



DELEGATION AGREEMENT

between

THE EUROPEAN UNION

and

THE EUROPEAN INVESTMENT BANK

in respect of the

Natural Capital Financing Facility (NCFF)

Table of Contents

Article 1. Definitions.....	6
Article 2. Purpose and Scope of this Delegation Agreement.....	9
Article 3. General Principles applicable to the NCFF.....	9
Article 4. Description and Objectives of the NCFF.....	9
Article 5. Obligations and Tasks of the Bank.....	10
Article 6. Selection of and agreements with Financial Intermediaries under Indirect Operations.....	12
Article 7. Selection of and agreements with Final Recipients under Direct Operations.....	13
Article 8. Governance.....	14
Article 9. EU Contribution.....	14
Article 10. Contribution of the Bank.....	19
Article 11. Financial Instrument Account.....	19
Article 12. Remuneration of the Bank and reimbursement of Exceptional Unforeseen Expenses.....	20
Article 13. Non-Autonomous Technical Assistance provided under the NCFF Support Facility.....	21
Article 14. Operational and Financial Reporting.....	22
Article 15. Controls and Monitoring.....	22
Article 16. Audit.....	23
Article 17. Evaluation.....	23
Article 18. Procurement of goods, works and services.....	23
Article 19. Visibility.....	23
Article 20. Publication of information on financial support provided under the NCFF.....	25
Article 21. Notices and Communications.....	26
Article 22. Effectiveness – Termination.....	27
Article 23. Derogations.....	28
Article 24. Annexes.....	28
Annex I Policy and Operational Guidelines – General rules.....	30
Annex 1a - Conditions for loans.....	41
Annex 1b -Investments in funds.....	42

Annex 1c - Eligibility checklist referred to in Articles 6.5 and 7.4.....	44
Annex 2 Templates for Notifications and Payment Requests	45
Annex 2a - Notification of EU Contribution	45
Annex 2b - Notification of amounts no longer required for the NCFF.....	49
Annex 2c - Notification of Payment Estimates and Submission of Pipeline Report.....	51
Annex 2d - Notification of certain Income and Expenses.....	53
Annex 2e - Payment request by the Bank for an EU Contribution for the NCFF	54
Annex 3 Risk and Revenues Sharing Arrangements.....	54
Annex 3a- Risk and Revenue Sharing Agreement for the NCFF Debt Window (DW).....	54
Annex 3b - Risk and Revenue Sharing Agreement for the NCFF Equity Window (EW)	59
Annex 4 Non-euro currencies allowed to be used by the NCFF.....	60
Annex 5 Remuneration of the Bank.....	61
Annex 6 Operational and Financial Reporting.....	63
Annex 6a - Operational Reporting.....	63
Annex 6b - Financial Reporting	73
Annex 6c - Pipeline Report	76
Annex 7 Monitoring, control and audit obligations of the EIB and Financial intermediaries and the control and monitoring rights of the Commission.....	79
Annex 7a - Monitoring obligations of the Bank and Financial Intermediaries/Investment Funds	79
Annex 7b - Content of specific control activity of the Bank and Financial Intermediaries/Final Recipients.....	80
Annex 7c - Control and monitoring rights of the Commission	81
Annex 8 NCFF Support Facility	82
Annex 9 List of Participating Countries.....	85

This Delegation Agreement is entered into on the date of signature of the last of the two Parties.

between, on the one hand,

the European Union,

represented by the European Commission, 200, rue de la Loi,

B-1049 Bruxelles, Belgium, which is represented for the

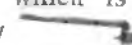
purposes of the signature of this Delegation Agreement by

 and

(hereinafter referred to as the "Commission" or the "Designated Service"),

and, on the other hand,

the European Investment Bank,

a European Union body existing under the Treaty on the Functioning of the European Union having its seat at 100 Boulevard Konrad Adenauer, L-2950 Luxembourg, which is represented for the purposes of the signature of this Delegation Agreement by 

(hereinafter referred to as "EIB" or the "Bank").

(hereinafter the Commission and the Bank referred to each as a "Party" and together as the "Parties")

WHEREAS

- (1) On 20 December 2013, Regulation (EU) No 1293 /2013 of the European Parliament and of the Council on the establishment of a Programme for the Environment and Climate Action (LIFE) and repealing Regulation (EC) No 614/2007¹ (hereinafter "Legal Basis") was adopted.
- (2) On 19 March 2014, the Commission implementing decision C(2014)1709 on the adoption of the LIFE multiannual work programme for 2014-2017² (hereinafter "MAWP") established the financial instrument known as the Natural Capital Financing Facility (hereinafter the "NCF") and entrusted its implementation and management to the EIB in accordance with point (c) of Article 58(1) (c)(iii) and 139(4), first subparagraph, of Regulation (EU, EURATOM) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to

¹ OJ L 347, 20.12.2013, p.185.

² OJ L 116, 17.04.2014, p.1.

the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (hereinafter "Financial Regulation").

- (3) The NCCF has an indicative EU Contribution of EUR 60 million over the period 2014-2017, with an equal share allocated from the LIFE Sub-programme for Environment and from the LIFE Sub-programme for Climate Action.
- (4) The NCCF aims to test and demonstrate innovative financing approaches for projects promoting the preservation of natural capital in the priority areas Nature and Biodiversity and Climate Change Adaptation.
- (5) The Parties are willing to cooperate in view of the implementation and management of the NCCF.
- (6) The ex-ante assessment underpinning the Commission implementing decision C(2014)1709 underlined that, although natural capital is essential to sustainable economic growth, current levels of funding are insufficient to meet biodiversity and climate change adaptation policy objectives. Lack of funding has been identified as a key factor in failing to reach the 2010 biodiversity target, and lack of financing has also been identified as a constraint for implementing adaptation measures in the EU.
- (7) There are clear barriers to the uptake of many revenue-generating or cost-saving natural capital projects, such as lack of experience, need to involve a large number of stakeholders to operate under complex and unclear regulation, long investment and project payback periods, uncertainties about target markets, revenue streams and profit margins.
- (8) On 7 and 8 May 2014 the Parties signed a Financial and Administrative Framework Agreement (hereinafter "FAFA") setting out the main principles, standard terms, conditions and procedures under which the Parties shall cooperate in the preparation, set-up, implementation and management of Financial Instruments administered by the Bank, to which the Union makes a financial contribution from the Union budget.
- (9) The provisions laid down in the FAFA shall apply as common provisions for this Delegation Agreement. Pursuant to Article 28.2 of the FAFA, derogations to the FAFA have been made as set out in Article 23 of this Delegation Agreement.
- (10) The detailed provisions relating to the cooperation between the Parties for the implementation and the management of the NCCF are agreed on in this Delegation Agreement.
- (11) On 17 December 2013, Regulation (EU) No 1303/2013 of the European Parliament and the Council laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 was adopted (hereinafter the "CPR"). Pursuant to Article 38(1)(a) of the CPR, managing authorities may provide a financial contribution to a financial instrument set up at Union level, managed directly or indirectly by the Commission. Pursuant to Article 39(2) of the CPR, in the context of the SME initiative, a Member State may use up to 7% of its ERDF and EAFRD aggregate allocation to provide a financial contribution to such financial instruments managed indirectly by the European Commission, as in the case of NCCF, with implementation tasks entrusted to the EIB pursuant to point (c)(iii) of Article 58(1) and Article 139(4) of the Financial Regulation, in respect of uncapped guarantees providing

capital relief to Financial Intermediaries for new portfolios of debt finance to eligible SMEs in accordance with Article 37(4) of the CPR and/or securitisation, as defined in point (61) of Article 4(1) of Regulation (EU) 575/2013 of the European Parliament and of the Council, of existing portfolios of debt finance to SMEs and other enterprises with less than 500 employees; and/or new portfolios of debt finance to SMEs.

- (12) The Commission should ensure, before the operational implementation of the NCFF starts and to the extent falling within its competences, consistency of the NCFF with applicable Union law, in particular and where relevant State aid rules, and fulfilment of specific conditions, if any, linked to the NCFF. Such conditions are defined in this Delegation Agreement.
- (13) The signature of this Delegation Agreement on behalf of the Bank has been authorised by decisions of its Board of Directors of 22 July 2014 and 16 December 2014.
- (14) The authorisation of the signature of this Delegation Agreement on behalf of the Commission has been authorised by a Commission Decision of 16 December 2014 notified under document C(2014)9610.

THE PARTIES HAVE AGREED AS FOLLOWS

Article 1

Definitions

- 1.1 Wherever used in this Delegation Agreement, terms defined shall have the same meanings as in the FAFA, unless otherwise defined in Article 1.2 of this Delegation Agreement.
- 1.2 Wherever used in this Delegation Agreement, the following terms shall have the meanings opposite them.

