

ANNEX III: TO CALL FOR EXPRESSION OF INTEREST TO SELECT FINANCIAL INTERMEDIARIES UNDER DCFTA INITIATIVE EAST – GUARANTEE FACILITY

Indicative Terms and Conditions of the Counter-Guarantee

Important Disclaimer

This summary term sheet is for information purposes only. This document is an outline of the principal terms and conditions for the product described herein, which are subject to change and non-exhaustive.

This document is intended to provide a basis for discussions and does not constitute a recommendation, a solicitation, an offer or a binding commitment – either implicit or explicit – on the part of the European Investment Fund (“EIF”), the European Investment Bank (“EIB”) or any other person to enter into one or more transaction(s). Any finance commitment by EIF or EIB can only be made, inter alia, after appropriate approval, conclusion of legal due diligence and finalisation of the required legal documentation. Neither EIF nor EIB acts as adviser to you or owes you any fiduciary duty or duty of care. EIF and EIB act solely in their own respective commercial interest in entering into any financial instrument with you. Neither EIF nor EIB makes any representations or warranties (whether explicitly or implicitly) with respect to the information contained in this document.

Overview of the Counter-Guarantee

The counter-guarantee (the “**Counter-Guarantee**”) shall be issued by EIB (the “**Counter-Guarantor**”) and implemented and managed by EIF (the “**Transaction Agent**”) for the benefit of the **Financial Intermediary**. It shall partly cover the credit risk associated with guarantees covering (directly or indirectly) debt financing (such as loans and leases) to SMEs (“**Guarantee Transactions**”) included in the guaranteed portfolio (the “**Portfolio**”). Eligible Guarantee Transactions shall be covered at a guarantee rate of maximum 70% per loan up to a maximum guarantee of 25% for the Portfolio.

The Counter-Guarantee shall cover losses incurred by the Financial Intermediary in respect of each defaulted eligible Guarantee Transaction, as further specified below.

The origination, due diligence, documentation and servicing of the Guarantee Transactions shall be performed by the Financial Intermediary in accordance with its standard origination and servicing procedures.

Eligible Guarantee Transactions will be automatically covered, by way of submitting inclusion notices on a bi-annual basis until the end of the relevant Inclusion Period.

Indicative Terms of the Counter-Guarantee	
Target Region	DCFTA East Countries: Ukraine, the Republic of Moldova and Georgia. This list may be amended, restated, supplemented or substituted from time to time by the Transaction Agent and the Counter-Guarantor jointly.
Structure	The Counter-Guarantee shall be a capped first loss portfolio counter-guarantee providing credit risk coverage on a guarantee by guarantee basis for the creation of a portfolio of eligible Guarantee Transactions. The Counter-Guarantee shall cover Losses incurred by the Financial Intermediary in respect of each defaulted eligible Guarantee Transaction in accordance with the Counter-Guarantee Rate and subject to the Counter-Guarantee Cap Amount. Losses covered by the Counter-Guarantee in respect of the Portfolio of eligible Guarantee Transactions shall in aggregate not exceed the Counter-Guarantee Cap Amount agreed in the counter-guarantee agreement between the Counter-

**ANNEX III: TO CALL FOR EXPRESSION OF INTEREST TO SELECT FINANCIAL INTERMEDIARIES
UNDER DCFTA INITIATIVE EAST – GUARANTEE FACILITY**

	Guarantor, the Transaction Agent and the Financial Intermediary (the “Counter-Guarantee Agreement”). The recoveries on the underlying guarantee instruments will be shared <i>pari passu</i> by the Financial Intermediary and the Counter-Guarantor in the same proportion of the default cover. The Financial Intermediary shall pay a counter-guarantee premium calculated on the basis of the counter-guaranteed part of the outstanding principal amounts of the performing Guarantee Transactions included in the Portfolio. The Financial Intermediary shall maintain an economic exposure of at least 20% of the outstanding principal amount of each Guarantee Transaction included in the Portfolio, and it shall not enter into any credit support, counter-guarantee or other transfer of risk arrangements with respect to such portion (provided that any collateral, security or guarantee payable to the Financial Intermediary that qualify as recoveries under the relevant Counter-Guarantee Agreement shall not be taken into account for this purpose). EIF, as Transaction Agent, shall implement and manage the Counter-Guarantee Agreement for the benefit of the Counter-Guarantor (including, but not limited to, by managing the contractual relationship with the Financial Intermediary and paying out and receiving any amounts under the Counter-Guarantee Agreement on behalf of the Counter-Guarantor).
Governing Law and Language	The terms of the Counter-Guarantee Agreement shall be in the English language and the Counter-Guarantee Agreement shall indicatively be governed by the laws of England and submitted to the jurisdiction of the courts of England or such other governing law and jurisdiction including (without limitation) arbitration as the Counter-Guarantor and Transaction Agent determine.
Guarantee Transaction	Any guarantee instrument issued by the Financial Intermediary for the benefit of a Financial Sub-Intermediary, covering (directly or indirectly) an eligible SME Transaction
Counter-Guarantee Currency	The Counter-Guarantee shall be typically denominated in EUR. The currency of Guarantee Transactions included in the Portfolio can be EUR, USD, Ukrainian hryvnia (UAH), Moldovan leu (MDL) and Georgian lari (GEL). If Guarantee Transactions are denominated in a currency other than EUR, and losses or loss recoveries are denominated in a currency other than EUR, the FX mechanism described below shall be applied.
Availability Period	Typically 24 months from the date of signature of the Counter-Guarantee Agreement, or such other period as determined by the Counter-Guarantor and the Transaction Manager. During the Availability Period, eligible Guarantee Transactions may be included by the Financial Intermediary in the Portfolio for coverage under the Counter-Guarantee. Such inclusion of Guarantee Transactions shall occur automatically upon receipt by the Transaction Agent of an inclusion notice submitted by the Financial Intermediary on a semi-annual basis. For the avoidance of doubt, the Guarantee Transactions so included shall be deemed to be covered by the Counter-Guarantee from the date of the signature of such Guarantee Transactions.
Financial Intermediaries	Public or private guarantee schemes, guarantee institutions or other financial institutions duly authorised to carry out guarantee activities under the applicable regulatory framework, established and operating in one or several of DCFTA East

