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'I' ITEM NOTE

From:	Presidency
To:	Permanent Representatives Committee (Part 2)
Subject:	Regulation of the European Parliament and of the Council amending Regulations (EU) No 1316/2013 and (EU) 2015/1017 as regards the extension of the duration of the European Fund for Strategic Investments as well as the introduction of technical enhancements for that Fund and the European Investment Advisory Hub (First reading)

- Presidency Progress report

Delegations find attached a Presidency progress report on the proposal for a Regulation of the European Parliament and of the Council amending Regulations (EU) No 1316/2013 and (EU) 2015/1017 as regards the extension of the duration of the European Fund for Strategic Investments as well as the introduction of technical enhancements for that Fund and the European Investment Advisory Hub.

Presidency Progress Report
on the Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL amending Regulations (EU) No 1316/2013 and (EU) 2015/1017 as regards the
extension of the duration of the European Fund for Strategic Investments as well as the
introduction of technical enhancements for that Fund and the European Investment Advisory
Hub

I. BACKGROUND

1. On 14 September 2016, the Commission transmitted to the Council its proposal for a Regulation of the European Parliament and the Council amending Regulations (EU) No 1316/2013 and (EU) 2015/1017 as regards the extension of the duration of the European Fund for Strategic Investments as well as the introduction of technical enhancements for that Fund and the European Investment Advisory Hub (doc. 12201/16) and an annex to that proposal (doc.12201/16 ADD1)
2. The proposal provides for the extension of the lifetime of the European Fund for Strategic Investments (EFSI) until end-2020, increasing of the investment target from EUR 315bn to EUR 500bn, increasing the EU guarantee from EUR 16bn to EUR 26bn and the EIB contribution from EUR 5bn to EUR 7.5 bn. The proposal aims at reinforced geographic and sectorial coverage, climate action, enhanced additionality and transparency.
3. The Council adopted the General Approach on the above mentioned proposal on 6 December 2016. The text is set out in document 14667/1/16 REV 1 and 14010/16. On that basis, the Maltese Presidency has conducted negotiations with the European Parliament and the Commission with a view to a first reading agreement.
4. The European Committee of the Regions and the European Economic and Social Committee delivered their opinions on and at 7-8 December 2016 and 15 December 2016 respectively.

5. On 16 May 2017, the decision by the BUDG and ECON committees of the European Parliament to enter into trilogue negotiations on the proposal was announced in EP plenary. The deadline for requests to vote in plenary on this decision expired on 17 May 2017, with no objection being raised. The committees started trilogue negotiations on the basis of the report.

II. STATE OF PLAY

6. Under the Maltese Presidency four political trilogue meetings have been conducted (31 May, 6 June, 12 June, 21 June 2017). To date, the Working Party of Financial Counsellors has met four times (24 May, 6 June, 8 June, 20 June 2017) to discuss the EP position and compromise proposals. Significant progress has been achieved in the trilogue negotiations, while discussions need to be continued.
7. Issues where a provisional political agreement on a compromise proposal has been reached - while technical work on drafting needs to be continued - are the following:
- **Ceiling of the SME window:** Compromise consists of an upper limit of EUR 9 billion for the SME window. The proposal also clarifies the wording as regards the requirement of up to which amount the EIB needs to match the amount. This issue was considered as final in the last trilogue.
 - **European Investment Advisory Hub:** Co-legislators agree on the need to strengthen the European Investment Advisory Hub (EIAH). The compromise aims to capture the need for the EIB to have a stronger local presence, to proactively inform project promoters whose projects are deemed insufficiently mature to refer them to EIAH so they can receive necessary support, and also a role that EIAH can play in bundling projects.
 - **Subordination:** The EP had originally suggested that EFSI-backed EIB special activities shall, as a preferred way, have the features of subordination and take a junior position vis-à-vis other investors. A compromise proposal, which is close to being agreed, emphasises subordination but leaves open the possibility for the EIB to decide which form of subordination is most suitable for the specific project in terms of crowding in investors, without strongly limiting it to junior positions only.

- **Scoreboard:** The EP considered that the scoreboard was meant to be an instrument contributing to the quality of EFSI-selected projects. The compromise discussed foresees that the decisions of the Investment Committee include the assessment stemming from the scoreboard to ensure transparency in decision making process, while ensuring the protection of commercially sensitive information. The compromise provides for minimum thresholds for the different criteria in the scoreboard while a global assessment of a project would still be possible.

