions defined by the Board of Directors acting on a decision taken by the General Meeting, other legal entities from the financial sector whose business objectives support the tasks of the Fund may become members of the Fund.

Article 5

Capital

1. The authorised capital of the Fund shall initially be EUR 2 000 million, divided into 2 000 shares each with a nominal value of EUR 1 million, open to subscription by the members of the Fund in accordance with Article 6 of these Statutes.

2. The authorised capital may be increased by decision of the General Meeting acting with a majority of 85 % of the votes cast.

3. In the event of an increase in capital and subject to the conditions laid down by the General Meeting, each member shall have the option to subscribe to a fraction of the increase corresponding to the ratio which existed between the shares subscribed to by that member and the capital of the Fund before the increase.

4. The members of the Fund shall be liable for the obligations of the Fund only up to the amount of their share of the capital subscribed and not paid in.

Article 6

Subscription of shares

1. The founder members of the Fund shall subscribe to the number of shares set out in Annex II to these Statutes at par value.

2. Subsequent subscription of shares shall take place on the terms laid down by the General Meeting; the price of such shares may not be less than par.

Article 7

Shares

1. The shares in the initial subscribed capital shall be paid in as to 20 % in four equal annual instalments.

2. In the event of a capital increase, the arrangements for payment shall be decided by the General Meeting.

3. The General Meeting, acting on a proposal from the Board of Directors, may require payment of the subscribed but not paid-in capital to the extent required for the Fund to meet its liabilities towards its creditors. Such payment shall be effected within 90 days from the decision of the General Meeting.

4. Payments shall be made in euro.

5. Except with the prior written agreement of the Board of Directors, shares may not be pledged or encumbered in any way.

6. Without prejudice to paragraph 4 of Article 5 of these Statutes, no member shall by reason of its membership incur any liability for the obligations of the Fund.

7. Any resources not required by the Fund for the pursuit of its activities under Article 2 may be invested on the financial markets. In managing these investments, the Fund shall not engage in any currency arbitrage not directly required to carry out its operations or to fulfil commitments entered into.

8. Members of the Fund may dispose of their shares by transferring them either to another member or to a third party pursuant to Article 4(2) of these Statutes. Should a member wish to dispose of its shares, it shall offer them to the Bank or, with the latter's consent, to any other member of the Fund or to a third party satisfying the criteria of Article 4(2) of these Statutes.

Article 8

Rights attaching to Shares

On the terms laid down in Articles 27 and 33 of these Statutes, each share shall confer rights in respect of ownership of the assets of the Fund, the sharing of net profit and, where appropriate, the proceeds of liquidation *pro rata* to the number of existing shares.

Article 9

Management and administration of the Fund

The Fund shall be managed and administered by the following three authorities:

- the General Meeting,
- the Board of Directors,
- the Chief Executive.

Article 10

General Meeting

1. A General Meeting of members of the Fund shall be held at least once a year when convened by the Chairman of the Board of Directors. General Meetings shall be held either at the seat of the Fund or at another location specified in the notice convening such meetings.

2. General Meetings may also be convened at the request of one of the members of the Fund and following a decision of the Board of Directors. A General Meeting shall be convened if members whose shares represent 13 % or more of the subscribed capital so request, specifying the subject that is the cause of such request.

3. Decisions of the General Meeting may be taken by written procedure subject to the conditions and in accordance with the rules laid down in the Rules of Procedure.

Article 11

Participation — Representation — Quorum — Majority

1. All members of the Fund shall be entitled to attend General Meetings.

2. The Community shall be represented by one of the members of the Commission, or by another duly authorised individual.

3. The Bank shall be represented by its President or by a Vice-President, or by another duly authorised individual.

4. The financial institutions shall be represented by one individual for each financial institution.

5. Each member of the Fund shall have a number of votes equal to the number of shares subscribed by it.

6. The members may vote by mail or be represented by another member.

7. The quorum required for the holding of General Meetings shall be constituted when members present or represented hold not less than 50 per cent of the subscribed capital.