**ANNEX III: TO CALL FOR EXPRESSION OF INTEREST TO SELECT FINANCIAL INTERMEDIARIES
UNDER DCFTA INITIATIVE EAST – GUARANTEE FACILITY**

	Countries. Such institutions shall comply with relevant standards and applicable legislation on the prevention of money laundering, the fight against terrorism and tax fraud to which it may be subject, and shall not be established in a Non-Cooperating Jurisdiction and shall not be in an exclusion situation as further described in the Annex I to the Call.
Financial Sub-Intermediary	Financial or credit institutions duly authorised to carry out lending or leasing activities according to the applicable legislation, established and operating in one or several of DCFTA East Countries. Financial Sub-Intermediaries shall be approved by the Financial Intermediary in its usual course of business. Financial Sub-Intermediaries shall meet, <i>mutatis mutandis</i>, the requirements for the Financial Intermediaries referred to in this document, as further specified in each Counter-Guarantee Agreement.
Agreed Volume	The aggregate amount of principal of the Guarantee Transactions that may be included in the Portfolio, as agreed for each relevant Counter-Guarantee. The Agreed Volume will correspond to a percentage of the Maximum Volume (typically 75%) that may be increased up to the Maximum Volume at the Counter-Guarantor's and the Transaction Agent's discretion depending on successful ramp-up of the Portfolio by the Financial Intermediary. For the avoidance of doubt, a volume of the Portfolio below the Agreed Volume shall not affect the legal validity of the Counter-Guarantee. At any time during the Availability Period, the Agreed Volume may be reduced by EIF if the Financial Intermediary materially lags behind its Portfolio ramp up time schedule as reflected in the Counter-Guarantee Agreement.
Maximum Volume	The maximum size of the Portfolio (typically denominated in EUR regardless of the denomination of the Guarantee Transactions included in the Portfolio).
Actual Volume	The aggregate amount of the principal committed to be available under eligible Guarantee Transactions included in the Portfolio from time to time, provided that, for the avoidance of doubt: i) if any underlying SME Transaction covered by a Guarantee Transaction is prepaid and/or repaid, then this shall not reduce the Actual Volume; ii) if a Guarantee Transaction is excluded from the Portfolio as a result of the exclusion process described below, then such Guarantee Transaction shall not be taken into account for the calculation of the Actual Volume; and iii) the Actual Volume may in no circumstances exceed the Agreed Volume. In case the Portfolio consists of eligible Guarantee Transactions denominated in EUR, USD and/or a local currency, for the purpose of the calculation of Actual Volume, Guarantee Transactions denominated in USD and the local currency will be converted into EUR at the Relevant FX Rate.
Counter-Guarantee Rate	The Counter-Guarantee Rate shall not exceed 70%.
Counter-Guarantee	The Counter-Guarantee Cap Rate shall be determined by the Counter-Guarantor

**ANNEX III: TO CALL FOR EXPRESSION OF INTEREST TO SELECT FINANCIAL INTERMEDIARIES
UNDER DCFTA INITIATIVE EAST – GUARANTEE FACILITY**

Cap Rate	and the Transaction Agent for each Counter-Guarantee on a case by case basis and shall not exceed 25%.
Counter-Guarantee Cap Amount	For each Counter-Guarantee the maximum aggregate amount of counter-guarantee coverage is calculated based on the Actual Portfolio Amount, the Counter-Guarantee Rate and the Counter-Guarantee Cap Rate as follows: Counter-Guarantee Cap Amount = Actual Portfolio Amount x Counter-Guarantee Rate x Counter-Guarantee Cap Rate.
Counter-Guarantee Fee	35 bps per annum.
Counter-Guarantee Fee Amount	Means the amount payable bi-annually in arrears by the Financial Intermediaries, calculated as the product of: 1. the aggregate daily average of the outstanding performing SME Transactions during the calendar semester; 2. the relevant guarantee rate of the Guarantee Transaction; 3. the Counter-Guarantee Rate; and 4. the Counter-Guarantee Fee divided by 360. The calculation of the Counter-Guarantee Fee Amount may be adjusted in the specific terms of the Counter-Guarantee Agreement.
Losses	The Counter-Guarantee covers Losses incurred by the Financial Intermediary at the Counter-Guarantee Rate, subject to the Counter-Guarantee Cap Amount, , where Losses mean any amounts due and paid by the Financial Intermediary under the terms of the covered Guarantee Transaction following the occurrence of either a SME Transaction Default, a SME Transaction Acceleration or a SME Transaction Restructuring in respect of any of the underlying SME Transaction. The Losses are covered until the earlier of (i) 18 December 2031 and (ii) a date specified in the Counter-Guarantee Agreement.
SME Transaction Default	Means, in respect of an SME Transaction covered by the Guarantee Transaction and unless otherwise specified in the specific terms of the Counter-Guarantee Agreement that (i) the Financial Sub-Intermediary considers at any time (acting reasonably in accordance with its internal procedures) that an SME is unlikely to meet its payment obligations under such SME Transaction (without recourse by the Financial Sub-Intermediary to action such as realisation of security); or (ii) an SME has failed to meet any payment obligation under the relevant SME Transaction which has continued for at least 90 consecutive calendar days.
SME Transaction Acceleration	Means, in respect of an SME Transaction covered by the Guarantee Transaction and unless otherwise specified in the specific terms of the Counter-Guarantee Agreement, the occurrence of an event of default (howsoever defined) under such SME Transaction which has entitled the Sub-Financial Intermediary to demand payment of any amounts owed to it prior to their contractually due date and the Sub-Financial Intermediary has exercised such right (or is prevented from exercising such rights solely by application of mandatory laws and regulations preventing or staying the exercise of such right).
SME Transaction Restructuring	Means, in respect of an SME Transaction covered by the Guarantee Transaction and unless otherwise specified in the specific terms of the Counter-Guarantee Agreement, that the Sub-Financial Intermediary, acting in a commercially reasonable manner and in accordance with its standard internal procedures, agrees to the restructuring of such SME Transaction such that the amount of