"Contingent liability"	A contingent liability is defined according to the European Union Accounting Rules in force at the date of signature of the Delegation Agreement;
"Delegation Agreement"	means this Delegation Agreement as may be amended or supplemented from time to time;
"Designated Service"	means the Directorate-General for Environment and the Directorate-General for Climate Action, or the successors thereto;
"Direct Operation"	means an investment under the NCFF Investment Facility made by the Bank with a Final Recipient;
"Eligible Final Recipient"	means a legal person, not being a Financial Intermediary, that complies with the requirements set out under points 4.1 and 4.2 of Annex I;
"Exceptional Unforeseen Expenses"	means the exceptional unforeseen expenses referred to in Article 13.4 of the FAFA;
"FAFA"	means the Financial and Administrative Framework Agreement signed between the Parties on 7 and 8 May 2014;
"Fees"	means the administrative fees, policy related incentives, treasury

	management fees as set out in Article 13 of the FAFA due to the Bank under this Delegation Agreement, as further set out in Article 12 and Annex 5 to this Delegation Agreement; for the avoidance of doubt, Fees do not include the Exceptional Unforeseen Expenses referred to in Article 13.4 of the FAFA;
"Final Recipient"	means an Eligible Final Recipient that receives support under the NCFF;
"Financial Instrument"	As set out in the FAFA and for the purpose of this Delegation Agreement: Natural Capital Financing Facility (NCFF), composed of the NCFF Investment Facility and the NCFF Support Facility;
"Financial Intermediary"	As set out in Article 1 and 4 of the FAFA;
"Financing Decision"	means the Commission decision pursuant to Article 84(2) and Article 94 of the rules of applications to the Financial Regulation;
"Impairment"	Accounting operation to reduce the value of an Operation;
"Implementation Period"	as set out in Article 1.1 of the FAFA. The Implementation Period for both the NCFF Investment Facility and the NCFF Support Facility shall start on the signature date of this Delegation Agreement and end on 31 December 2019, without prejudice to Article 22;
"Indicative EU Contribution"	means the aggregate indicative amount of commitment appropriations in respect of the NCFF as detailed in Article 9.3;
"Indirect Operation"	means an investment under the NCFF Investment Facility made by the Bank with a Financial Intermediary on terms that the Financial Intermediary will make one or more investments under the NCFF with one or more Final Recipients;
"Legal Basis"	means Regulation (EU) No 1293/2013 of the European Parliament and of the Council on the establishment of a Programme for the Environment and Climate Action (LIFE) and repealing Regulation (EC) No 614/2007 ³ ;
"Leverage Effect"	As in Article 1.1 of the FAFA. For the avoidance of doubt, "global investment" and "aggregate amount of finance to eligible final recipients supported by the Financial Instrument" does not include the financing that eligible final recipients make available from their own resources. The EU Contribution to be used in the calculations in Annex 5 is the EU Contribution to the Investment Facility.
"LIFE Logo"	Means the logo defined in Article 23 and Annex II of the Legal Basis
MAWP	means the LIFE multiannual work programme for 2014-2017 adopted on 19 March 2014 by the Commission implementing decision C(2014)1709;

³ See footnote I.

"Minimum Reserve"	means the minimum amount referred to in Article 9.11;
"NCFF"	means the Financial Instrument, within the meaning of the FAFA, set up pursuant to Section 5.3.1 of the MAWP; it consists of the NCFF Investment Facility and the NCFF Support Facility;
"NCFF Investment Facility"	means the risk sharing mechanism to be implemented by the EIB in support of loans and equity investments as described in Article 4.6(i);
"NCFF Support Facility"	means the Support Facility to be implemented by the EIB as described in Article 4.6(ii);
"Non-autonomous Technical Assistance"	means technical assistance services, which are directly related to NCFF and target Final Recipients and/or Financial Intermediaries, provided by the Bank according to the rules for Financial Instruments in the form of support and capacity-building activities necessary for the implementation of a programme or an action, in particular preparatory, management, monitoring, evaluation, audit and control activities funded from the Union budget or the EDF;
"Notification of EU Contribution"	means a notification in the form of Annex 2b;
"Notification of Payment Estimates"	means a notification in the form of Annex 2c;
"Operation"	means a Direct Operation or an Indirect Operation;
"Participating Country"	means a country participating in the NCFF; the list of Participating Countries, as may be amended, supplemented or modified from time to time, is attached in Annex 9;
"Project"	means the activities carried out by a Final Recipient responding to the policy objectives of the NCFF;
"Recoveries"	Any amount net of recovery costs and foreclosure costs recovered by the EIB in relation to an Operation.
"Revenues"	means any revenues paid to the Financial Instrument Account and attributable to the support from the Union budget under the NCFF Risk sharing mechanism. Revenues include the payments in respect of Risk Related Income referred to in the "Risk and Revenue Sharing Arrangements".
"Union Emblem"	means the logo of the European Union representing twelve yellow stars on a blue background;
Volume of Operations signed	Means the aggregate amount of the financial resources invested by the Bank to finance Operations. For the avoidance of doubt, the volume of Operations signed excludes any EU Contributions.

- 1.3 In this Delegation Agreement, unless the context otherwise requires,
- (a) headings are for convenience only and do not affect the construction or the interpretation of any provisions of this Delegation Agreement;
 - (b) words importing the singular include the plural and vice versa;
 - (c) a reference to an article, section, part or schedule is a reference to that article, section, part of, or schedule to this Delegation Agreement;
 - (d) references to the FAFA are to the FAFA as in force as at the date of this Delegation Agreement.

Article 2

Purpose and Scope of this Delegation Agreement

- 2.1. The NCFF shall be implemented and managed by the Parties in compliance with the FAFA and this Delegation Agreement.
- 2.2. This Delegation Agreement specifies the detailed terms and conditions applicable for the implementation and the management of the NCFF and notably the terms applicable to the EU Contribution to be provided by the Commission to the Bank.
- 2.3. The provisions laid down in the FAFA shall apply for this Delegation Agreement, except for the derogations set out in Article 23. In case of a conflict between the FAFA and this Delegation Agreement, other than these derogations, the terms of the FAFA shall prevail.

Article 3

General Principles applicable to the NCFF

- 3.1 The NCFF shall be implemented and managed in accordance with the principles referred to in Article 5.1 of the FAFA.
- 3.2 In order to ensure alignment of interests, the Parties agree to the measures set out in Articles 10, 12 and Annex 1.

Article 4

Description and Objectives of the NCFF

- 4.1 The objective of the NCFF is to address market gaps and barriers for revenue generating or cost saving projects that are aimed at preserving natural capital, including climate change adaptation projects and thereby to contribute to the achievement of EU and Member States' objectives for biodiversity and climate change adaptation. The NCFF will test different financing options in order to identify the most suitable approaches to be focused in a potential second phase. Three more specific objectives derive from this overarching objective:
 - (i) To establish a pipeline of replicable, bankable Operations aiming at implementing natural capital projects that will serve as a "proof of concept";
 - (ii) To demonstrate to private investors the attractiveness of such Operations for the longer term, in order to develop a sustainable flow of private capital towards the financing of those projects and achieve scale;
 - (iii) To leverage funding from private investors for this pipeline of Operations through the use of EU funds.

- 4.2 The NCFF shall contribute to meeting the LIFE objectives, in particular for the priority areas "nature and biodiversity" under LIFE Environment and "climate change adaptation" under LIFE Climate Action, by financing revenue-generating or cost-saving pilot projects which promote the conservation, restoration, management and enhancement of natural capital for biodiversity and adaptation benefits, including ecosystem-based solutions to challenges related to land, soil, forestry, agriculture, water and waste.
- 4.3 Given the innovative features of the target areas and Operations, the NCFF shall be a flexible mechanism, allowing the provision of intermediated and direct financing by using debt and equity instruments as well as risk-sharing, depending on project types and conditions.
- 4.4 The NCFF shall be complementary to the existing activity of the EIB by targeting projects that the EIB normally does not invest in, either because they are too small or because their perceived high risk is not compatible with the creditworthiness of the Bank. Risk may derive, for example from the innovative nature of the revenue streams of the targeted projects, or from a long pay-back period for which the Operations do not fit within the profile of projects normally financed by the Bank.
- 4.5 To address this barrier Annex 3 provides for a risk sharing mechanism whereby the EU funds shall constitute a first loss tranche, meaning that it will bear the first losses from the facility. The eligibility criteria, the project selection process and the governance structure are designed so as to minimise potential failures in selected projects.
- 4.6. The NCFF shall have two components:
- (i) a risk-sharing mechanism (the NCFF Investment Facility) aimed at supporting investments made by the Bank in the form of loans or equity; and
 - (ii) a technical assistance component (the NCFF Support Facility) aimed at providing support and capacity building to Financial Intermediaries and/or Final Recipients.
- 4.7 The NCFF shall support projects that are revenue generating or cost saving and promote the preservation of natural capital, including climate change adaptation projects, in Participating Countries. The Designated Service shall inform the Bank in writing of any other country to be added to the list of Participating Countries.

Article 5

Obligations and Tasks of the Bank

- 5.1 The Commission hereby entrusts the Bank with the implementation and the management of the NCFF. The Bank shall undertake all activities under this Delegation Agreement, in accordance with the terms and conditions of the Legal Basis, the FAFA and this Delegation Agreement.
- 5.2 The Bank shall be responsible for managing the NCFF in accordance with the Legal Basis, the FAFA and this Delegation Agreement.

In particular, the Bank shall:

- (a) implement the NCFF Investment Facility in accordance with Articles 6 and 7 and Annex 1;

- (b) implement the NCFF Support Facility in accordance with Article 13 and Annex 8;
- (c) make a contribution as required in Article 10;
- (d) aim to target a Leverage Effect of 2 to 4 by 31 December 2019;
- (e) take all decisions to use funds under the NCFF, subject to Annex 1, and notify the Designated Service accordingly;
- (f) negotiate and enter into any and all legal instruments as the Bank in its professional opinion deems appropriate for the implementation, management and, as the case may be, the termination of the NCFF;
- (g) if applicable and subject to Article 3.2 of the FAFA, require the Financial Intermediaries and Final Recipients to pay any amount due by them;
- (h) require the Financial Intermediaries and Final Recipients to repay any amount unduly paid to them under the implementation and management of the NCFF;
- (i) exercise all rights assigned to it as investor and manager in connection with the NCFF, to the extent that the Bank would so exercise its rights in relation to its own activities;
- (j) set up and ensure the functioning of an effective and efficient internal control system during the implementation of the NCFF according to Article 16.1 of the FAFA;
- (k) commence or defend litigation under the law and jurisdiction applicable to the NCFF, as required, to the extent that the Bank would do so in relation to its own activities;
- (l) in line with the provisions of Articles 9 and 14 of the FAFA, as further detailed in Article 11, open in its books, maintain and close the Financial Instrument Account in the name of the Commission, debit and credit the Financial Instrument Account in accordance with the provisions of this Delegation Agreement, and otherwise undertake all transactions contemplated by this Delegation Agreement;
- (m) keep separate and proper records and accounts for the Financial Instrument Account, which shall provide accurate complete and reliable information in a timely manner, as set out in the FAFA and in this Delegation Agreement;
- (n) ensure the ex-post publication of information on financial support provided under the NCFF, in accordance with Article 20 of this Delegation Agreement;
- (o) ensure the protection of personal data as required by the relevant Union legal acts;
- (p) monitor and carry out controls on the implementation of the NCFF as set out in this Delegation Agreement;

- (q) apply effective and proportionate anti-fraud measures, as set out in the FAFA, taking into account the risks identified;
- (r) report to the Designated Service as set out in the FAFA and this Delegation Agreement;
- (s) perform any other task(s) agreed in the FAFA and/or in this Delegation Agreement;
- (t) take such other action as it may deem necessary for the proper implementation and management of the NCFF within the limits set out in this Delegation Agreement.