8. Save as otherwise provided in these Statutes, decisions of the General Meeting shall be adopted by the majority of the votes cast.

Article 12

Powers of the General Meeting

1. The members of the Fund shall exercise their rights through the General Meeting.

2. The General Meeting shall:

- (i) take any decision authorising the Fund to conduct the operations provided for in the second indent of Article 2(1) of these Statutes;
- (ii) approve the Rules of Procedure of the Fund;
- (iii) decide on the admission of new members;
- (iv) approve the annual report submitted by the Board of Directors;
- (v) approve the annual balance sheet and profit and loss account;
- (vi) determine the appropriation and distribution of the net income of the Fund;
- (vii) appoint the members of the Audit Board of the Fund;
- (viii) exercise the powers laid down in Article 34 of these Statutes for adopting any amendments to these Statutes;
- (ix) decide on the increase of the authorised capital of the Fund, and any calls for non-paid-in subscribed capital;
- (x) subject to the conditions laid down in Article 26 of these Statutes, decide on the increase of the ceiling on the commitments of the Fund;
- (xi) take decisions to suspend or expel members;
- (xii) take decisions concerning the permanent termination of the operations of the Fund and distribution of its assets;

(xiii) appoint the members of the Board of Directors and any alternates to these members from the individuals designated pursuant to Article 15(1) and (3) of these Statutes;

(xiv) compulsorily retire a member of the Board of Directors if that member is no longer able to fulfil his duties or is guilty of serious misconduct.

(xv) exercise all powers conferred upon it by any other provision of these Statutes.

3. The operating procedures of the General Meeting shall be laid down in the Rules of Procedure.

Article 13

Chairmanship of the General Meeting

General Meetings shall be chaired by the representative of the member with the highest number of shares in the Fund.

Article 14

Minutes — Extracts

The proceedings of the General Meeting shall be minuted. The minutes shall be drawn up by the secretariat of the Fund and copies or extracts thereof shall be certified and issued to the members.

Article 15

Board of Directors

1. The Board of Directors shall consist of seven members appointed by the General Meeting and designated by the members of the Fund in accordance with the procedure laid down in the Rules of Procedure. The General Meeting may vary the number of members on the Board of Directors.

2. In carrying out their duties the members of the Board of Directors shall act independently and serve the best interests of the Fund. They shall be accountable only to the General Meeting. Each member of the Board of Directors may be assisted by an alternate who, in his/her absence, shall act in his/her name, attend the meetings of the Board of Directors, and be vested with the same powers as those of the member he/she is replacing.

3. The members of the Board of Directors and any alternates shall be designated in accordance with arrangements laid down in the Rules of Procedure. The Rules of Procedure may provide that a designated member shall be empowered to act as a Board member in advance of the decision on appointment by the Annual General Meeting. The rules applicable to Board members shall also apply to any such designated member.

4. Members of the Board of Directors shall be appointed for a term of two years, which shall be renewable.

5. If the annual report submitted to the General Meeting by the Board of Directors is not approved, the Board of Directors shall resign.

6. The operating procedures of the Board of Directors shall be laid down in the Rules of Procedure.

Article 16

Powers of the Board of Directors

In addition to the powers conferred upon it by the other provisions of these Statutes, the Board of Directors shall:

- (i) decide on all operations of the Fund. It may delegate the power to decide in whole or in part, as it deems appropriate;
- (ii) adopt guidelines and directives for the operations and the management of the Fund;
- (iii) draw up proposals for submission to the General Meeting;
- (iv) draw up proposals for submission to the General Meeting;
- (v) set return criteria for the Fund's operations;
- (vi) determine the objectives and the limits of the borrowing operations referred to in Article 2(2) of these Statutes;
- (vii) on the basis of proposals made by the members of the Fund in accordance with the procedure laid down in the Rules of Procedure, appoint the Chief Executive and his/her deputy, if any. It shall also have the power to dismiss the Chief Executive and his/her deputy, if any;
- (viii) supervise the Chief Executive and his/her deputy and ensure that the Fund is managed in accordance with the provisions of these Statutes and with the guidelines and directives laid down by the Board of Directors;
- (ix) submit the annual accounts and the annual report on the activities of the Fund to the General Meeting;
- (x) convene General Meetings of the Fund;
- (xi) without prejudice to the powers of the General Meeting, take decisions on any other matters falling outside the competence of the Chief Executive.

Article 17

Chairmanship of the Board of Directors

1. The Board of Directors shall be chaired by one of its members designated in accordance with the provisions laid down in the Rules of Procedure.

2. If the Chairman is unable to attend, the Board of Directors shall be chaired by another member of the Board of Directors designated in accordance with the provisions in the Rules of Procedure.

Article 18

Board of Directors — meetings — quorum

1. The Board of Directors shall meet as often as required by the interests of the Fund and at least once a calendar quarter. Meetings shall be convened by the Chairman and agendas shall be drawn up in accordance with the Rules of Procedure. The Chairman shall convene a meeting of the Board of Directors if a Board member submits a reasoned request to this effect. Board meetings shall be held either at the seat of the Fund or at any other location selected by the Chairman.

2. Decisions of the Board of Directors may be taken by written procedure subject to the conditions and in accordance with the rules laid down in the Rules of Procedure.

3. The proceedings of the Board of Directors shall be valid only if not less than half of the Board members are present.

4. Decisions of the Board of Directors shall be adopted by majority vote.

Article 19

Minutes

The proceedings of the Board of Directors shall be minuted. The minutes shall be drawn up by the secretariat of the Fund and copies or extracts thereof shall be certified and issued to the members.

Article 20

Chief Executive

1. The Fund shall be managed by a Chief Executive. He/She shall act independently and serve the best interests of the Fund and shall be accountable only to the Board of Directors in carrying out his/her duties.

2. The Chief Executive shall be appointed for a term of up to 5 years and shall be eligible for reappointment.

3. The Chief Executive may be assisted by a deputy who, in his/her absence, shall replace the Chief Executive and be vested with the same powers.

4. The procedures for making proposals for the appointment of the Chief Executive and any deputy shall be laid down in the Rules of Procedure.

*Article 21***Powers of the Chief Executive**

1. The Chief Executive shall be responsible for the day-to-day management of the Fund in accordance with the provisions of these Statutes and the guidelines and directives adopted by the Board of Directors.

2. The Chief Executive shall in particular:

— act in line with the guidelines and directives adopted by the Board of Directors in accordance with Article 16 of these Statutes,

— submit the annual report of the Fund to the Board of Directors,

— establish under his/her responsibility the annual accounts of the Fund within three months following the end of each financial year and submit them to the Board of Directors,

— provide the Board of Directors with such additional reports and documents as laid down in the Rules of Procedure or as the Board of Directors may request.

3. The Chief Executive shall represent the Fund in its relations with third parties and in judicial proceedings.

4. Documents concerning the Fund and all commitments entered into on its behalf shall be signed by the Chief Executive or by a representative duly authorised by the Chief Executive.

5. The employees of the Fund shall be under the authority of the Chief Executive and shall be engaged and discharged by him/her.

*Article 22***Audit**

1. The accounts of the Fund shall be audited annually by an audit board consisting of three auditors appointed by the General Meeting. The General Meeting may decide to increase the number of auditors to a maximum of five. Nominations shall be made in accordance with the terms laid down in the Rules of Procedure.

2. The members of the Audit Board shall act in accordance with the customary standards of their profession. The Audit Board shall confirm that the balance sheet and profit and loss account of the Fund give a true and fair view of the financial position of the Fund in respect of its assets and liabilities, and of the results of its operations for the financial year under review.