**ANNEX III: TO CALL FOR EXPRESSION OF INTEREST TO SELECT FINANCIAL INTERMEDIARIES
UNDER DCFTA INITIATIVE EAST – GUARANTEE FACILITY**

	principal scheduled to be paid, or any interest amount due, by the relevant SME is reduced, in order to improve the collectability of the claims arising from the relevant SME Transaction.
Payment Demands	The Counter-Guarantor (acting through the Transaction Agent) shall pay any amounts claimed by the Financial Intermediaries within 60 calendar days of the relevant Payment Demand date. Payment Demands shall be: a) in respect of Losses relating to Guarantee Transactions included in the Portfolio, such Losses having been reported to the Transaction Agent by not later than the third Report Date following the calendar semester in which such Losses have been incurred; b) sent during a specific period as further specified in the Counter-Guarantee Agreement.
Events of Default under the Counter-Guarantee	Standard events of default (including but not limited to non-payment, breach of agreement, repudiation, unlawfulness and insolvency). The occurrence of an event of default, if it has not been remedied within the relevant grace period (if any) may result in the termination of the Counter-Guarantee Agreement (such event, an “Early Termination”).
Latest SME Transaction Maturity Date	Means the latest day on which an SME Transaction covered by the Guarantee Transaction in a Portfolio is scheduled to be repaid by the relevant SME in accordance with the scheduled repayment provisions of the documentation governing such SME Transaction (including as a result of any amendment to the terms of such SME Transaction).
Termination Date	The Counter-Guarantee shall terminate on the earlier of: i) nine months following the Latest SME Transaction Maturity Date; ii) the date on which an Early Termination (if any) has occurred, iii) the date (if any) on which the Counter-Guarantor and the Transaction Agent are no longer liable to make further payments to the Financial Intermediary and has no further claims under the Counter-Guarantee; and iv) 18 December 2031.

SMEs and Eligibility Criteria

SME	Any micro, small or medium-sized enterprise that qualifies as an SME under the Commission Recommendation 2003/361/EC (OJ L124, 20.05.2003, p. 36) as amended from time to time.
SME Transaction	A debt financing provided by a Financial Sub-Intermediary to an SME.
Revolving SME Transaction	An SME Transaction in the form of a loan (which shall include an overdraft line of credit and exclude any credit or loan resulting from utilisation of credit card limits or in the form of purchase of receivables, whether on a recourse or non-recourse basis) to an SME that can use, on a revolving basis, the financing available for a specified period through one or more drawdowns and repayments up to the Credit Limit Amount, including by settling obligations arising from a letter of credit.

**ANNEX III: TO CALL FOR EXPRESSION OF INTEREST TO SELECT FINANCIAL INTERMEDIARIES
UNDER DCFTA INITIATIVE EAST – GUARANTEE FACILITY**

Credit Limit Amount	The maximum principal amount that a Financial Intermediary commits under a Revolving SME Transaction without any repayments by the SME.
Rollover of Revolving SME Transactions	Any entry into a new agreement with a new maturity and the same SME to replace an existing Revolving SME Transaction but without repayment in full by the SME of amounts outstanding under the existing Revolving SME Transaction, shall be treated as an extension of the maturity of the existing Revolving SME Transaction (and not as the entry into a separate Revolving SME Transaction).
Conversion of Revolving SME Transactions	If, without repayment in full by the SME of amounts outstanding under a Revolving SME Transaction, the terms of such Revolving SME Transaction covered by the Guarantee Transaction included in the Portfolio are modified to the effect that the relevant SME Transaction no longer takes the form of a Revolving SME Transaction, including by way of entry into a new contractual agreement or the execution of a contractual amendment then, subject to the other provisions of the Counter-Guarantee Agreement, the resulting SME Transaction may continue to be covered by the Guarantee Transaction included in the Portfolio and shall remain covered by the Counter-Guarantee (and shall not be treated as a separate SME Transaction) in accordance with the terms of the relevant Counter-Guarantee Agreement.
Eligibility Criteria	Each Guarantee Transaction included in a Portfolio shall comply with the Guarantee Transaction Eligibility Criteria and the Financial Sub-Intermediary Eligibility Criteria and shall cover only SME Transaction complying with the SME Eligibility Criteria and the SME Transaction Eligibility Criteria set out below and any additional eligibility criteria set out in the specific terms of the relevant Counter-Guarantee Agreement (collectively, the “Eligibility Criteria”). The Guarantee Transaction Eligibility Criteria and the SME Transaction Eligibility Criteria shall be met at all times. The SME Eligibility Criteria shall only be met on the signing date of the relevant SME Transaction. The additional Eligibility Criteria, if any, shall be met as specified in the specific terms of the relevant Counter-Guarantee Agreement. <i>Guarantee Transaction Eligibility Criteria</i> The Guarantee Transactions shall comply with each of the following eligibility criteria: i) The guarantee rate of the Guarantee Transaction shall not be higher than 80%; ii) The Financial Intermediary shall at least rank <i>pari passu</i> with the Financial Sub-Intermediary with respect to any recoveries relating to the SME Transactions covered (directly or indirectly) by the Guarantee Transactions; iii) The Guarantee Transaction currency shall be denominated in EUR, USD or in the relevant local currency; iv) The Guarantee Transaction shall not be entered into with a Financial Sub-Intermediary that is established in a Non-Cooperating Jurisdiction; and v) The Guarantee Transaction shall cover (directly or indirectly) SME Transactions that shall meet the other Eligibility Criteria specified below. <i>Financial Sub-Intermediary Eligibility Criteria</i> The Financial Sub-Intermediary under a Guarantee Transaction shall comply with