5.3 In accordance with Article 3.6 of the FAFA, the Bank undertakes to perform all its obligations and tasks relating to the NCFF as set out in the FAFA and this Delegation Agreement with the requisite professional degree of care and in particular:

- (a) to apply professional standards and practices as it applies to the discharge of its own affairs;
- (b) to allocate adequate resources to allow for proper implementation and management of the NCFF;
- (c) not to sign any Operation if the relevant Financial Intermediary does not meet the requirements laid down in Annex 1;
- (d) to promote the NCFF and assist the Commission in achieving overall visibility of the Union support down the implementation chain to the Final Recipients as set out in Article 19 of this Delegation Agreement;
- (e) not to create any charges, liens, pledges or other encumbrances over any funds held on the Financial Instrument Account;
- (f) to assign any cash balance on the Financial Instrument Account, as set out in Article 11 and Annex 4 of this Delegation Agreement.

Article 6

Selection of and agreements with Financial Intermediaries under Indirect Operations

6.1 The Bank shall select Financial Intermediaries by applying the selection criteria and process set out in Annex 1, in accordance with the Legal Basis and with Article 4 of the FAFA.

The Bank shall publish on its website information on the NCFF and on the applicable eligibility criteria and financing process as laid down in Annex 1. The information to be published shall be agreed between the Designated Service and the Bank.

6.2 The agreements that the Bank will sign with Financial Intermediaries for Indirect Operations shall comply with the terms and conditions of this Delegation Agreement and in particular those laid down in Annex 1.

6.3 These agreements shall contain all the provisions set out in Articles 4.3 of the FAFA and in Articles 19.6, 19.7 and 20.3 of this Delegation Agreement. They shall contain provisions concerning the liability of Financial Intermediaries and Final Recipients with regard to the EU Contribution received under the NCFF Investment Facility. The agreements, including the provisions on any fees payable to the Financial

Intermediaries, shall be made on arm's length terms. The participation of the EIB in funds managed by Financial Intermediaries shall be at *pari passu* terms compared to any other contributions to the Fund.

- 6.4 Without prejudice to Article 6.5, the Bank shall, without undue delay and in any case not later than 10 Business Days following the signature of an Indirect Operation, notify in writing the Designated Service of the main elements of the Indirect Operation, in a format to be agreed with the Designated Service. The Bank shall, without undue delay and in any case within 10 Business Days, notify in writing the Designated Service of the cancellation of an Indirect Operation and the reasons for such cancellation.
- 6.5 Before completing the assessment of an envisaged Indirect Operation, the Bank shall submit an eligibility checklist containing the information set out in Annex 1c to the Designated Service relating to that envisaged Operation. The Designated Service shall approve or reject the envisaged Operation having regard to the compliance of the envisaged project with the criteria and requirements set out in that Annex.

The approval or rejection by the Designated Service of the eligibility checklist shall be communicated to the Bank in writing. Any such decision shall be provided without undue delay but in any case within twenty (20) Business Days after receipt by the Designated Service of the relevant eligibility checklist. However, if, within ten (10) Business Days from receipt of the eligibility checklist, the Designated Service requests the Bank in writing to provide additional information relating to the eligibility checklist, the period within which the Designated Service is obliged to reply, shall be suspended and shall continue from the date of receipt by the Designated Service of the relevant additional information. The Bank shall only pursue the envisaged Operation on the prior approval by the Designated Service.

The requirement in this paragraph to submit an eligibility checklist does not apply to individual investments by Financial Intermediaries provided the Indirect Operation has already been approved.

- 6.6 Financial Intermediaries may not involve sub-intermediaries in the execution of Indirect Operations.

Article 7

Selection of and agreements with Final Recipients under Direct Operations

- 7.1 The Bank shall select Final Recipients under Direct Operations by applying the selection criteria and process set out in Annex 1, in accordance with the Legal Basis and the FAFA.

The Bank shall publish on its website information on the NCFF and on the applicable eligibility criteria and financing process as laid down in Annex 1. The information to be published shall be agreed between the Designated Service and the Bank.

- 7.2 The agreements that the Bank will sign with Final Recipients under Direct Operations shall comply with the terms and conditions of this Delegation Agreement and in particular those laid down in Annex 1.

- 7.3 Those agreements shall contain the conditions referred to in Article 4.3 of the FAFA *mutatis mutandis* and in Articles 19.5 and 20.3 of this Delegation Agreement. They shall contain provisions concerning the liability of Final Recipients with regard to the EU Contribution received under the NCFF.

- 7.4 Article 6.4 and Article 6.5 shall apply *mutatis mutandis*.

Article 8

Governance

- 8.1 Article 6.1 to 6.7 of the FAFA shall apply. By derogation from Article 6.4 of the FAFA, the Steering Committee shall meet at least once per year.
- 8.2 The Steering Committee supervising the implementation of the NCFF shall consist of four members appointed by the Commission and of two members appointed by the Bank. Commission members shall include:
- (a) a representative at director level from the Directorate General for Environment (ENV), who will act as Chair;
 - (b) a representative from the Directorate General for Climate action (CLIMA);
 - (c) a representative from the Directorate General for Economic and Financial Affairs (ECFIN);
 - (d) a representative from the Directorate General for Competition (COMP);
- or the successor(s) thereto.
- 8.3 In addition to the tasks given to it by Article 6.2 of the FAFA, the Steering Committee shall perform relevant tasks related to the implementation of the NCFF, as requested by any of the Parties, and may in particular but not exclusively:
- a) review and provide recommendations on an annual basis, on the adequacy of the level of the Portfolio First Loss Piece (PFLP);
 - b) be referred to for review of and guidance on any contentious issue under the Delegation Agreement, and give guidance on the interpretation of the Delegation Agreement and of the FAFA;
 - c) review and provide recommendations on the implementation of the policy and operational guidelines, in case of need;
 - d) assess the visibility and promotion activities related to the NCFF;
 - e) examine situations of reputational risk identified by any Party in accordance with Annex 1;
 - f) review any issues identified through audits or monitoring in the course of implementing the NCFF;
 - g) provide recommendations on the duration of the Implementation period in case of need.

Article 9

EU Contribution

- 9.1. The EU Contribution shall be used exclusively in respect of the NCFF and shall cover the Operations under the NCFF Investment Facility, the NCFF Support Facility, as well as the remuneration of the EIB in accordance with Article 12.
- 9.2. Subject to Article 24.1 of the FAFA, the indicative aggregate amount specified at Article 9.3 shall consist of the amount contributed by the Union towards the NCFF

Investment Facility, the cost of the technical assistance referred to in Article 4.7 and the amounts due to the Bank under Article 12, thus excluding contingent liabilities for the budget of the Union.

- 9.3. As set out in Chapters 2.1 and 2.2 of the MAWP, the indicative EU Contribution for the NCFF for the period 2014 – 2017 is EUR 60,000,000, of which EUR 50,000,000 for the Investment Facility and EUR 10,000,000 for the Support Facility. This amount may however change during the Implementation Period, in particular as a result of decisions taken by the EU budgetary authorities (Council of the European Union and European Parliament) or by the Commission.

The indicative EU Contribution may be committed by the Designated Service to the NCFF according to the breakdown as set out in the table below. The exact amounts of the EU Contribution available to be committed each year shall be notified by the Designated Service to the EIB in accordance with the provisions of this Article 9.

	Indicative EU Contribution (in EUR thousands)
Year	Total
2014	10 000
2015	20 000
2016	20 000
2017	10 000
TOTAL	60 000

- 9.4. Other contributions to the NCFF may be made from European Union programmes other than the LIFE Programme, or by Participating Countries and/or their regions, including from the European Structural and Investment Funds described in the Legal Basis. If applicable, the Parties shall agree, including through consultations in the framework of the Steering Committee, on the additional contributions to be accepted.
- 9.5. No later than 15 January of the relevant year, the Designated Service shall inform the EIB of the Indicative EU Contribution that may be available for commitment and payment by the Designated Service for that year. In addition, whenever necessary, the Designated Service shall inform the EIB of any changes to the Indicative EU Contribution communicated pursuant to this paragraph.
- 9.6. In accordance with Article 7.2 of the FAFA, the EIB shall provide the Designated Service, twice a year and no later than by 31 January and 31 July of each year, with forecasts for the disbursements of the EU Contribution, in the form foreseen in Annex 2c, duly substantiated through the semi-annual pipeline report referred to in Article 14.3. The forecasts shall be presented separately for the NCFF Investment Facility, the NCFF Support Facility, the Fees and the Exceptional Unforeseen Expenses.

The forecast for the disbursement of the EU contribution shall take into account:

- (a) the amount for the remuneration of the Bank estimated according to Article 12 and Annex 5 on the basis of the pipeline of Operations;
- (b) the amount related to the Support Facility to be disbursed before next forecast;

- (c) the amount of the EU contribution to be paid in relation to the Portfolio First Loss Piece (PFLP). This amount will correspond to the EU contribution to the PFLP and will be calculated on the basis of the pipeline of Operations. The obligation to provide the EU Contribution is partly cash collateralized by payments into the Financial Instrument Account as defined in Article 9.7.
- (d) the amount for Exceptional Unforeseen Expenses, which will correspond to a provision of no more than 0.5% of the EU Contribution Committed, unless the EIB actually incurred such expenses and is able to estimate disbursements.

The EIB may provide to the Designated Service at any time updated forecasts for the disbursements or payments of the EU Contribution, in the form foreseen in Annex 2c, if it deems necessary in the event of substantial changes to these forecasts.