*Article 23***Operations**

Within the framework of these Statutes, the Fund may conduct its activities in the territory of the Member States of the Community, in countries that have applied to become a member of the Community and in respect of which the accession process has commenced, or in countries adjacent to the Community insofar as cross-border projects are involved.

*Article 24***Remuneration of the Fund**

The level of remuneration or other income sought by the Fund in connection with its activities pursuant to these Statutes shall be determined in such a way so as to reflect the risks incurred, to cover the operating expenses, to establish reserves commensurate with the said risks and to generate an appropriate return on its resources.

*Article 25***Limits on the operations of the Fund**

With respect to the provision of guarantees, the limits on the commitments of the Fund shall be laid down by the Board of Directors in accordance with Article 16 of these Statutes.

The corresponding limits on the commitments of the Fund when acquiring participations in enterprises shall be laid down in the relevant decisions referred to in Article 12(2)(i) of these Statutes.

*Article 26***Ceiling on the overall commitments of the Fund**

The overall commitments of the Fund, excluding commitments made by the Fund on behalf of third parties, may not exceed:

— for guarantee operations: three times the amount of subscribed capital; this ceiling may be raised by decision of the General Meeting up to a maximum of five times the subscribed capital. If the reserves of the Fund are equal to or exceed 7,5 % of the amount of subscribed capital, this ceiling may be raised by decisions of the General Meeting up to a maximum of eight times the subscribed capital;

— for participations: the amount decided by the General Meeting pursuant to Article 12 of these Statutes.

*Article 27***Appropriation and distribution of net income**

1. The General Meeting shall determine at least annually what part of the net income of the Fund shall be appropriated to reserves or to other purposes, or be distributed to the members of the Fund.

Prior to any distribution to the members of the Fund, an amount at least equal to 20 % of the net income shall be appropriated each year to reserves. Appropriation to reserves shall cease once reserves reach 10 % of subscribed capital and shall be reintroduced if the reserves fall below 10 % of subscribed capital.

2. Distributions to the members of the Fund shall be made in proportion to the number of shares held by each member.

Article 28

Cooperation with Third Parties

1. The Fund may accept the tasks of administering special resources entrusted to it by third parties, provided that they are compatible with its task, that they are entered in separate accounts and that they are adequately remunerated.

2. The Fund may within the terms of these Statutes cooperate with all international organisations exercising their activity in areas similar to its own.

3. The Fund may conclude agreements with such organisations as well as with national organisations and banking partners in the Member States of the Community or third countries with a view to pursuing its objectives or achieving its tasks.

Article 29

Suspension or Expulsion of Members

1. If a member of the Fund fails to fulfil any of its obligations hereunder, it may be suspended by decision of the General Meeting.

2. While under suspension, the member shall remain bound by its obligations as a member of the Fund; it may not however exercise any of the rights provided for in these Statutes.

3. If, after a period of six months following the decision taken by the General Meeting to suspend a member, the latter has not fulfilled its obligations having given rise to this decision, the General Meeting may declare such member expelled.

Article 30

Settlement of accounts with members expelled from the Fund

1. Termination of membership shall entail partial settlement of accounts with the member in question.

2. The shares of an expelled member shall be disposed of in accordance with the provision of Article 7(8) of these Statutes. If the shares are not acquired by the Bank or by another member of the Fund, the General Meeting may authorise the sale thereof to entities satisfying the criteria of Article 4(2) of these Statutes.

In the event of the shares not being repurchased by the other members or by entities satisfying the criteria of Article 4, paragraph 2 they shall be repurchased by the Fund.

3. Subject to paragraph 2 above, the Fund shall repurchase the shares of an expelled member at the lower of nominal value or book value calculated on the date on which membership of the Fund is terminated.