**ANNEX III: TO CALL FOR EXPRESSION OF INTEREST TO SELECT FINANCIAL INTERMEDIARIES
UNDER DCFTA INITIATIVE EAST – GUARANTEE FACILITY**

	each of the following eligibility criteria: i) shall be a financial institution or credit institution duly authorised, if applicable, to carry out lending or leasing activities or providing bank guarantees according to applicable legislation; ii) not have a substantial focus on one or more restricted sectors (which determination shall be made by the Financial Intermediary in its discretion based, without limitation, on the proportionate importance of such sector on revenues, turnover or client base of the relevant SME) listed on EIF's website http://www.eif.org/news_centre/publications/2010_Guidelines_for_Restricted_Sectors.htm; iii) not be to its knowledge in an exclusion situation as further described in the Annex I to the Call; iv) be established and operating in a DCFTA East Country; v) not be established in a Non-Cooperating Jurisdiction; vi) do not conduct as part of their business activities illegal activities according to applicable legislation; and vii) be acceptable as a counterparty to the Financial Intermediary, in accordance with its internal policies and guidelines; Compliance with the Financial Sub-Intermediary Eligibility Criteria may be verified by the Financial Intermediaries on the basis of a representation by the Financial Sub-Intermediary. <i>SME Eligibility Criteria</i> The SME shall comply with each of the following eligibility criteria: i) be an SME; ii) be deemed potentially economically viable at the time of the support of the EU Contribution; iii) not have a substantial focus on one or more restricted sectors (which determination shall be made by the Financial Intermediary in its discretion based, without limitation, on the proportionate importance of such sector on revenues, turnover or client base of the relevant SME) listed on EIF's website http://www.eif.org/news_centre/publications/2010_Guidelines_for_Restricted_Sectors.htm; iv) be established and operating in a DCFTA East Country; v) not be established in a Non-Cooperating Jurisdiction; vi) not be to its knowledge in a Exclusion Situation, except if it is a natural person; vii) do not conduct as part of their business activities illegal activities according to applicable legislation; viii) be acceptable as a counterparty to the relevant Financial Sub-Intermediary, in accordance with its internal policies and guidelines; ix) in the case of Israeli entities, comply with the eligibility criteria formulated in Commission notice Nr 2013/C 205/05 setting out the Guidelines on the eligibility of Israeli entities and their activities in the territories occupied by Israel since June 1967 for grants, prizes and financial
--	---

**ANNEX III: TO CALL FOR EXPRESSION OF INTEREST TO SELECT FINANCIAL INTERMEDIARIES
UNDER DCFTA INITIATIVE EAST – GUARANTEE FACILITY**

	instruments funded by the EU from 2014 onwards. A Financial Intermediary may verify compliance with the SME Eligibility Criteria on the basis of a representation by the SME, provided that the Financial Intermediary has no basis for believing that such representation is untrue, misleading or incorrect. <i>SME Transaction Eligibility Criteria</i> SME Transactions covered by the Guarantee Transactions shall comply with each of the following eligibility criteria: i) The SME Transaction shall be newly originated; ii) the purpose of the SME Transaction shall be: (1) investment in tangible or intangible assets, (2) working capital, or (3) finance for any other lawful purpose supporting the business of SMEs; iii) The SME Transaction shall be any type of debt financing, including investment loans, revolving facilities (including overdrafts, but excluding credit cards), subordinated loans, participating loans, convertible loans, bonds, letters of credit, leasing or bank guarantees; iv) SME Transactions may be issued for the purpose of re-financing existing debt financing that have not reached legal maturity. Such re-financings may be included in the Portfolio for an amount up to 20% of the Agreed Portfolio Volume, subject to the following conditions: • re-financing shall not be allowed for debt transactions which are (i) more than thirty (30) days past due or (ii) in non-performing loan or default status within applicable national banking rules; • SME Transaction that includes re-financing shall be subject to a new credit assessment and its financial sustainability shall be verified (including, if applicable, collateral revaluation); • That the SME Transaction after re-financing benefits from lower interest rates; • unless it has a minimum remaining maturity (under the re-financed agreement) of twelve (12) months, benefit from a longer maturity (compared to the remaining loan maturity of the existing debt finance) and/or an increase of the amount of financing; and • the collateral arrangements under the SME Transaction shall not be stricter than as applied to the re-financed debt; v) The SME Transaction initial principal amount shall not exceed the lower of (i) EUR 5,000,000 (or equivalent amount in local currency) and (ii) 10% of the Maximum Portfolio Volume; vi) The SME Transaction shall have a fixed repayment schedule or be a Revolving SME Transaction; vii) The minimum contractual maturity of SME Transactions shall be six (6) months (rounded up to the nearest full calendar month, and including the relevant grace period (if any)); viii) The maximum contractual maturity of SME Transactions that are not Revolving SME Transactions shall be one hundred twenty (120) months (rounded down to the nearest full calendar quarter) and including the relevant grace period (if any);
--	---

**ANNEX III: TO CALL FOR EXPRESSION OF INTEREST TO SELECT FINANCIAL INTERMEDIARIES
UNDER DCFTA INITIATIVE EAST – GUARANTEE FACILITY**

	ix) The maximum contractual maturity of Revolving SME Transactions, including the renewal of such transactions, shall be sixty (60) months (rounded down to the nearest full calendar quarter); x) The SME Transaction shall not be affected by an Irregularity or Fraud; xi) Currency: an SME Transaction has to be denominated in EUR, USD or in the relevant local currency; xii) SME Transaction shall not support activities constituting pure financial transactions (such as trading in financial instruments). Additional Eligibility Criteria will also apply at the level of the Financial Sub-Intermediary The breach of any of the eligibility criteria shall result in an exclusion of the relevant Guarantee Transaction(s) from the Portfolio save as specified in the “Exclusion Process”. The Financial Intermediary shall offer more favourable features on its Guarantee Transactions and require Financial Sub-Intermediaries to offer more favourable features on the SME Transactions covered (directly or indirectly) by the Guarantee Transactions than it would have without the Counter-Guarantee, including (without limitation) (a) an increased maturity, (b) a reduction of the guarantee fee of the Guarantee Transaction or interest rate of the SME Transaction (the interest rate shall be justifiable with regard to underlying risks and the actual cost of funding related to a credit), and/or (c) reduction of the collateral requirements applicable to the SME Transactions (the collateral requirements shall be justifiable with regard to underlying risks).
<i>Exclusion Situations</i>	(a) The SME is on the signing date of the document(s) evidencing the relevant SME Transaction bankrupt or being wound up, is on the signing date of the document(s) evidencing the relevant SME Transaction having its affairs administered by the courts, in this context, has during the last five (5) years from the date of signing of the document(s) evidencing the relevant SME Transaction entered into an arrangement with creditors, has on the signing date of the document(s) evidencing the relevant SME Transaction suspended business activities, is on the signing date of the document(s) evidencing the relevant SME Transaction the subject of proceedings concerning those matters or is as of the signing date of the document(s) evidencing the relevant SME Transaction in any analogous situation arising from a similar procedure provided for in national legislation or regulations; (b) During the last five (5) years from the signing date of the document(s) evidencing the relevant SME Transaction, the SME or persons having powers of representation, decision-making or control over it has been convicted of an offence concerning its professional conduct by a judgment which has the force of res judicata, which would affect its ability to implement the SME Transaction. Alternatively, where such judgments exist, the SME can demonstrate that adequate measures have been adopted against the persons having powers of representation, decision making or control over it, who are subject to this judgment; (c) During the last five (5) years from the signing date of the document(s) evidencing the relevant SME Transaction, the SME or persons having powers of representation, decision-making or control over it has been the subject of a judgment which has force of res judicata for fraud, corruption, involvement in a criminal organisation, money laundering or any other illegal activity, where such