9.7. The annual amount of the payment of EU Contribution into the Financial Instrument Account will be calculated as follows:

- (a) during the implementation period, it will correspond to twenty-five per cent (25%) of the EU contribution to the PFLP for the new operations to be signed each year and based on the pipeline provided by the Bank;
- (b) in the period 2020-2024, it will correspond to five per cent (5%) per annum of the EU Contribution to the PFLP calculated on the total volume of operations signed;
- (c) in 2025 the Designated Service will pay into the Financial Instrument Account the balance of the EU Contribution. However, the Designated Service might at its own discretion choose not to cash collateralize the balance of the EU Contribution to the PFLP. The decision of the Designated Service will be communicated to the Bank in order to agree upon the details of implementation.

9.8. No later than 30 Business Days following the receipt of the notification on forecasts for the disbursements and payments of the EU Contribution from the EIB, and subject to the adoption of the general budget of the Union by the EU budgetary authorities and to the adoption of the financing decision for the NCFE by the Designated Service for the relevant year, the Designated Service shall notify the EIB, in the form foreseen in Annex 2a, of the EU Contribution Committed for the relevant year. The notification shall include the indicative breakdown of the EU Contribution Committed between the Portfolio First Loss Piece for the NCFE Investment Facility, the NCFE Support Facility, the Fees and the Exceptional Unforeseen Expenses, as at the date of the notification. The notification shall also include the indicative amount of the EU Contribution that is available for payments during the relevant year.

By exception from the foregoing, the first notification on the EU Contribution Committed shall be sent by the Designated Service to the EIB no later than twenty (20) Business Days following the signature of the Delegation Agreement.

The Designated Service may provide to the EIB at any time revised notifications on the EU Contribution Committed for the relevant year, in the form foreseen in Annex 2a, if it deems necessary in the event the amounts already committed prove excessive in light of the actual amounts disbursed or paid by the EIB.

9.9. Following the receipt of the notification on the EU Contribution Committed referred to in Article 9.8, the EIB shall submit to the Designated Service a payment request, in the form foreseen in Annex 2e, no later than thirty (30) Business Days after the receipt

of the notification of the EU Contribution Committed. The amount to be requested for payment shall be based on the provision of Articles 9.6 and 9.7.

Subject to receipt of the notification of the EU Contribution Committed referred to in Article 9.8, second paragraph, the EIB shall submit the first payment request, in the form foreseen in Annex 2e, no later than ten (10) Business Days after the receipt of the notification of the EU Contribution Committed. The amount to be requested shall be based on the forecasts for the disbursements and payments of the EU Contribution communicated by the EIB in accordance with Article 9.6, second paragraph.

With the exception of the last payment, which may be requested and made in a single annual tranche, during the Implementation Period, the EU Contribution shall be paid in at least two annual tranches, in accordance with the provisions of Article 9.10.

After the end of the Implementation Period, the EIB may request the payment to the Financial Instrument Account of the amount of the EU Contribution Committed not yet paid, if any, in a single annual tranche, to the extent that such amount is needed for the PFLP according to the amount indicated in Article 9.6, for covering losses on Operations and Exceptional Unforeseen Expenses.

The identification reference: "NCFF Account" shall be clearly indicated in every request for payment transmitted to the Designated Service.

- 9.10. The Designated Service shall pay into the Financial Instrument Account within thirty (30) calendar days from the receipt of that payment request and shall notify the EIB accordingly, in the form foreseen in Annex 2a. For each payment the Designated Service shall inform the EIB at least five (5) Business Days prior to the payment date by e-mail to fi_pro_bot_lpc_em@eib.org (or to such other e-mail address as may be indicated by the EIB from time to time), or, if such length of notice is not possible, then at the latest when such payment has been initiated.

If, for duly justified reasons, the Designated Service decide not to pay by the deadline foreseen above, part or all of the EU Contribution requested for payment by the EIB, it shall inform the EIB thereof, stating the reasons and indicating the estimated date and the amount of the payment.

- 9.11. In accordance with Article 7.4 of the FAFA, the Parties shall cooperate to ensure that the balance available on the Financial Instrument Account from 2015 onwards is not lower than the Minimum Reserve. The Minimum Reserve is targeted to be EUR 5,000,000.

It may be revised upwards or downwards, based on a decision by the Parties, where appropriate following guidance from the Steering Committee.

- 9.12. In the case of a loss on an Operation at any time during the implementation of this Delegation Agreement, the EIB shall provide as soon as possible the Designated Service with information on the Operation concerned, its amount, the related amount due by the Designated Service as PFLP according to Annex 3, the amount available on the Financial Instrument Account and the expected date of disbursement by the Bank.

- 9.13. The Bank shall cover the EU Contribution to the PFLP according to Annex 3 using the funds available in the Financial Instrument Account.

Where such payment would lead to the balance of the Financial Instrument Account falling below the Minimum Reserve in the period in question than the EIB shall also submit to the Designated Service a payment request, in the form foreseen in Annex 2e.

The amount to be requested for payment shall be aimed at replenishing the Financial Instrument Account with the amount used by the EIB.

9.14. In case the existing balance on the Financial Instrument Account is not sufficient to cover the EU contribution as PFLP for the loss on the Operation, the EIB shall include in the payment request referred to in Article 9.13 the additional disbursement needed.

9.15. The Designated Service shall pay into the Financial Instrument Account

(a) within thirty (30) calendar days from the receipt of that payment request the additional disbursement referred to under Article 9.14 and the funds required for reintegrating the amounts referred to under points (b) and (c) of Article 9.13 and

(b) within sixty (60) calendar days from the receipt of that payment request the amount referred to under point (a) of Article 9.13.

The Designated Service shall notify the EIB accordingly in the form foreseen in Annex 2a. For each payment the Designated Service shall inform the EIB at least five (5) Business Days prior to the payment date by e-mail to fi_pro_bot_lpc_cin@eib.org (or to such other e-mail address as may be indicated by the EIB from time to time) or, if such length of notice is not possible, then at the latest when such payment has been initiated and clearly indicate the reference: "NCFE Account".

9.16. No later than 15 April of each year, if such information has not already been provided in other notifications or reports submitted pursuant to the provisions of this Delegation Agreement, the EIB shall notify the Designated Service, in the form foreseen in Annex 2d, of:

(a) the Revenues credited to the Financial Instrument Account in the preceding year; and

(b) the amounts of the Fees and Exceptional Unforeseen Expenses due to the EIB for the previous year that have been debited from the Financial Instrument Account in accordance with the provisions of Article 12.

9.17. During the Implementation Period, within thirty (30) Business Days after the receipt of the notification referred to in Article 9.13, the Designated Service shall send to the EIB a notification, in the form foreseen in Annex 2a, on the updated aggregate amount of the EU Contribution Committed, taking into account:

(a) the amount of the Revenues used to cover, partially or totally, the Fees and Exceptional Unforeseen Expenses due to the EIB for the preceding year;

(b) the amount of the Revenues to be recovered to the general budget of the Union; and

(c) any amounts of the EU Contribution Committed that were de-committed pursuant to Article 9.15.

To the extent that there are amounts to be recovered, the Designated Service shall issue a debit note to the EIB to recover the corresponding amount back to the general budget of the Union.

9.18. During the Implementation Period, the EIB shall notify the Designated Service annually, no later than 30 September of each year, in the form foreseen in Annex 2b, of the amount of the EU Contribution Committed and not yet paid that is no longer required to satisfy or provide for all actual and potential liabilities under the NCFE, including the Fees and Exceptional Unforeseen Expenses payable to the EIB pursuant

to this Delegation Agreement. On the basis of this notification, the Designated Service shall de-commit such amounts and inform the EIB accordingly, in the form foreseen in Annex 2a.

- 9.19. After the end of the Implementation Period, the EIB shall notify the Designated Service annually, no later than 30 September of each year, in the form foreseen in Annex 2b, of the amount of the EU Contribution Paid that is no longer required to satisfy or provide for all actual and potential liabilities under the NCFF. Pursuant to such notification, the Designated Service shall issue a debit note to the EIB to recover the corresponding amount back to the general budget of the Union.

Article 10

Contribution of the Bank

The EIB Contribution shall consist in the provision of equity or loan financing under the NCFF Investment Facility with financial resources other than the EU Contribution, including its own resources, according to the terms defined in Annex 3.

Article 11

Financial Instrument Account

- 11.1 With reference to Article 9.1 of the FAFA, the asset management of the Financial Instrument Account shall be carried out by the Bank.
- 11.2 In accordance with Articles 9.2 and 9.3 of the FAFA, the Bank shall open in its books and maintain a Financial Instrument Account relating exclusively to the NCFF. The Financial Instrument Account shall be used exclusively for transactions in accordance with this Delegation Agreement. All transactions shall bear a value date for the calculation of interest. By exception from the provisions of Article 9.2 of the FAFA, the opening of the Financial Instrument Account is subject to the approval in writing from the Designated Service, to be provided no later than ten (10) Business Days following the signature of this Delegation Agreement. The giving of such approval shall be a condition to the effectiveness of this Delegation Agreement. The Bank shall inform, without undue delay, the Designated Service of the correspondent bank account details for payments to be made to the Bank.
- 11.3 The EIB will remunerate the daily average balance on the Financial Instrument Account at a rate equal to 3 month EURIBOR as published on Reuters page EURIBOR01 (or any replacement information source) two business days prior to the beginning of each quarter minus 34 basis points per annum (0.34 per cent). Such remuneration shall be floored at 0 per cent and will be applied over the entire duration of the Delegation Agreement. The spread has been fixed according to a methodology agreed between EIB and Commission and has been determined such that it is financially equivalent to a non-floored remuneration at 3 month EURIBOR minus 12.5 basis points. Interest in respect of each quarter will be credited to the Financial Instrument Account at the end of each quarter. Interest will be calculated using an actual/360 day count fraction.
- 11.4 The Financial Instrument Account shall be credited with:
- (a) the EU Contribution Paid;
 - (b) Revenues;

- (d) Recoveries;
 - (f) any payments made by the EIB under Article 9;
 - (g) any interest due to be credited to the account pursuant to Article 11.3; and
 - (h) all other receipts in respect of the NCFF.
- 11.5 The Financial Instrument Account shall be debited with:
- (a) amounts required in respect of NCFF Support Facility Operations;
 - (b) amounts due to the Bank under Article 12;
 - (c) amounts repaid to the Union budget pursuant to Article 9;
 - (d) amounts payable to the EIB pursuant to Annex 3 in relation to losses on Operations.
- 11.6 The transfer referred to in Article 11.5(c) shall be made to the Commission bank account indicated by the Designated Service in the debit note under Article 9 of this Delegation Agreement.
- 11.7 In the event of the termination of this Delegation Agreement, the Bank shall, subject to prior written approval from the Designated Service and subject to compliance with the Bank's own rules and procedures, close the Financial Instrument Account in its books. Such approval will not be unreasonably withheld and will be deemed to be given if not expressly refused within 10 (ten) Business Days from receiving a request in this regard from the EIB. The Bank shall inform in writing and without undue delay the Designated Service of such closure.
- 11.8 In accordance with Schedule III.4 of the FAFA, the Bank shall provide the Designated Service with quarterly statements of the Financial Instrument Account within 10 Business Days after the end of each quarter.