Notwithstanding expulsion from the Fund, the expelled member shall remain bound by its direct obligations and by its contingent liabilities to the Fund so long as any part of the guarantees or equity participations contracted prior to termination of membership is outstanding. It shall not however be bound by the obligations arising out of guarantees and equity participations entered into thereafter by the Fund and shall not share in either the income or the expenses of the Fund.

4. Payment for shares repurchased by the Fund from the expelled member shall be made on the following terms and conditions:

— no payment shall be made prior to expiry of a period of six months as from the date of termination of membership. Payment shall be limited to the amount by which the repurchase price exceeds the sum of liabilities towards the Fund on the part of the former member arising out of the operations of the Fund;

— if losses are sustained by the Fund on any guarantees or equity participations of the Fund which were outstanding on the date of termination of membership and the amount of such losses exceeds the amount of the provisions against losses on the date of termination of membership, such former member shall repay, upon demand from the Fund, the amount by which the repurchase price of its shares would have been reduced if the losses had been taken into account when the repurchase price was determined. In addition, the former member shall remain bound to respond to any call for non-paid-in subscriptions to the extent that it would have been required to respond if the impairment of capital of the Fund had occurred and the call been made at the time the repurchase price of its shares was determined.

Article 31

Termination of operations

1. The Board of Directors may, if circumstances so require, temporarily suspend the operations of the Fund. It shall refer this decision to the General Meeting for further consideration. The General Meeting, acting with a qualified majority of 85 % of the votes cast, may decide to terminate permanently the operations of the Fund, which shall then cease all its activities apart from those relating to liquidation of the Fund.

2. Permanent cessation of the operations of the Fund shall entail its liquidation. The General Meeting shall appoint the liquidators who shall undertake the operations required by the liquidation.

Article 32

Liability of the members of the Fund

1. In the event of permanent cessation of the operations of the Fund, outstanding claims on the Fund shall be settled by means of the following resources in the order given below:

- assets of the Fund,
- sums owed to the Fund in respect of capital subscribed but not paid in.

2. The Board of Directors shall take appropriate measures to ensure apportionment between the holders of direct claims and the holders of contingent claims *pro rata* according to their respective legal rights.

Article 33

Distribution of assets

1. In the event of cessation of the activities of the Fund, the assets shall not be distributed among its members on account of their subscription to the capital of the Fund until:

- all liabilities to creditors of the Fund have been fully discharged,
- the General Meeting has decided to make a distribution of assets.

2. The assets shall be distributed between the members of the Fund in proportion to each member's contribution to the capital of the Fund.

3. The Board of Directors shall lay down procedures for this distribution.

Article 34

Amendments

1. These Statutes can be amended by decision of the General Meeting on proposal by the Board of Directors. Any changes to

Articles 2 and 3 of these Statutes shall require a majority of 85 % of the votes cast.

2. Unless the General Meeting decides otherwise, approved amendments shall take effect three months following the date on which these amendments have been notified to the members of the Fund.

Article 35

Law and jurisdiction

1. Disputes between the Fund on the one hand, and the beneficiaries of its operations on the other, whether Financial Institutions in their capacity as beneficiaries or other beneficiaries, shall be decided by the competent national courts.

2. To this end, the Fund shall have an address for service in each Member State of the Community. It may, however, in any contract, specify a particular address for service or provide for arbitration.

3. As provided for and within the limits laid down in the Treaty establishing the European Community (Article 30(6) of the Statute of the Bank), disputes concerning measures adopted by the organs of the Fund shall be subject to the jurisdiction of the Court of Justice of the European Communities.

Article 36

Privileges and Immunities

The Protocol on the Privileges and Immunities of the European Communities shall also apply to the Fund, to the members of its organs and to its staff on the terms and conditions laid down in the Treaty establishing the European Community (Article 30(5) of the Statute of the Bank).

Article 37

Entry into Force

The present Statutes shall enter into force on the date to be determined by the General Meeting.