**ANNEX III: TO CALL FOR EXPRESSION OF INTEREST TO SELECT FINANCIAL INTERMEDIARIES
UNDER DCFTA INITIATIVE EAST – GUARANTEE FACILITY**

	illegal activity is detrimental to the Union's financial interests. Alternatively, where such judgments exist the SME can demonstrate that adequate measures have been adopted against the persons having powers of representation, decision making or control over it, who are subject to this judgment; (d) As of the signing date of the document(s) evidencing the relevant SME Transaction, the SME is guilty of misrepresentation in supplying information required for selection as a SME or fails to supply this information; and (e) As of the signing date of the document(s) evidencing the relevant SME Transaction, the SME is, to its knowledge, listed in the central exclusion database, established under Commission Regulation (EC, Euratom) No 1302/2008 of 17 December 2008 on the central exclusion database.
Fraud	Includes, without limitation, as set out in Article 1 in the Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on the protection of the European Communities' financial interests (OJ C 316, 27.11.1995, p.49), fraud affecting the European Union's financial interests ¹
Irregularity	Shall have the meaning as set out in Article 1.2 in Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p.1) ²
Exclusion Process	At any time, the Transaction Agent or the Counter-Guarantor may (but shall not be obliged to) verify whether an Guarantee Transaction included in the Portfolio is an eligible Guarantee Transaction or a non-eligible Guarantee Transaction and whether its inclusion in the Portfolio is in compliance with the terms of the Counter-Guarantee Agreement. If a Financial Intermediary becomes aware that a Guarantee Transaction is or becomes a non-eligible Guarantee Transaction the Financial Intermediary shall include such information in the immediately following Report delivered to the Transaction Agent. The Transaction Agent may at any time upon becoming aware of the same (except if it has already been notified thereof by the Financial Intermediary as set out above) notify the Financial Intermediary of the same by sending an exclusion notice identifying such non-eligible Guarantee Transaction. If a Guarantee Transaction does not comply with Eligibility Criteria it shall be excluded from the Portfolio (and shall not be covered by the Counter-Guarantee) as

¹ Fraud affecting the EU's financial interests shall consist of:

(a) in respect of expenditure, any intentional act or omission relating to:

- the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the general budget of the European Union or budgets managed by, or on behalf of, the European Union,
- non-disclosure of information in violation of a specific obligation, with the same effect,
- the misapplication of such funds for purposes other than those for which they were originally granted;

(b) in respect of revenue, any intentional act or omission relating to:

- the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the illegal diminution of the resources of the general budget of the European Union or budgets managed by, or on behalf of, the European Union,
- non-disclosure of information in violation of a specific obligation, with the same effect,
- misapplication of a legally obtained benefit, with the same effect.

² Any infringement of a provision of European Union law resulting from an act or omission by a an economic operator which has, or would have, the effect of prejudicing the general budget of the European Union or budgets managed by it, either by reducing or losing revenue accruing from own resources collected directly on behalf of the European Union, or by charging an unjustified item of expenditure.

**ANNEX III: TO CALL FOR EXPRESSION OF INTEREST TO SELECT FINANCIAL INTERMEDIARIES
UNDER DCFTA INITIATIVE EAST – GUARANTEE FACILITY**

	of the date on which it became a non-eligible Guarantee Transaction. However if an eligible SME Transaction covered by the Guarantee Transaction is or becomes a non-eligible SME Transaction as a result only of events or circumstances beyond the control of the Financial Intermediary after a payment demand relating to such SME Transaction was served by the Financial Sub-Intermediary to Financial Intermediary relating to the Guarantee Transaction such Guarantee Transaction shall be deemed to be covered by the Counter-Guarantee for the purpose of such payment demand. Similarly if an eligible SME Transaction covered by the Guarantee Transaction becomes a non-eligible SME Transaction as a result only of events or circumstances beyond the control of the Financial Intermediary but before a payment demand relating to such Guarantee Transaction was served by the Financial Sub-Intermediary to the Financial Intermediary, then such Guarantee Transaction shall be deemed to be covered by the Counter-Guarantee if the Financial Intermediary procures that all amounts owed to the Financial Sub-Intermediary by the relevant SME under such SME Transaction are accelerated or such SME Transaction is otherwise terminated no later than on the Report Date immediately following the date on which it became aware thereof. However if the Financial Sub-Intermediary does not proceed to the acceleration of such SME Transaction within the timeframe specified above then this Guarantee Transaction shall be excluded from the Portfolio as of the date on which it became a non-eligible Guarantee Transaction. The Actual Volume shall be reduced following an exclusion from the Portfolio by the aggregate principal amount of the Guarantee Transactions so excluded.
Right of Clawback by EIF	The Transaction Agent and the Counter-Guarantor will be entitled to be repaid by the Financial Intermediary certain amounts in specified circumstances as set out in the Counter-Guarantee Agreement, including any amounts paid under the Counter-Guarantee in excess of the Loss, and any excess amount paid as a result of an exclusion of a Guarantee Transaction from the Portfolio.
Adjustment of the Actual Volume	In respect of each eligible SME Transaction covered by a Guarantee Transaction included in the Portfolio, if on the date which is (such date, the “Adjustment Date”): 1. the end of a disbursement period (when amounts cease to be available for utilisation by an SME), 2. the date on which the commitment made available for utilisation under an eligible SME Transaction is cancelled, but in any case no later than on the Termination Date the committed amount of principal has not been fully drawn or utilised by an SME (in the case of the Revolving SME Transaction, letters of credit or bank guarantees meaning the Credit Limit Amount for Revolving SME Transactions or the relevant limit for letters of credit and bank guarantees), the Actual Volume shall be adjusted to reflect the actual amount of principal drawn or utilised by the relevant SME. The Financial Intermediary shall reflect any such adjustment in the Report immediately following such Adjustment Date. If the Actual Volume is adjusted pursuant to this section or the section “Exclusion Process” as described above (the amount of reduction of the Actual Volume, the “Adjusted Portion”), the Financial Intermediary may include one or more further eligible Guarantee Transactions in the Portfolio up to the aggregate of Adjusted Portions and to the extent that the Actual Volume does not exceed the Agreed Volume and if such inclusions are made until the earlier of (i) the Termination Date