Article 12

Remuneration of the Bank and reimbursement of Exceptional Unforeseen Expenses

- 12.1 The Commission shall remunerate the Bank for the services provided under this Delegation Agreement as specified in Annex 5.
- 12.2 In accordance with Article 13.8 of the FAFA the aggregate amount of administrative fees ("Administrative Fee") and policy-related incentives fees ("Incentive Fee") will not exceed 6% of the EU Contribution Committed.
- 12.3 The Administrative Fee shall not exceed 5% of the EU Contribution Committed; the Incentive Fee shall not exceed 1% of the EU Contribution Committed. The Incentive Fee will be calculated in accordance with Annex 5. No Treasury Fee will be charged.
- 12.4 As foreseen in Article 13.4 of the FAFA, in addition to the fees received by the EIB pursuant to Articles 12.1, 12.2 and 12.3, the EIB may request the Designated Authority to reimburse Exceptional Unforeseen Expenses of up to 0.5% of the EU Contribution Committed. The authorisation procedure set out in Article 13.7 of the FAFA shall apply to such requests.
- 12.5. The parties confirm for the avoidance of doubt that the fee structure specified in Annex 5 and Article 12.3 of this Delegation Agreement will apply only to the Indicative EU Contribution specified in Article 9.3 and that in the event of any extension or increase in this Financial Instrument, the administrative fee will not

exceed 4% of the EU Contribution Committed, within the maximum aggregate amount specified for fees in Article 13.8 of the FAFA.

- 12.6 In accordance with Article 13.6 of the FAFA, the fees under Articles 12.1, 12.2 and 12.3 shall constitute all remuneration of the EIB payable by the Commission and shall be payable to the EIB annually in arrears. Article 13.7 of the FAFA applies accordingly.

Article 13

Non-Autonomous Technical Assistance provided under the NCFE Support Facility

- 13.1 The Bank shall:

- (a) define the scope of the Non-Autonomous Technical Assistance to be provided under the NCFE Support Facility by taking into account, inter alia, the results of a needs assessment carried out for the Financial Intermediaries and/or Final Recipients selected under the Investment Facility; and
- (b) comply with Article 19 of the FAFA in procuring those services.

- 13.2 In administering the NCFE Support Facility, the Bank has the right to enter into any contracts, agreements and other such undertakings, as well as any amendments thereto as may, in the opinion of the Bank, be necessary for the proper implementation of the NCFE Support Facility. Any staff the Bank may employ and any external service providers the Bank may commission pursuant to this Article shall remain under the responsibility of the Bank for the purposes of this Delegation Agreement and are regulated in all aspects by and are subject to the rules, policies and procedures applied by the Bank in relation to its staff and/or external consultants and advisers.

- 13.3 For the avoidance of doubt, the Bank shall have the right to decide, at its sole discretion and without prejudice to Article 19.4 of FAFA, to sub-contract any or all Non-Autonomous Technical Assistance to be provided under the NCFE Support Facility, pursuant to Article 13.1 above.

- 13.4 Ownership of the results of the Non-autonomous Technical Assistance, including copyright and other industrial and intellectual property rights, as well as technological solutions and information contained therein and of the reports and other documents relating to it shall be vested in the Bank, unless otherwise agreed by the parties to this Delegation Agreement.

By exception, the ownership shall be vested in the recipients.

The Bank shall ensure that it has either:

- (a) ownership of; or
- (b) the right to use, and the right to permit the Union to use, any reports produced for the Bank and financed in whole or in part from the NCFE within the framework of the contracts mentioned at Article 13.2 above.

- 13.5 Where the Bank has ownership of the copyright in the reports mentioned in Article 13.4 above, it shall grant the Union the right to use such reports free of charge, subject to any third party intellectual property rights and to any confidentiality restrictions. Where the Bank's contractor or a Financial Intermediary or Final Recipient has ownership of such copyright, the Bank shall ensure that the Union is granted the right to use such reports free of charge, subject to any third party intellectual property rights

and to any confidentiality restrictions, e.g. as regards business secrets where the copyright owner has contributed to the costs of the reports.

- 13.6 Where implementation of the Non Autonomous Technical Assistance requires the use of pre-existing intellectual property rights, the Bank shall ensure that it, its contractors and if necessary the Financial Intermediary and/or the Final Recipient have the right to use such pre-existing rights.

Article 14

Operational and Financial Reporting

- 14.1 The Bank shall provide the Designated Service with the operational reports set out in Schedule II of the FAFA, in the form set out in Annex 6a and the financial reports as set out in Schedule III of the FAFA, as further detailed out in Annex 6b.
- 14.2 The EIB shall provide the Designated Service with the complete set of unaudited and audited financial statements in accordance with Schedule III.1 of the FAFA, and in addition with reporting in the standardised format in accordance with Article 14.2 of the FAFA.
- By exception from the provisions of Schedule III.1 and III.2 of the FAFA, the first audited financial statements to be prepared pursuant to this Article 14, and the accompanying management declaration of assurance, shall cover the period from the signature of this Delegation Agreement to 31 December 2015.
- 14.3 As set out in the second paragraph of Schedule II of the FAFA, during the Implementation Period, to the extent not already provided in other operational reports, the Bank shall provide the Designated Service twice a year with pipeline reports on expected Operations, in the form set out in Annex 6c. The pipeline reports shall be provided no later than 31 January of each year and no later than 31 July of each year.
- 14.4 Upon request from the Designated Service, the Bank shall use its reasonable efforts to provide information in addition to the provided reports if so necessary in order to enable the Commission to report to the LIFE Committee.
- 14.5 Except where provided otherwise in this Delegation Agreement, amounts denominated in a currency other than euro and reported by one Party to the other in euro shall be reported in euro at the exchange rate prevailing at the relevant reporting date, as fixed by the European Central Bank.

Article 15

Controls and Monitoring

- 15.1 In accordance with Article 16.4 of the FAFA, the specific monitoring and control obligations of the EIB and the Financial Intermediaries concerning the NCFE are laid down in Annex 7a and 7b.
- 15.2 According to Article 16.6 of the FAFA, the Commission may carry out specific controls and monitoring concerning the NCFE and these are laid down in Annex 7c.

Article 16

Audit

- 16.1 Article 17 of the FAFA shall apply.
- 16.2 Audit obligations start in 2015. The first audit will cover both 2014 and 2015.

Article 17

Evaluation

As set out in the Legal Basis, the NCFF shall be subject to a mid-term evaluation and an ex post evaluation assessing its relevance and effectiveness with respect to helping achieve LIFE policy objectives, its efficiency, its utility in addressing market deficiencies and sub-optimal investment situations, and the overall coherence of the NCFF itself, as well as providing recommendations for improvements. This evaluation shall be carried out by external evaluators appointed by the Commission, at the expense of the Commission.

The Parties will cooperate in the context of the evaluation according to Article 18 of the FAFA. The Bank will require Final Recipients and Financial Intermediaries to cooperate in the evaluations and provide information to the extent reasonable. The Bank will ensure that Financial Intermediaries require Final Recipients receiving funding from the NCFF through them to cooperate with the evaluations and provide information to the extent reasonable.

Article 18

Procurement of goods, works and services

In accordance with Article 19.2 of the FAFA, the Bank is allowed to contract the support and capacity building to be provided under the NCFF Support Facility, as described in Article 13 and Annex 8.

Article 19

Visibility

- 19.1 In line with Article 23.5 of the FAFA, the Parties agree on the tasks included in Article 19.2 related to the communication strategy for the NCFF.
- 19.2. The Bank will provide, inter alia, the following:
 - (a) it will assist the Designated Service, on a reasonable efforts basis, in identifying cases, success studies and other relevant information on case studies for developing a flow of such stories in due course. The Bank shall also use its regular contacts with intermediaries for this purpose. Each case study shall be assessed on its own merits and availability.
 - (b) As a general principle, it shall ensure that the role of the EU and EU Contribution shall always be given at least equal prominence to the roles of the Bank itself and of any Financial Intermediary.

(c) Subject to applicable confidentiality requirements, upon the signature of an Operation under the NCFF Investment Facility, it shall publish the relevant information on the Operation on the website of the Bank and/or the website of the NCFF. In particular where no other means are deployed to give appropriate visibility to a new Operation, in principle, the Bank shall post on its website a press release in English. The Bank shall send the press release to the Designated Service together with the notification referred to in Articles 6.4 and 7.4. The Bank shall adequately inform the Designated Service in advance of expected press releases or publicity or events concerning the NCFF that may attract public attention. To this purpose, the Designated Service will draw up a list of events and occasions where it expects the NCFF to be publicised. It will submit the list to the Bank who will complete it with similar events and occasions foreseen by the Bank. It will share the revised list with the Designated Service for discussion if appropriate. Both parties will update the list regularly.

The Bank will cooperate with the Designated Service and with the contractor to be appointed by the Designated Service for NCFF promotion in view of optimal and effective promotion of the NCFF.