8. Issues that require further negotiations:

- **Access to the EU Guarantee:** The EP suggested that, National Promotional Banks (NPBs) or institutions and investment platforms shall have direct access to the EU Guarantee, and that the decision on the selection of projects may be delegated. The compromise proposed to the EP removes the direct access - to maintain governance and transparency – but encourages more collaboration with NPBs on the already existent delegation models used by the EIB. It consists of an endeavor to a 25% numerical target of EIB financing that should be dedicated to the support of the development of investment platforms and to the cooperation with NPBs or institutions. Thus a portion of the guarantee would be earmarked for use by the EIB for developing cooperation with NPBs or investment platforms with the main aim to reach smaller projects. The EP however considered this soft target as low if it is used for the aggregate of both the IIW and SME windows and wanted more binding and ambitious targets.
- **Sectors:** There is an agreement on the proposals to specify in more detail the sectors eligible under EFSI. The reference to cultural and creative industries remains broad to allow for other projects to be eligible. The Presidency insisted on the recital on defence, as per the Council text and stressed that it was not yet ready to accept the proposed compromise on motorways. On climate action, the Presidency could agree on the compromise as proposed by the Commission, which takes into account the need to retain the commitment to COP 21 targets, whilst confirming that SMEs and midcaps are not included in the computation of the 40% target. The EP is analysing the proposal.

- **Additionality:** The EP proposed to link additionality to projects with a high risk profile, especially in less developed and transition regions. The Presidency presented an alternative compromise proposal that maintains the emphasis of additionality on less developed and transition regions under the section on specific risks in the Annex, but maintained a clean link between EIB special activities and additionality which would thus avoid a priori discriminating strategic and high risk projects located in other regions. It is being analysed by the EP.
 - **Transparency:** The Presidency supported, in principle, efforts aiming at more transparency, while stressing that any increase of requirements should take into account the sensitive banking nature of EIB activities, its relationship with clients and the management of commercially sensitive information.
9. Issues in which positions of co-legislators remain far apart and negotiations need to be pursued further:
- **Financing:** The Presidency explained that the suggestion of the European Parliament to earmark EUR 650 000000 from the unallocated margins under the 2014-2020 of the Multiannual Financial Framework (MFF) to finance the extension of EFSI does not reflect the recent agreements in the context of the review and is a strong red-line for the Council.
 - **Evaluation and review:** The Presidency expressed the view of the Council that consolidating the two reports in one independent evaluation and advancing its publication date to 31 December 2018 is premature. More importantly, the Presidency opposed any presumption that EFSI will be extended again as it may prejudice the next MFF discussions, and thus opposed the EP proposal that the conclusions of the independent evaluation should serve as basis for the Commission to put forward another legislative proposal together with appropriate financing under the new multiannual financial framework. In this context, the Presidency also asked that as a minimum the independent evaluation of the application of this Regulation should contain a sunset clause as reflected in the Council General Approach.

- **Governance:** The Presidency rejected EP suggestions regarding an additional EP-designated member in the Steering Board with full voting rights on the basis that this may constitute political interference and preferred to keep a clear dividing line between the roles of the legislator and the executive to maintain the independence of EFSI governance. Compromise proposals of an independent advisor were rejected by the EP.
- **Taxation:** The proposed compromise is based on the provisional agreement reached between the Parliament and the Council in the context of the EIB External Lending Mandate trilogue negotiations under the Maltese Presidency. The proposed text maintains the agreement on core aspects related to the fight against money laundering, terrorism financing, tax avoidance, tax fraud and tax evasion and non-cooperative jurisdictions. The EP suggestion for the EIB to terminate existing business relations with entities incorporated or established in non-cooperative jurisdictions as published in the relevant list was considered as objectionable on the grounds of possibly heavy financial liabilities. The EP proposals also aim to reinforce the reporting requirements on the implementation of policies related to non-cooperative jurisdictions by the EIB and the EIF and financial intermediaries, including through country-by-country information and a list of intermediaries with whom they cooperate to be submitted to the European Parliament and the Council on an annual basis.
- **Pricing:** The EP suggested modulation of the pricing of the EU guarantee on the claim that some businesses are cut-off due to high pricing levels. The EP could in principle agree to a Commission compromise defining situations in which the EIB should consider the possibility to modulate pricing of operations and where needed to modulate the remuneration of the EU guarantee. The Presidency considered that the pricing policy of the EIB is a fundamental aspect of its independence and its banking nature and should therefore be respected. The EP demands were therefore considered to be problematic since they would add expectations and political pressures on the EIB to modulate pricing.

III. CONCLUSION

1. Against this background the Permanent Representatives Committee is invited to:
 - Take note of the progress achieved with regard to the above mentioned proposed Regulation; and
 - Invite the incoming Estonian Presidency and Member States to continue to conduct negotiations with the European Parliament and the Commission with a view to a first reading agreement.
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