**ANNEX III: TO CALL FOR EXPRESSION OF INTEREST TO SELECT FINANCIAL INTERMEDIARIES
UNDER DCFTA INITIATIVE EAST – GUARANTEE FACILITY**

	and (ii) the third Report Date following the Adjustment Date or the date on which a Party has been effectively notified that the Guarantee Transaction shall be an excluded Guarantee Transaction. The replacements shall be made pursuant to the terms described in the Availability Period section above.
Relevant FX Rate	Means (i) the relevant foreign exchange reference rate displayed by the European Central Bank from time to time on its website (www.ecb.int for the time being) and which is based on the daily consultation procedure between central banks within and outside the European System of Central Banks, or, if such rate is not or is no longer available at the relevant time; (ii) the relevant foreign exchange reference rate displayed by the relevant national central bank or, if such rate is not or no longer available at the relevant time, or economically unreasonable at the relevant time as solely determined by the Transaction Agent, (iii) any replacement to such rate such as determined in a reasonable commercial manner by the Transaction Agent or the Financial Intermediary, as the case may be, which may include an actionable quotation for a currency exchange rate as of the relevant day of such conversion obtained by the entity conducting the conversion from a leading dealer in the relevant currency selected by the latter in good faith.
FX Mechanism	(a) If the Portfolio consists of eligible SME Transactions denominated in EUR, USD and a local currency, for the purpose of the calculation of the Actual Volume, the amount of principal of SME Transactions denominated in USD and a local currency shall be determined using the Relevant FX Rate to be specified in the Counter-Guarantee Agreement. (b) For the purpose of paying amounts claimed by the Financial Intermediary under the Counter-Guarantee, any amounts in respect of an SME Transaction shall be paid by the Transaction Agent in EUR. Where the amount claimed under the Guarantee is not denominated in EUR, the EUR equivalent of such amounts shall be determined using the Relevant FX Rate not earlier than four business days prior to the date of payment by the Transaction Agent to the Financial Intermediary. (c) For the purpose of paying the Counter-Guarantee Fee and Loss Recoveries to the Transaction Agent (if applicable), any amounts in respect to an SME Transaction shall be paid to the Transaction Agent in EUR. Where the amount to be paid is not denominated in EUR, the EUR equivalent of such amounts shall be determined using the Relevant FX Rate not earlier than four business days prior to the date of payment by the Financial Intermediary to the Transaction Agent.

Guarantee Transaction conditions

Credit Policy	Guarantee Transactions shall be originated and monitored and amendments and waivers shall be made, in compliance with the internal guidelines and procedures of the Financial Intermediary.
Servicing and Loss	The Financial Intermediary shall perform the servicing of the Portfolio, including

**ANNEX III: TO CALL FOR EXPRESSION OF INTEREST TO SELECT FINANCIAL INTERMEDIARIES
UNDER DCFTA INITIATIVE EAST – GUARANTEE FACILITY**

Recoveries	monitoring and recovery actions, in accordance with its internal guidelines and procedures. The Financial Intermediary shall take recovery actions (including the enforcement of any security) in relation to each defaulted eligible Guarantee Transaction. Such recovery actions shall be in accordance with the Financial Intermediary's internal guidelines and procedures. Loss Recoveries³ mean each and every amount, net of recovery and foreclosure costs (if any), recovered or received by the Financial Intermediary in respect of a Loss. The Counter-Guarantor will rank pari passu with the Financial Intermediary with respect to Loss Recoveries, which shall be shared between the Counter-Guarantor and the Financial Intermediary pro rata to the Guarantee Rate. The Counter-Guarantor shall be entitled to its portion of the Loss Recovery up to the date on which the Financial Intermediary, acting in good faith and in commercially reasonable manner, determines in accordance with its internal guidelines and standard recovery procedures that the recovery period for the relevant Guarantee Transactions shall be terminated. If Loss Recoveries are recovered or received by the Financial Intermediary in connection with a Loss for which a payment demand has already been sent by the Financial Intermediary, the Financial Intermediary shall send to the Transaction Agent at any relevant time, but not later than 30 days of the end of each calendar quarter, a recovery notice with accompanying Loss Recoveries schedule and shall pay to the Transaction Agent any relevant amount, within three months of the end of each calendar quarter in which Loss Recoveries are recovered or received by the Financial Intermediary. If Loss Recoveries are recovered or received by the Financial Intermediary in connection with a Loss for which no payment demand has been sent by the Financial Intermediary, the Financial Intermediary shall include such Recoveries in the payment demand at the time it sends it. Any payment due from the Financial Intermediary to the Counter-Guarantor regarding such Recoveries shall be set off against any payment due by the Counter-Guarantor to the Financial Intermediary regarding such guarantee call.
-------------------	--