- 19.3 The Commission and/or the Bank may initiate, from time to time, workshops, conferences and/or press events relating to the NCFF. Each Party will seek to invite the other in due course to such events and each Party will provide the other with reasonable assistance in connection with any such events. For workshops, conferences and press events initiated by the Bank, the Bank will be in charge of the organisation, preparation and management of these events.
- 19.4 The Bank shall include in the contractual documentation signed with each Financial Intermediary under the NCFF Investment Facility a statement that the finance provided to the Financial Intermediary has benefited from the support of the European Union under the LIFE Programme.
- 19.5 The recipients must comply with EU standard requirements for publicly acknowledging EU funding, including where applicable publication of Operation and/or Project details (which for intermediated loans may include the names of Final Recipients) on the internet by all or any of the Commission, the Bank and the Financial Intermediary / Final Recipient. Final Recipients and Financial Intermediaries shall publicise the LIFE Programme and the results of their projects, always mentioning the Union support received. The LIFE Logo shall be used for all communication activities and appear on notice boards at strategic places visible to the public. All durable goods acquired with funding from the NCFF shall bear the LIFE Logo except in cases specified by the Designated Service.
- 19.6 The Bank shall require each Financial Intermediary:
- (a) to ensure that the requirement in Article 19.5 is passed through to Final Recipients, in the relevant contracts or in a cover letter accompanying such contracts duly signed by the Final Recipient,
 - (b) to include in any press release that the Financial Intermediary may choose to make with regard to an Operation and on a dedicated information page on the portfolios supported on its website a reference, in the relevant language, that the Financial Intermediary has benefited from the support of the European Union, under the LIFE Programme, including the Union Emblem and the LIFE Logo. If the Financial Intermediary chooses alternative ways of communication, the same visibility requirements shall apply, when possible.

Article 20

Publication of information on financial support provided under the NCFF

- 20.1 Subject to Article 23(8) of the FAFA and in addition to the requirements of Article 19.2 above, the Bank shall publish annually on its website no later than 30 June of each year the information detailed at Article 20.2 on Financial Intermediaries and Final Recipients supported since the signature date of this Delegation Agreement until the end of the previous calendar year and procurement contracts financed under the NCFF.

By exception from the foregoing, information on Financial Intermediaries and Final Recipients which were no longer supported under the NCFF at the beginning of the previous calendar year shall not be published.

- 20.2 The publication shall include the name, nature and purpose of the NCFF, and the following information:
- a list of Financial Intermediaries, containing for each Financial Intermediary its name and address, and the type and amount of finance or the value of the services received under the NCFF;
 - a list of Final Recipients under Direct Operations containing for each such Final Recipient its name and address and the type of finance or the value of the services received under the NCFF;
 - a list of procurement contracts exceeding EUR 15,000 concluded under the NCFF Support Facility: the contractor's name and address, the amount awarded and the nature and purpose of the measure.

For natural persons the name might be replaced by "natural person" and the address shall correspond to the level 2 of the Nomenclature of territorial units for statistics (NUTS2) in force at the time of publication.

- 20.3 In accordance with Article 21(4) of the RAP and Article 23(8) of the FAFA, and subject to paragraph 4 below, any Financial Intermediary or Final Recipient may, prior to receiving financial support under the NCFF Investment Facility or Support Facility, declare in writing (including by a representation in the relevant agreement) that the publication requirements set out in this Article risk harming its commercial interests or risks threatening the rights and freedoms of individuals concerned as protected by the Charter of Fundamental Rights of the European Union, on the basis of a written justification. The implementation details will be established by the Bank. In addition such publication shall not be required if it would be illegal under the applicable laws and regulations.
- 20.4 As far as natural persons are concerned, the publication shall comply with the requirements set out in Articles 4 and 5 of Regulation 45/2001⁴. Where the Final Recipient is a natural person, prior consent to publication may not be made a condition for receiving financial support under the NCFF Investment Facility or Support Facility. A declaration to this effect set out in paragraph 3 may therefore be issued by

⁴ OJ L8 of 12.1.2001, p.1.

a natural person also after the award of support under the NCFF Investment Facility or Support Facility.

Article 21

Notices and Communications

- 21.1 In accordance with Article 26.3 of the FAFA, notices and communications relating to this Delegation Agreement from one Party to the other shall be sent in writing in paper or in electronic form, according to the provisions set out in paragraphs 3 and 4 below, using the following communication details:

for the Designated Service :

European Commission

Directorate-General Environment

Directorate B – Natural Capital

Unit B2 - Biodiversity

Rue de la Loi 200 – B-1049 Brussels/Belgium

ENV-CLIMA-NCFE@ec.europa.eu

Copied to

Directorate-General Climate action

Directorate C - Mainstreaming Adaptation & Low Carbon Technology

Unit C3 – Adaptation

Rue de la Loi 200 – B-1049 Brussels/Belgium

for the Bank:

European Investment Bank

100 Boulevard Konrad Adenauer

L-2950 Luxembourg

For the attention of: Head of Division, Climate Change & Environment
(OPS/NPST-3 CCE)

ncf_instrument@eib.org

- 21.2 Any change made to the above communication details shall have effect only after it has been notified in writing in paper form to the other Party at the above address.
- 21.3 Notices and communications relating to opening or closing of bank accounts, Fees and Exceptional Unforeseen Expenses shall be sent in writing with a copy by electronic mail.
- 21.4 All other notices and other communications shall be sent by electronic mail to the addresses referred to in Article 21.1.

Article 22

Effectiveness – Termination

- 22.1 This Delegation Agreement shall enter into force upon signature by the Parties.
- The duration of an agreement pursuant to the NCFE Investment Facility with a Financial Intermediary or a Final Recipient may not be longer than 20 years from the end of the Implementation Period, including any extensions. The actual duration of such agreements would be adjusted to the expected average tenor of the targeted loans by intermediary financial institutions
- The duration of an agreement concluded between the EIB and a prospective Final Recipient or Financial Intermediary under the NCFE Support Facility may not be longer than 60 months, and in any case shall not go beyond 31 December 2022.
- 22.2 This Delegation Agreement shall remain in full force and effect until all Operations under this Agreement have expired or have been terminated by the Bank and the final balance on the Financial Instrument Account, including any amounts under asset management, has been paid to the Commission in accordance with Articles 9 and 11. Unless an extension is agreed in accordance with Article 22.6, appropriate arrangements for the timely and cost-effective winding-up of the Facility after 31 December 2038 shall be negotiated between the Commission and the Bank in good faith.
- 22.3 In case of early termination of this Delegation Agreement under Articles 12.6 or 12.10 of the FAFA, the Parties shall cooperate to ensure an orderly transfer of the Bank's rights and obligations relating to the Operations to the Commission or any third party designated in writing by the Commission to the Bank.
- 22.4 On or about the date of the transfer of its rights and obligations as set out in Article 22.3, the Bank shall cease all activities relating to the Financial Instrument Account, except those incidental to the orderly realisation, conservation and preservation of its resources, and shall pay any balance on the Financial Instrument Account to the Commission, save for the amounts committed and not yet disbursed at the time of termination until, as the case may be, their subsequent transfer. Any recoveries outstanding at the time of termination or after that date shall be promptly paid to the Commission upon receipt by the Bank.
- 22.5 In the event of a termination under Articles 12.6, or 12.10 of the FAFA, any amounts credited to the Financial Instrument Account and not required in connection with Operations shall be kept on the Financial Instrument Account in accordance with Article 11 until the date of payment to the Commission in accordance with Article 22.4.
- 22.6 This Delegation Agreement may be extended upon agreement between the Parties. In such case, no later than 31 December 2033, the Parties consult each other regarding the extension of the Delegation Agreement for a further term.

Article 23

Derogations

By derogation from Article 6.4 of the FAFA, the Steering Committee shall meet at least once per year. By derogation from Article 9 of the FAFA, the balance on the Financial Instrument Account will be remunerated as set out in Article 11.3 of this Delegation Agreement. By derogation from Article 13.5 of the FAFA, the Bank shall not charge any fee to the Commission in consideration of treasury asset management by the Bank. By derogation from Article 15 of the FAFA, the first financial statements shall cover the period from the signature of this Delegation Agreement to 31 December 2015.

Article 24

Annexes

The recitals and the following Annexes form an integral part of this Delegation Agreement.

- Annex 1: Policy and Operational Guidelines - General rules
- Annex 1a: Policy and Operational Guidelines – Conditions for loans
- Annex 1b: Policy and Operational Guidelines – Investments in funds
- Annex 1c: Eligibility checklist referred to in Articles 6.5 and 7.4
- Annex 2: Notification templates
- Annex 2a: Notification of EU Contribution
- Annex 2b: Notification of amounts no longer required for the NCFE
- Annex 2c: Notification of Payment Estimates and Submission of Pipeline Report
- Annex 2d: Notification of certain Income and Expenses
- Annex 2e: Payment Request
- Annex 3: Principles and Procedures of Risk and Revenue Sharing
- Annex 3a: Risk and Revenue Sharing Agreement for the NCFE Debt Window (DW)
- Annex 3b: Risk and Revenue Sharing Agreement for the NCFE Equity Window (EW)
- Annex 4: Non-euro currencies allowed to be used by NCFE
- Annex 5: Remuneration of the Bank
- Annex 6: Reporting
- Annex 6a: Operational Reporting
- Annex 6b: Financial Reporting
- Annex 6c: Pipeline Report
- Annex 7: Monitoring, control and audit obligations of the EIB and Financial Intermediaries and the control and monitoring rights of the Commission
- Annex 7a: Monitoring obligations of the Bank and Financial Intermediaries/ Investment Funds

- Annex 7b: Contents of specific control activities of the Bank and Financial Intermediaries/Final Recipients
- Annex 7c: Control and monitoring rights of the Commission
- Annex 8: NCFF Support Facility
- Annex 9: List of Participating Countries

IN WITNESS WHEREOF this Delegation Agreement has been executed in four originals in the English language, each Party taking two originals.

Signed for and on behalf of
EUROPEAN COMMISSION

Signed for and on behalf of
EUROPEAN INVESTMENT BANK

[...]

Annex 1 Policy and Operational Guidelines – General rules

1. Description and policy objectives of the NCFF

1.1 General description

The NCFF shall finance natural capital projects that are revenue generating or cost saving and promote the preservation of natural capital, including climate change adaptation projects, in Participating Countries.

The aim of the NCFF is to provide a proof of concept to demonstrate that biodiversity and climate adaptation projects can be financed through innovative and sustainable market-based mechanisms in addition to existing grant-based financing. The ultimate goal is to attract additional financial resources and thus counteract existing market failures and barriers.

