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RECH 325	TELECOM 246
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NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee (part 2)
Subject:	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 (1st reading) - Coreper report

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 European Council on 28 June 2016 concluded that the European Parliament and the Council should examine the proposal as a matter of urgency.
4. The European Council on 20 and 21 October 2016 called on the Council to agree its negotiating position on the Commission's new EFSI proposal at its meeting on 6 December, taking into account the independent external evaluation that will be delivered in November.
5. The proposal has been examined by the Working Party of Financial Counsellors at several meetings during the Slovak Presidency. A common position has been reached on the text set out in doc 14667/1/16 REV 1 and 14010/16. The Presidency aims at an agreement on a mandate in order to start negotiations with the European Parliament.

II. STATE OF PLAY

6. The Presidency compromise text takes into account the findings of the independent external evaluation. All Member States could accept the Presidency compromise package, based on the following main elements:
 - principle of additionality has been reinforced. It has been made even clearer that the projects under the EFSI address sub-optimal investment situations and market gaps, as part of the eligibility criteria. In view of their importance for Europe, cross-border infrastructure projects, including related services, have been, as a rule, identified as providing additionality.
 - additional Recital (8a) referring to recent Council conclusions and stating that financing projects related to defence and security sectors may be granted within the limits of the Treaties and that any change to the EIB list of eligible sectors is subject to the approval of EIB governing bodies.

- a reference, in Article 16 (1) together with an additional recital (21a), to an annual report by the EIB listing the main barriers to investment in Member States identified by the Bank when carrying out investment operations covered by the Regulation, while inviting the Commission to factor these findings, among others, into its work undertaken in the context of the Third pillar of the Investment Plan.
 - additional sectors to be covered by EFSI namely agriculture, forestry, fisheries and other elements of wider bio-economy, as well as other industry and services eligible for EIB support for less developed regions and transition regions. Projects in these sectors would need to adhere to all eligibility criteria for the use of the EU guarantee including the principle of additionality.
 - an objective of at least 40 % of EFSI financed projects with combined objectives contributing to climate action in line with COP21 commitments under the infrastructure and innovation window, excluding financing for SMEs and mid-cap companies.
 - for the European Investment Advisory Hub (EIAH), more targeted local assistance by concluding cooperation agreements with National Promotional Banks or institutions and developing local presence of the EIAH in Member States with difficulties to develop projects, in particular under the EFSI is foreseen.
 - a reference in Article 22(1) on tax to EU policies together with a Recital (19) on fight against tax avoidance.
 - deletion of the provision limiting possibilities of EFSI support to motorways.
7. The Financial Counsellors discussed the issue of the lack of a comprehensive impact assessment at the Working Party meeting on 17 October 2016. The Chair invited the Commission to explain the reasons for not presenting an impact assessment. The Commission explained that the proposal does not foresee any substantial change in the design of the EFSI instrument, but rather an increase of its duration and firepower. The proposal is accompanied by three evaluations as foreseen in Article 18 of the EFSI Regulation.

The evaluation issued by the Commission, published on 14 September 2016 , relates to the use of the EU guarantee and the functioning of the guarantee fund. The evaluation released by the European Investment Bank, published on 5 October 2016, concerns the functioning of the EFSI. Furthermore, the Commission had decided to bring forward the independent external evaluation of the application of the EFSI Regulation, so that it too could feed into the discussions in the Council. The Commission presented the preliminary conclusions of the independent evaluation to the Financial Counsellors on 26 October and the final report was made available on 14 November 2016. The final conclusions were presented to the Financial Counsellors by the authors of the evaluation (EY) on 18 November 2016. None of the delegations presented own information on the impacts of the proposal nor commented on any implications that the lack of a Commission Impact Assessment may have for the handling of the proposal.

8. During the Working Party meeting on 17 November 2016 Financial Counsellors took note of the findings of the Opinion the European Court of Auditors' (ECA) concerning the proposal for a Regulation of the European Parliament and of the Council amending Regulations (EU) Nos 1316/2013 and 2015/1017 and the accompanying Commission evaluation in accordance with Article 18(2) of Regulation (EU) 2015/1017.

III. CONCLUSION

9. Against this background the Permanent Representatives Committee is invited:
 - confirm the agreement on the text as set out in doc. 14667/1/16 and 14010/16;
 - submit the text to the Council in view of reaching a General Approach.