Miscellaneous

Reporting	Financial Intermediaries shall provide the Transaction Agent within 30 calendar days after the end of each calendar semester (the 'Report Date') with semi-annual information in a standardised form, including among others, information on the SMEs covered by the Counter-Guarantee, new eligible Guarantee Transactions provided and eligible Guarantee Transaction amounts outstanding (the 'Report'). An indicative reporting template is presented in appendix to this document. Other reporting may be required from the Financial Intermediary as per specific schedule to the Counter-Guarantee Agreement (including without
------------------	---

³ In relation to SME Transactions which are leases, "Loss Recoveries" means each and every amount (including, in case assets leased to an SME are repossessed by the Financial Sub-Intermediary (i) any amount received by the Financial Sub-Intermediary as a result of the sale of such assets, and/or (ii) in case such assets are re-leased, the purchase price of such assets agreed with the new lessee), net of recovery and foreclosure costs (if any), recovered or received by the Financial Intermediary in respect of Losses, where EIF has paid amounts under the Guarantee in respect of such Losses.

**ANNEX III: TO CALL FOR EXPRESSION OF INTEREST TO SELECT FINANCIAL INTERMEDIARIES
UNDER DCFTA INITIATIVE EAST – GUARANTEE FACILITY**

	limitation, Financial Intermediaries and the relevant SMEs covered by the Counter-Guarantee shall agree to provide the Transaction Agent and the Counter-Guarantor with all relevant information as may be reasonably requested).
Monitoring and Audit	Financial Intermediaries, Financial Sub-Intermediaries and the relevant SMEs covered (directly or indirectly) by the Counter-Guarantee shall agree to allow and to provide access to documents and premises related to the relevant Counter-Guarantee for the European Commission (including the European Anti-Fraud Office (OLAF)), the European Court of Auditors, EIB, EIF, any other European Union institution or European Union body which is entitled to verify the use of the Counter-Guarantee in the context of DCFTA Initiative East Guarantee Facility and any other authorised bodies duly authorised under applicable law to carry out audit or control activities. To that effect, the Financial Intermediaries shall ensure the inclusion of appropriate provisions in each agreement with SMEs or ensure that each Financial Sub-Intermediary includes appropriate provisions in each SME Transaction agreement.
Compliance with Laws	The Financial Intermediary shall comply in all respects with all applicable laws and regulations (whether national laws and regulations or laws and regulations of the European Union) and environmental and social legislation, including multilateral environmental and human rights agreements and treaties, as appropriate. The Financial Intermediary shall include directly or indirectly via an undertaking from the Financial Sub-Intermediary in the documentation applicable to each eligible SME Transaction covered by the Guarantee Transaction, representations, warranties and undertakings for the purpose of ensuring that each such SME Transaction shall comply at any relevant time with the Eligibility Criteria in accordance with the Counter-Guarantee Agreement.
Non-Cooperating Jurisdiction	Any jurisdiction classified as “non-compliant” by the Organisation for Economic Cooperation and Development (OECD) and its Global Forum on Transparency and Exchange of Information for Tax Purposes, from time to time, unless otherwise notified by the Transaction Agent.
Publicity	Financial Intermediaries directly or indirectly via the Financial Sub-Intermediary shall be required to explicitly inform each SME that the financing provided has benefitted from the support of the European Union under the DCFTA Agreement Initiative East, which information needs to be prominently included either in the contractual documentation and/or in an accompanying cover letter and it shall be duly acknowledged by the SME. Financial Intermediaries or Financial Sub-Intermediaries shall also be required to include in any press release and in any publication that the Financial Intermediary or Financial Sub-Intermediary may choose to make with regard to the Counter-Guarantee the statement referred to above, including the Union Emblem. Instead of issuing a press release, the Financial Intermediary or Financial Sub-Intermediary may choose alternative ways of communication in which case the same visibility requirements shall apply, whenever possible. Financial Intermediaries and Financial Sub-Intermediaries shall also be required to follow the guidelines described in <i>The Use of the EU Emblem in the Context of EU Programmes and in Non-EU Countries – Guidelines for beneficiaries and other third parties</i> when displaying the Union Emblem, as set

**ANNEX III: TO CALL FOR EXPRESSION OF INTEREST TO SELECT FINANCIAL INTERMEDIARIES
UNDER DCFTA INITIATIVE EAST – GUARANTEE FACILITY**

	out on the following website: http://ec.europa.eu/dgs/communication/services/visual_identity/pdf/use-emblem_en.pdf
Transfer	The Financial Intermediary shall not be entitled to assign or transfer any of its rights or obligations under the Counter-Guarantee Agreement without the prior -written consent of the Counter-Guarantor and the Transaction Agent.
Publication	The European Commission, the Counter-Guarantor and the Transaction Agent shall each be entitled to publish from time to time on its website, or produce press releases containing, information on Financial Intermediaries, Financial Sub-Intermediaries and SMEs supported under the Counter-Guarantee, including the name, nature and purpose of the DCFTA Initiative East Guarantee Facility and the following additional information: (i) a list of Financial Intermediaries with whom the Counter-Guarantor and the Transaction Agent concluded a Counter-Guarantee Agreement, containing for each Financial Intermediary the name and address of the Financial Intermediary, as well as an indication of the amount guaranteed in EUR; (ii) a list of SMEs which receive financial support that exceeds the threshold of EUR 60 000, containing for each SME the name and address and type of financial support received under the Guarantee Facility. Any Financial Intermediary and SME may, prior to receiving financial support under the Guarantee Facility, declare in writing (including by a representation in the relevant agreement) that the publication requirements set out above risks 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. In the context of the European Commission's controlling and monitoring activities only, the Financial Intermediary acknowledges and agrees, and shall procure that each Financial Sub-Intermediary and SME acknowledges and agrees, that the European Commission may directly request further explanations from the Financial Intermediary, Financial Sub-Intermediary or SME in case of objection to the publication as set out above. In addition, such publication shall not be required if it would be illegal under the applicable laws and regulations. Furthermore, where the SME is a natural person, prior consent to publication may not be made a condition for receiving financial support under the Guarantee Facility.
Record keeping	The Financial Intermediary shall undertake to maintain or be able to produce all the documentation related to the implementation of the Guarantee Agreement for a period of seven (7) years following the Termination Date.
Additional requirements	The Guarantee Facility is funded by EU funds and it is therefore subject to regulation and requirements, some of which have already been presented in this document. It should be noted, however, that more detailed information on actions necessary to ensure compliance of operations linked to the Guarantee Facility with all requirements will be provided to, and discussed with, the selected Financial Intermediary during the contractual negotiations process.