Debt and equity instruments, including a risk sharing mechanism, will be used, as well as direct and indirect funding. Indirect funding will take place via Financial Intermediaries.

1.2 Compartments

The NCFF shall combine:

- (i) an *Investment Facility (IF)* to finance eligible projects; and
- (ii) a *Support Facility (SF)* to finance project preparation, implementation and monitoring. Its features are described in Annex 8 (NCFF Support Facility)

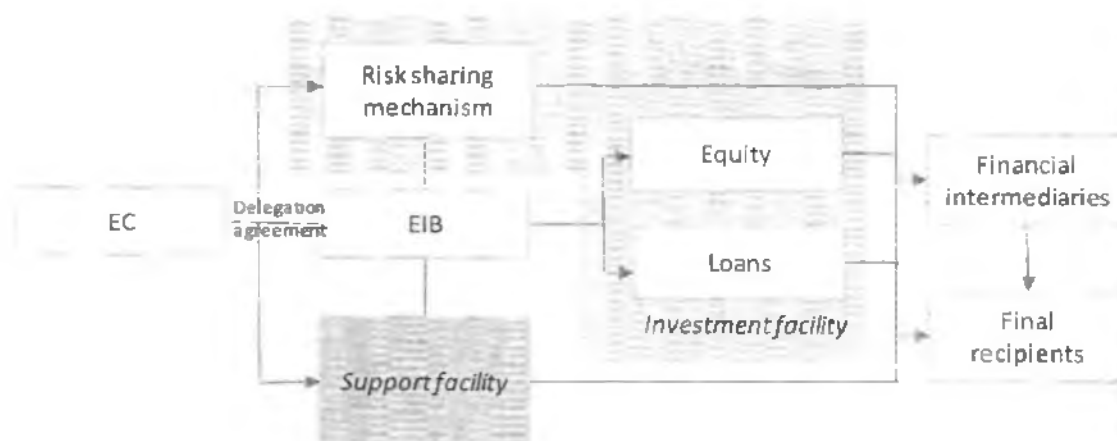
The Investment Facility will amount at least to twice the EU Contribution for loans and equity financing and up to EUR 125,000,000. The risk sharing mechanism will amount to up to EUR 50,000,000 minus the fees payable to the EIB. The Support Facility will amount up to EUR 10,000,000.

The Investment Facility will comprise a debt portfolio and an equity portfolio, financed by the EIB. The risk sharing mechanism is financed by the EC.

The Support Facility will be financed by the EC.

Up to 6% of the EU Contribution will be used to cover administration and direct costs incurred by the EIB for setting up and managing the NCFF, as well as its performance.

It will follow the scheme illustrated below:



The risk sharing mechanism is designed to reduce the credit risk faced by the EIB and Financial Intermediaries when lending to Final Recipients to ensure appropriate financing for eligible projects.

The risk sharing mechanism aims to increase lending and investment activity, and access to finance for the Final Recipients, through longer maturities, lower collateral or others.

The design of the risk sharing mechanism will enable the Commission to provide credit risk protection to the EIB and Financial Intermediaries, by making cash collateral available in respect of the Final Recipients. Given the perceived high credit risk profile of biodiversity and climate change adaptation investments, combined with the fact that in many cases it is not possible to take security over the assets to be financed, this type of credit protection will provide a strong incentive to lend to such investments, thus enhancing credit worthiness, and improving the financial profile of the potential Final Recipients. The EU Contribution to the mechanism, to be drawn upon when needed, will constitute a first loss tranche meaning that it will bear the first losses from the Investment Facility.

Although statistically defaults tend to concentrate on the second half of the life of a loan, they can happen at any time following the signature of a loan agreement.

On the other hand, the cash collateral needs are relatively low at the beginning and then they increase according to the portfolio dimensions while the global risk rate progressively decreases.

Therefore, cash needs of the risk sharing mechanism will progressively increase to cover the losses in case of default.

A part of the capital cost could be financed by the Financial Intermediaries and, generally, also by Final Recipients. This will result in an increased leverage of the EU Contribution to the Financial Instrument.

Financial Intermediaries often have limited experience financing biodiversity and climate change adaptation investments.

To the extent needed, and as an added benefit of participating in the Financial Instrument, the Support Facility, directly related to the NCFF Investment Facility, will provide capacity building to Financial Intermediaries, inter alia, to develop their understanding of the fundamentals of biodiversity and climate change adaptation investments and to identify eligible projects and expert professional services to Final Recipients in order to develop suitable investment projects.

1.3 Type of projects targeted by the NCFF

1.3.1. Exclusion of projects

The NCFF will not be used for the financing of those activities/sectors non-eligible for receiving Bank and/or EU budget support.

1.3.2. Eligibility of projects

All projects financed by the NCFF, including projects financed through intermediaries, shall fulfil the following eligibility criteria:

- i/ demonstrate financial viability and generate revenues or save costs.
- ii/ be justified by an economic analysis on the basis of a classic cost-benefit-analysis – i.e. that the net present cost of the project over its life shall be less than the net present value of the expected benefits, including externalities.
- iii/ comply with the standard financial, technical, risk, legal criteria defined by the Bank for all Operations,
- iv/ contribute to the general and specific objectives laid down in Article 3 in conjunction with Article 11 (priority area “nature and biodiversity”) and/or Article 15 (priority area “climate change adaptation”) of the LIFE Regulation.

v/ pursue one of the following two objectives as the primary objective:

- promote the conservation, restoration, management and enhancement of ecosystems⁵ including through ecosystem-based solutions applied to the sectors of land, soil, forestry, agriculture, aquaculture, water and waste; and/or
- promote ecosystem-based approaches that enable businesses and communities to address identified risks associated with current and projected impacts of climate change, including through urban, rural, and coastal green infrastructure projects; and

vi/ fall into one of the following project categories:

- Projects using Payments for Ecosystem Services (PES)

Projects involving payments for the flows of benefits resulting from natural capital, usually a voluntary small scale bilateral transaction with a well identified buyer and provider of an ecosystem service. They are based on the beneficiary pays principle, whereby payments are made on condition that the ecosystem service provider continuously secures the ecosystem service provision. Payments may be ‘bundled’ (selling multiple benefits to a single buyer) or ‘stacked’ (selling multiple benefits to different buyers).

- Green Infrastructure (GI) projects

GI is a strategically planned network of natural and semi-natural areas with other environmental features designed and managed to deliver a wide range of ecosystem services. It incorporates green spaces (or blue if aquatic ecosystems are concerned) and other physical features in terrestrial (including coastal) and marine areas. On land, GI is present in rural and urban settings. GI projects have the potential to generate revenues or save costs based on the provision of goods and services including water management, air quality, forestry, recreation, flood/erosion/fire control, pollination, increased resilience to disasters and the consequences of climate change.

Projects should contribute to improve ecosystem condition, through measures benefiting species or natural and semi-natural habitats, in order to deliver multiple ecosystem services, in a measurable way.

- Projects demanding/generating Biodiversity offsets

Conservation actions intended to compensate for the residual, unavoidable harm to biodiversity caused by development projects. They are based on the polluter pays principle, whereby offsets are undertaken for compliance or to mitigate reputational risks. The support provided under the NCFE shall not reduce the costs of compliance with legal obligations to deliver offsets that are to be borne by entities that are under a legal obligation to deliver such offsets.

- Innovative pro-biodiversity and adaptation businesses

Projects involving the supply of goods and services, mostly by SMEs, which aim to protect biodiversity or increase the resilience of communities and other business sectors. Innovation may relate to innovative approaches to ecological restoration/conservation or

⁵ Biodiversity is the variety of ecosystems, species and genes.

innovative business models such as harnessing ethical investments and adding value to goods and services through certification and standards schemes.

With the exception of "Biodiversity Offsets" each of the above categories is applicable to areas of high biodiversity value protected in Natura 2000. Whereas projects aimed at compensating damage to Natura 2000 sites according to Article 6.4 of the Habitats Directive are not eligible for financing under the NCFE, compensatory measures for damage elsewhere may take place in Natura 2000 sites or in other ways that contribute to the coherence of the network and are eligible under NCFE.

Whenever a project is eligible under another Financial Instrument, it will be eligible under the NCFE only if this is financially more favourable to the Commission than if the support would be provided under the other Financial Instrument.

For every Operation, eligibility will be confirmed or denied by the Designated Service in accordance with Article 6.5 or 7.4 of this Delegation Agreement.

2. The form of the EU intervention

Any of the investments made under the NCFE shall comply with the following provisions:

a) Type of investment

The NCFE shall make investments in debt or equity and provide a risk sharing mechanism.

Investments shall be made either directly by the NCFE, or indirectly through intermediaries, selected as described below. Equity investments will be achieved exclusively through participations in funds managed by specialised intermediaries.

b) Source of funding

All investments shall be made with up to 75% of the amounts coming from Bank Contribution, the remainder coming from other sources of financing.

c) Additionality

To ensure the additionality of the NCFE, it should be demonstrated that each project being considered for NCFE funding is not normally financed by the Bank given the target sector and/or recipient type and/or counterparts and/or project size and/or innovative business model.

d) Investment policy

The following Investment Policy rules shall apply at the NCFE portfolio level.

i) Number of Operations

It is envisaged to conclude about 9 to 12 Operations, i.e. 3 to 4 per year

ii) Concentration rules

Direct or Indirect Operations:

- The EIB amount committed to a single Operation shall not exceed EUR 15 million.

Geography:

- The share of the maximum EU Contribution to the Investment Facility (€ 50 million) that may be utilised as a guarantee for direct operations in a single EU Member State shall not exceed 15%.

- The share of the maximum Contribution to the Investment Facility (€ 50 million) that may be utilised as a guarantee for indirect operations in a single EU Member State shall not exceed 15%.
- The share of the maximum EU Contribution to the Investment Facility (€ 50 million) that may be utilised as a guarantee for both direct and indirect operations in a single EU Member State shall not exceed 20%.
- In the case of Operations involving more than one Member State, the share for each Member State shall be equal to the respective share of expected project costs in that Member State.
- For applying these geographic concentration rules to indirect operations: the contribution will account for the Member State where the fund is located, except for the shares of that contribution that have been committed by the fund to final recipients in other Member States. Those shares of the contribution shall count for applying the concentration rules with respect to those Member States.
- The Designated Service, following advice from the Steering Committee, may decide to increase these shares to 20%, 20% and 25% respectively for operations to be committed in 2017 if an assessment of the pipeline of projects under development shows a high risk of not being able to utilise the full facility if the original maximum shares would be maintained and taking into account the need to ensure geographical balance pursuant to Article 19(5) of the Legal Basis.
- The Commission will inform the Bank on a regular basis of the extent to which the national allocations referred to in Article 19(5) of the Legal Basis have been reached or are expected to be reached. To the extent possible, the Bank shall take account of this information when encouraging the development of project proposals. At equal level of ranking, priority will be given to projects in Member States that do not lead to exceeding the relevant national allocation.

Sector / Project typology:

- No more than 35% of the maximum EU Contribution to the Investment Facility (€ 50 million) shall be utilised in any one of the four categories mentioned above.
- The Designated Service, following advice from the Steering Committee, may decide to increase this share to 40% respectively for operations to be committed in 2017 if an assessment of the pipeline of projects under development shows a high risk of not being able to utilise the full facility if the original maximum share would be maintained.

Type of financing:

- As a target, 30% of the Investment Facility shall be used for equity financing.
- The Designated Service, following advice from the Steering Committee, may decide to allow a share beyond 40% in particular if an assessment of the pipeline of projects under development shows a high risk of not being able to utilise the full facility if the original maximum share would be maintained.

e) Timing of investments

For debt investments, the tenors shall be typically 10 years, with the possibility of a grace period during project preparation and construction (up to 3 years). In certain cases, loans up to 15 years could be granted.

Fund investments will have typically a term in the range of 10 to 15 years.

f) Proportion of Funding

The share of the loan or equity from the NCFF Investment Facility in the total investment cost of the project, including the contribution through financial intermediaries, shall not exceed 75%.

The maximum share the NCFF can take in equity funds will be 33%. The conditions for investment from the NCFF in such funds will be *pari passu* to other contributions.

g) Other EU funding

Whereas EU funding for research activities is provided under Horizon 2020 – the Framework Programme for Research and Innovation (2014–2020)⁶, limited research aimed to improve and enhance the knowledge data underpinning the project may be carried out within an NCFF-financed project. Research must be strictly limited and intrinsically related to the project's objectives and the potential final recipient shall explain in detail how the proper implementation of the project relies on these research activities, showing that the existing scientific basis is insufficient, and how the additional knowledge will be used to implement the project actions.

According to Article 8 of the LIFE Regulation, activities supported from the LIFE Programme must ensure consistency and synergies, and avoid overlap with other funding programmes of the Union. In particular, coordination must be ensured with the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development, the European Maritime and Fisheries Fund and Horizon 2020. It is thus essential that, prior to submitting their proposal, potential final recipients check thoroughly whether the actions proposed under their project in practice are funded through other EU funds to ensure that no double funding may take place. The final recipients must inform the Bank (or in the case of an Indirect Operation they must inform the Financial Intermediary who must inform the Bank) about any related funding they have received from the EU budget, as well as any related ongoing applications for funding from the EU budget. Combining support under the NCFF with grants funded from the Union budget is not excluded, but must, *inter alia*, respect the rules of the respective instruments or support schemes and the State aid rules.

h) Currency

Investments, whether debt or equity, may be made in euro or in any of the Tradable Currencies listed in Annex 4.2. All foreign exchange losses and gains resulting from carrying out Operations in a currency other than the euro shall be for the account of the NCFF will impact the amounts included in the waterfalls described in Annex 3.

3. Selection of Financial Intermediaries

As set out in Article 4 of the FAFA, the Bank shall select Financial Intermediaries on the basis of open, transparent, proportionate and non-discriminatory procedures, avoiding

⁶ Regulation (EU) No 1290/2013 of the European Parliament and of the Council of 11 December 2013 laying down the rules for participation and dissemination in "Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020)" and repealing Regulation (EC) No 1906/2006 (OJ L 347, 20.12.2013, p. 81).

conflicts of interest, with due account of the nature of the NCFE and the experience and financial capacity of the entities concerned.

The Bank shall select or enter into an Agreement for providing support under the NCFE only with Financial Intermediaries which comply with all the requirements set out in points 3.1 and 3.2 below.

Financial Intermediaries which do not comply with such requirements shall be excluded from the selection process.

3.1 General requirements

Financial Intermediaries shall comply with the following general requirements:

- a. the requirements laid down in Articles 4.3 of the FAFA;
- b. not fall within any of the situations set out in Article 4.4 of the FAFA;
- c. agree to publicize the support of the European Union under the NCFE in accordance with Article 19 of this Delegation Agreement, and allow the publication referred to in Article 20 of this Delegation Agreement;
- d. agree to transpose the conditions under Articles 4.3 and 4.4 of the FAFA into their agreements with Final Recipients;
- e. not select any legal person who does not comply with all the requirements set out under point 4.1 below.

Financial Intermediaries shall provide the Bank with a duly signed declaration of honour as regards compliance with points a, b and c and with a duly signed declaration of honour confirming that they are not in one of the situations referred to in Article 4.4 of the FAFA.

As from obtaining access to the central exclusion database referred to in Article 21 of the FAFA, the Bank shall confirm that Financial Intermediaries are not listed in this database.

3.2. Instrument-specific requirements

Financial Intermediaries shall comply with the following specific requirements:

- (i) to be a private sector or market-based financial institution;
- (ii) to demonstrate capacity to reach final recipients targeted by the NCFE;
- (iii) to demonstrate operational capacity to distribute the funds available from the Facility and commit to use that capacity;
- (iv) to undertake the obligations and requirements associated with the distribution of the Facility.

4. Selection of Final Recipients

Pursuant to Article 7 of this Delegation Agreement, the Bank shall select Final Recipients on the basis of open, transparent, proportionate and non-discriminatory procedures, avoiding conflicts of interest, with due account of the nature of the NCFE and the economic viability of the entities concerned.

Financial Intermediaries shall select Final Recipients according to their internal rules and procedures and in compliance with the criteria set out in points 4.1 and 4.2 below.

The Bank and any Financial Intermediary shall select, or enter into an Agreement for providing support under the NCFE only with Final Recipients that comply with all the following requirements.

4.1 General requirements

The Final Recipients shall comply with the following general requirements:

- a. the requirements laid down in Articles 4.3 and 4.4 of the FAFA;
- b. acknowledge the support of the European Union under the NCFF in accordance with Article 19 of this Delegation Agreement, and allow the publication referred to in Article 20 of this Delegation Agreement;
- c. be economically viable at the time of the first commitment by the Financial Intermediary or become potentially economically viable as a result of the commitment by the Financial Intermediary.

Final Recipients shall provide the relevant Financial Intermediaries or the Bank, as applicable with a duly signed declaration of honour confirming that they are not in one of the situations referred to in Article 4.4 of the FAFA.

4.2 Instrument-specific requirements

Final Recipients shall comply with the following instrument-specific requirements:

- they must be legal entities registered in the European Union. Final Recipients may fall into three types: (1) public bodies, (2) private commercial organisations and (3) private non-commercial organisations (including NGOs). The term "public bodies" is defined as referring to national public authorities, regardless of their form of organisation – central, regional or local structure – or the various bodies under their control, provided these operate on behalf of and under the responsibility of the national public authority concerned,
- they shall pioneer new business models for natural capital management, amongst the typologies identified above, i.e. green infrastructure, payments for ecosystem services, biodiversity offsets, or innovative pro-biodiversity/adaptation businesses or corporates.

5. Selection process:

In accordance with Article 6.1 and 7.1 of this Delegation Agreement, the Bank shall examine proposals on a continuous basis, using professional analysis and judgment, in accordance with the present Policy and Operational Guidelines.

Proposals will be considered for approval by the Bank, after satisfactory due diligence and selection by the Bank, within the constraints of the available EU Contribution.

The steps in the selection process shall be as follows:

- A. To screen potential operations and counterparties for exclusion, eligibility and selection criteria. On the basis of a preliminary assessment, the EIB will submit the eligibility checklist to the Designated Service for approval in accordance with Article 6.5. Provided approval by the Designated Service, step B follows. If not, the proposal shall be rejected.
- B. On the basis of a full assessment, if a proposal by a Financial Intermediary or, if applicable, Final Recipient fulfils all the criteria, then step C follows. If not, the proposal shall be rejected.
- C. To score the proposal according to the following criteria:
 1. capacity, experience and resources of the counterparts (final recipient and/or financial intermediary);
 2. Strength and coherence of the business model;
 3. Structure of the investment (co-investors, governance and reporting);
 4. Contribution to the LIFE objectives

5. EU added value.

Each one of these elements is described in the table below in more details. A proposal that does not meet the minimum score required for each criterion will not be accepted.

[...]

[...]

The Designated Service will provide guidance to the EIB for the assessment of the prospective projects' contribution to the general and specific objectives laid down in Article 3 in conjunction with Article 11 (priority area "nature and biodiversity") and/or Article 15 (priority area "climate change adaptation") of the LIFE Regulation.

For appropriate evaluation of the achievements, at project level, the relevant baseline indicators will have to be determined before the start of the project's implementation. They will be monitored and reported on pursuant to Article 14 and Annex 6a.

The selection process will focus on the assessment of counterparts, business, structure, contribution to the LIFE objectives and EU added value.

Counterparts, in particular Final Recipients and/or Financial Intermediaries, will need to demonstrate that they have the necessary technical, operational, and financial competence and skills to implement the proposed Operation. They shall also have adequate experience in the relevant sector and geography. Counterparts shall also demonstrate that they have adequate infrastructure, systems and an adequate number of staff sufficiently qualified. In case there is a gap related to the technical and operational skills or the financial competence of Financial Intermediaries and Final Recipients, the Support Facility may be used to fill in this gap.

The proposed Operation will need to target a market and/or sector that support bankable business opportunities. Moreover, the proposed Operation will need to be based on a sound business model and plan with a clear revenue model and/or cost savings. Potential regulatory risks will need also to be assessed.