**ANNEX III: TO CALL FOR EXPRESSION OF INTEREST TO SELECT FINANCIAL INTERMEDIARIES
UNDER DCFTA INITIATIVE EAST – GUARANTEE FACILITY**

	The Financial Intermediary shall also undertake to comply with (i) any additional reporting requirements which enable the Transaction Agent and/or the Counter-Guarantor to comply with their reporting requirements vis-à-vis the European Commission in respect of the Guarantee Facility, (ii) any audit and evaluation requirements applicable to the Guarantee Facility and (iii) applicable environmental and social legislation, including multilateral environmental and human rights agreements and treaties, as appropriate. Corresponding undertakings shall also be required by the Financial Intermediary from any Financial Sub-Intermediary.
--	--

ANNEX III: TO CALL FOR EXPRESSION OF INTEREST TO SELECT FINANCIAL INTERMEDIARIES UNDER DCFTA INITIATIVE EAST – GUARANTEE FACILITY

APPENDIX

INDICATIVE REPORTING TEMPLATE

PART A - A1 FINAL RECIPIENTS

A.1.1 Final Recipient ID	A.1.2 Name	A.1.3 Address	A.1.4 Postal Code	A.1.5 Place	A.1.6 Region (NUTS level 2)	A.1.7 Country	A.1.8 Date of establishment	A.1.9 Sector	A.1.10 Number of employees	A.1.11 Total turnover (EUR)	A.1.12 Total assets (EUR)	A.1.13 Financial Recipient internal scoring/rating (Rating Class)	Comments
Mandatory	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory, if applicable	Optional

PART A - A2 NEW FINAL RECIPIENT TRANSACTIONS

A.1.1 Final Recipient ID	A.2.1 Final Recipient Transaction ID	A.2.1.1 Final Recipient Transaction Type	A.2.2 Currency	A.2.3 Purpose	A.2.5 Principal amount	A.2.5.1 Purchase price	A.2.5.2 Down payment	A.2.5.3 Reference Rate	A.2.5.4 Interest rate margin	A.2.6 Maturity (months)	A.2.7 Grace period (months)	A.2.8 Signature date	A.2.11 Amortization profile
Mandatory	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory

A.2.13 Collateralisation Rate	A.2.14 Publication of Final Recipient	Comments
Mandatory	Mandatory	Optional

PART A - A3 NEW FINAL RECIPIENT TRANSACTIONS

A.1.1	A.2.1	A.3.1	A.3.2	A.3.3	A.3.4	A.3.5	A.3.6	A.3.7	A.3.8	
-------	-------	-------	-------	-------	-------	-------	-------	-------	-------	--

ANNEX III: TO CALL FOR EXPRESSION OF INTEREST TO SELECT FINANCIAL INTERMEDIARIES UNDER DCFTA INITIATIVE EAST – GUARANTEE FACILITY

Final Recipient ID	Final Recipient Transaction ID	Guarantee amount	Guarantee rate	Guarantee signature date	Guarantee maturity date	Sub-Intermediary name	Sub-Intermediary address	Sub-Intermediary postal code	Sub-Intermediary place	Comments
Mandatory	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory	Optional

PART B - LIST OF INCLUDED FINAL RECIPIENT TRANSACTIONS

A.1.1	A.2.1	B.1	B.2	B.3	B.4
Final Recipient ID	Final Recipient Transaction ID	Cumulative disbursement	Outstanding principal amount	End of disbursement	Total outstanding principal amount (performing)
Mandatory	Mandatory	Mandatory	Mandatory	(Y/N) Mandatory	Mandatory

PART D - REPAID FINAL RECIPIENT TRANSACTIONS

A.1.1	A.2.1	D.1
Final Recipient ID	Final Recipient Transaction ID	Repayment date
Mandatory	Mandatory	Mandatory

PART E - EXCLUDED FINAL RECIPIENT TRANSACTIONS

A.1.1	A.2.1	E.1	E.2
Final Recipient ID	Final Recipient Transaction ID	Event date	Event type
Mandatory	Mandatory	Mandatory	Mandatory

PART F - MODIFICATIONS

A.1.1	A.2.1	F.2	F.3
Final Recipient ID	Final Recipient Transaction ID	Old value of the parameter to modify	New value of the parameter to modify

ANNEX III: TO CALL FOR EXPRESSION OF INTEREST TO SELECT FINANCIAL INTERMEDIARIES UNDER DCFTA INITIATIVE EAST – GUARANTEE FACILITY

F.2 = any fields in table A1, A2, B, D, E, F with old values

F.3 = any fields in table A1, A2, B, D, E, F with new values

PAYMENT DEMAND SCHEDULE

A.1.1	A.2.1	A.2.2	C.1	C.2	C.3	C.4	C.6	C.7	C.9	C.11
Final Recipient ID	Final Recipient Transaction ID	Currency	Event date	Event type	Defaulted principal amount	Unpaid interest covered	Recovery date	Recovery amount	Payment Date	Financial Intermediary covered amount
Mandatory	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory

LOSS RECOVERY SCHEDULE

A.1.1	A.2.1	C.5	C.6	C.7
Final Recipient ID	Final Recipient Transaction ID	Recovery payment currency	Recovery date	Recovery amount
Mandatory	Mandatory	Mandatory	Mandatory	Mandatory

PART H- CONVERTED FINANCIAL RECIPIENT TRANSACTIONS

H.1	A.1.1	A.2.1	A.2.2	A.2.4	A.2.5	A.2.6	H.2	A.2.11
Converted Final Recipient Transaction reference	Final Recipient	Final Recipient Transaction reference	Currency	Principal amount	Maturity (months)	Grace Period	Final Recipient Transaction conversion date	Payment frequency
Mandatory	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory