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### **WORKING PAPER**

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#### **INFORMATION**

From:	General Secretariat of the Council
To:	Working Party of Financial Counsellors
Subject:	Commission non-papers on EFSI 2.0 ahead of the trilogue on 12 June 2017.

Delegations will find attached the Commission non-paper on EFSI 2.0 related to: Additionality, Governance, Pricing, Scoreboard, Taxation, Subordination, EIAH, Sectors, SME window ceiling, and Evaluation and review.

WK 6496/2017 INIT

**LIMITE**

**EN**

## EIAH

Recitals Lines: 39 (not covered here)

Articles Lines: 376, 384, 387, 389, 391, 393, 399, 401, 403, 405

**ALL CHANGES IN COMPROMISE PROPOSALS MARKED COMPARED TO COM PROPOSAL ON EFSI 2.0**

### Rationale

*Both co-legislators agree with the need to strengthen the advisory hub (EIAH), via a more pro-active support in the origination of projects and a reinforced presence on the local ground.*

*As regards projects that are not pre-selected for submission to the Investment Committee, it is important to clarify that project promoters do not apply for EFSI support, but directly to the EIB. The EIB's Management Committee, after the EIB's due diligence, will conclude whether a project should be submitted to the Investment Committee or not for EFSI support. There is no legal basis to oblige the EIB to disclose the totality of the projects it rejects before they reach the Management Committee, since this would impinge with the institutional autonomy of the Bank by covering non EFSI related EIB processes. However, the proposed compromise aims to capture the need for the EIB to proactively inform project promoters whose projects are deemed insufficiently mature to refer them to the EIAH so that they can receive all necessary support.*

### Compromise proposals

#### **Line 376:**

Art. 14 - para 1 - subpara 1 'Such support shall include providing targeted support on the use of technical assistance for project structuring, on the use of innovative financial instruments and on the use of public-private partnerships, **and inform, as appropriate, on relevant issues relating to Union law**, taking into account the specificities and needs of Member States with less-developed financial markets, **as well as the situation in different sectors;**'

*The Commission removed the reference to advice on Union law in its EFSI 2.0 proposal to avoid potential inconsistencies in advice stemming from the EIAH versus authoritative interpretations on EU law by competent institutions, such as the ECJ or the Commission as guardian of the Treaty. Replacing "advice" by "inform" solves this concern.*

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#### **Line 384:**

Art. 14 - para 2 - point c 'leveraging local knowledge to facilitate EFSI support across the Union and contributing **actively** to the objective of sectorial and geographical diversification of the EFSI referred to in Section 8 of Annex II by supporting the EIB **and national promotional banks or institutions** to originate **and develop** operations, **in particular in less-developed and transition regions and by helping to structure demand for EFSI support, wherever needed;**'

*This amendment contributes to the aim of a more balanced geographical distribution.*

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**Line 387:**

Art. 14, para 2, point e 'Providing pro-active, **advisory** support, **where needed via a local presence**, on the establishment of investment platforms, **in particular cross-border and macroregional investment platforms involving several Member States and/or regions;**'

*This amendment stresses the usefulness of developing a local presence where needed.*

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**Line 389:**

Art. 14, para 2, point e '(ea) **utilising the potential of attracting and financing small-scale projects, including through investment platforms;**'

*The objective followed by this amendment to ease access for small-scale projects to EFSI support is welcome.*

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**Line 391:**

Art. 14, para 2, point ea 'Providing advice on the combination of other sources of Union funding (such as the European Structural and Investment Funds, Horizon 2020 and the Connecting Europe Facility) with the EFSI **with the aim of resolving practical problems linked to the use of such combined sources of funding.**'

*The EIAH cannot resolve the administrative burden related to combination of funds; this is instead addressed in the Omnibus proposal. However, the EIAH should indeed help resolve practical problems linked to such combination, in close cooperation with the relevant competent Commission services.*

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**Line 393:**

Art. 14 - para 2 - point fa (new) '(fa) **providing pro-active support to promote and encourage the operations referred to in point (b) of the first paragraph of Article 8.**'

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**Line 399 (linked to 434, which should be deleted):**

Art. 14 - para 5a (new) ***'The EIB shall inform project promoters of the possibility to contact the EIAH in order to seek assistance in the further development of their proposals for funding under the EFSI. It shall also inform project promoters for which an EIB financing is denied or experiencing a financing gap despite a possible EIB financing of the possibility to list their project on the European Investment Project Portal.'***

*The amendment cannot be put in practice, since there is no specific procedure for applying for EFSI support. It is not possible to know which potential EFSI projects were rejected at the application stage. Instead, project promoters apply for funding to the EIB. The EIB's Management Committee, after the EIB's due diligence and appraisal of the projects, will conclude whether a project should be submitted to the Investment Committee or not, for EFSI support. As a compromise, the EIB could be asked to proactively inform promoters of the possibilities offered by the EIAH if the project submitted to the EIB is deemed to necessitate technical support to become viable. A link could also be established with the EIPP.*

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**Line 401:**

Art. 14, para 6 *'Cooperation between, on the one hand, the EIAH and, on the other hand, a national promotional bank or institution, an international (...) **financial** institution or an institution or a managing authority, including those acting as a national advisor, having expertise relevant for the purposes of the EIAH, may take the form of a contractual partnership. **The EIAH shall endeavor to conclude at least one cooperation agreement with a national promotional bank or institution per Member State. In Member States where such an institution does not exist, the EIAH shall provide, where appropriate, and at the request of the Member State concerned, pro-active advisory support on its establishment.'***

*The wording of the EP amendments is revisited to avoid that the EIAH has an obligation that it cannot fulfil if a particular National Promotional Bank does not want to sign a cooperation agreement. The compromise reflects an obligation of means, not of result, since the EIB is dependent on the good will of the NPB concerned.*

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**Line 403:**

Art. 14, para 6 a (new) ***'In order to develop a wide geographic outreach of the advisory services across the Union and to successfully leverage local knowledge about the EFSI, a local presence of the EIAH shall be ensured where needed, taking into account existing support schemes, with a view to providing tangible, pro-active, tailor-made assistance on the ground. It shall be established in particular in Member States or regions that face difficulties in developing projects under the EFSI.'***

***The EIAH shall assist in the transfer of knowledge to the regional and local level with a view to building-up regional and local capacity and expertise.'***

*Slight rewording aims at simplifying the text.*

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**Line 405:**

Art. 14 - para 7. ***'An annual reference amount*** of EUR 20 000 000 ***shall be made available from the general budget of the Union to contribute*** towards covering the costs of EIAH operations until 31 December 2020 for the services provided by the EIAH under paragraph 2 which are in addition to those already available under other Union programmes, insofar as those costs are not covered by the remaining amount from fees referred to in paragraph 4.'

*For the time being, the EIAH budget is not fully used so there is no immediate need to increase the budget. Any increase - if needed and when justified - would be agreed in the context of the annual budgetary procedure and the Commission is therefore not opposed to this amendment.*

## ANNEX: Extract of relevant lines from the 5-column table

No.	Ref. EFSI I	EFSI - II(consolidated version)*	Ref. EFSI II	EFSI II COM proposal	COUNCIL**	PARLIAMENT	Proposed compromise text
376.	Art 14 para 1 subpara 1	1. The European Investment Advisory Hub (EIAH) shall have as its objective to build upon existing EIB and Commission advisory services in order to provide advisory support for the identification, preparation and development of investment projects and to act as a single technical advisory hub for project financing within the Union. Such support shall include providing targeted support on the use of technical assistance for project structuring, on the use of innovative financial instruments and on the use of public-private partnerships <del>and advice, as appropriate, on relevant issues relating to Union law,</del> taking into account the specificities and needs of Member States with less-developed financial markets.	Art. 14 - para 1 - subpara 1	Such support shall include providing targeted support on the use of technical assistance for project structuring, on the use of innovative financial instruments and on the use of public private partnerships, taking into account the specificities and needs of Member States with less developed financial markets.';	Such support shall include providing targeted support on the use of technical assistance for project structuring, on the use of innovative financial instruments and on the use of public private partnerships, taking into account the specificities and needs of Member States with less developed financial markets.';	'Such support shall include providing targeted support on the use of technical assistance for project structuring, on the use of innovative financial instruments and on the use of public-private partnerships, <b>and advice, as appropriate, on relevant issues relating to Union law,</b> taking into account the specificities and needs of Member States with less-developed financial markets, <b>as well as the situation in different sectors.</b> ';	'Such support shall include providing targeted support on the use of technical assistance for project structuring, on the use of innovative financial instruments and on the use of public-private partnerships, <b>and inform, as appropriate, on relevant issues relating to Union law,</b> taking into account the specificities and needs of Member States with less-developed financial markets, <b>as well as the situation in different sectors.</b> '
384.	Art. 14 para 2 point c	(c) leveraging local knowledge to facilitate EFSI support across the Union <u>and contributing where possible to the objective of sectorial and</u>	Art. 14 - para 2 - point c	'(c) leveraging local knowledge to facilitate EFSI support across the Union and contributing where possible to the objective of sectorial and geographical	'(c) leveraging local knowledge to facilitate EFSI support across the Union and contributing where possible to the objective of sectorial and	'(c) leveraging local knowledge to facilitate EFSI support across the Union and contributing <b>actively</b> to the objective of sectorial and geographical diversification of	'leveraging local knowledge to facilitate EFSI support across the Union and contributing <b>actively</b> to the objective of sectorial and geographical

No.	Ref. EFSI I	EFSI - II(consolidated version)*	Ref. EFSI II	EFSI II COM proposal	COUNCIL**	PARLIAMENT	Proposed compromise text
		<u>geographical diversification of the EFSI referred to in Section 8 of Annex II by supporting the EIB to originate operations;</u>		diversification of the EFSI referred to in Section 8 of Annex II by supporting the EIB to originate operations;';	geographical diversification of the EFSI referred to in Section 8 of Annex II by supporting the EIB to originate operations;';	the EFSI referred to in Section 8 of Annex II by supporting the EIB <b>and national promotional banks or institutions</b> to originate <b>and develop</b> operations, <b>in particular in less-developed and transition regions and by stimulating demand for EFSI support, wherever needed;</b> ;	diversification of the EFSI referred to in Section 8 of Annex II by supporting the EIB <b>and national promotional banks or institutions</b> to originate <b>and develop</b> operations, <b>in particular in less-developed and transition regions and by helping to structure demand for EFSI support, wherever needed;</b> '
387.	Art. 14 para 2 point e	(e) providing <u>pro-active support</u> on the establishment of investment platforms;	Art. 14 - para 2 - point e	'(e) providing pro-active support on the establishment of investment platforms;';	'(e) providing pro-active <b>advisory</b> support on the establishment of investment platforms;';	'(e) providing pro-active, <b>advisory</b> support on the establishment of investment platforms, <b>in particular cross-border and macroregional investment platforms involving several Member States and/or regions, with a local presence, where needed;</b> ;	'Providing pro-active, <b>advisory</b> support, <b>where needed via a local presence</b> , on the establishment of investment platforms, <b>in particular cross-border and macroregional investment platforms involving several Member States and/or regions;</b> '
389.						'(ea) <b>utilising the potential of attracting and financing small-scale projects, including through investment platforms;</b> '	'(ea) <b>utilising the potential of attracting and financing small-scale projects, including through investment platforms;</b> '

No.	Ref. EFSI I	EFSI - II(consolidated version)*	Ref. EFSI II	EFSI II COM proposal	COUNCIL**	PARLIAMENT	Proposed compromise text
391.	Art. 14 para 2 point e a (new)	<u>(f) providing advice on the combination of other sources of Union funding (such as the European Structural and Investment Funds, Horizon 2020 and the Connecting Europe Facility) with the EFSI.</u>	Art. 14 - para 2 - point f	'(f) providing advice on the combination of other sources of Union funding (such as the European Structural and Investment Funds, Horizon 2020 and the Connecting Europe Facility) with the EFSI.';	'(f) providing advice on the combination of other sources of Union funding (such as the European Structural and Investment Funds, Horizon 2020 and the Connecting Europe Facility) with the EFSI.';	'(f) providing advice on the combination of other sources of Union funding (such as the European Structural and Investment Funds, Horizon 2020 and the Connecting Europe Facility) with the EFSI <b>with the aim of reducing the administrative burden and resolving practical problems linked to the use of such combined sources of funding.</b> ';	'Providing advice on the combination of other sources of Union funding (such as the European Structural and Investment Funds, Horizon 2020 and the Connecting Europe Facility) with the EFSI <b>with the aim of resolving practical problems linked to the use of such combined sources of funding.</b> '
393.			Art. 14 - para 2 - point fa (new)			'(fa) providing pro-active support to promote and encourage the__operations referred to in point (b) of the first paragraph of Article 8.';	'(fa) providing pro-active support to promote and encourage the__operations referred to in point (b) of the first paragraph of Article 8.'
399.			Art. 14 - para 5a (new)			'5a. The EIAH shall make use of the list referred to in Article 16(2a), in order to assist, in a proactive manner and as appropriate, possible project promoters in further developing their proposals for funding under the EFSI.'	'The EIB shall inform project promoters of the possibility to contact the EIAH in order to seek assistance in the further development of their proposals for funding under the EFSI. It shall also inform project promoters for which an EIB financing is denied or



No.	Ref. EFSI I	EFSI - II(consolidated version)*	Ref. EFSI II	EFSI II COM proposal	COUNCIL**	PARLIAMENT	Proposed compromise text
							<i>experiencing a financing gap despite a possible EIB financing of the possibility to list their project on the European Investment Project Portal.'</i>
401.	Art. 14 para 6	6. In order to ensure broad coverage of services provided by the EIAH across the whole Union, the EIAH shall cooperate where possible with providers of similar services at Union, regional, national or sub national level. Cooperation between, on the one hand, the EIAH and, on the other hand, a national promotional bank or institution, <u>an international financing institution</u> or an institution or a managing authority, including those acting as a national advisor, having expertise relevant for the purposes of the EIAH, may take the form of a contractual partnership.	Art. 14 - para 6	'Cooperation between, on the one hand, the EIAH and, on the other hand, a national promotional bank or institution, an international financing institution or an institution or a managing authority, including those acting as a national advisor, having expertise	'Cooperation between, on the one hand, the EIAH and, on the other hand, a national promotional bank or institution, an international (...) <b>financial</b> institution or an institution or a managing authority, including those acting as a national advisor,	'Cooperation between, on the one hand, the EIAH and, on the other hand, a national promotional bank or institution, an international financing institution or an institution or a managing authority, including those acting as a national advisor, having expertise relevant for the purposes of the EIAH, may take the form of a contractual partnership. <b>The EIAH shall conclude cooperation agreements with national promotional banks or institutions in each Member State. In Member States</b>	'Cooperation between, on the one hand, the EIAH and, on the other hand, a national promotional bank or institution, an international (...) <b>financial</b> institution or an institution or a managing authority, including those acting as a national advisor, having expertise relevant for the purposes of the EIAH, may take the form of a contractual partnership. <b>The EIAH shall endeavor to conclude at least one cooperation agreement with a national promotional bank or institution per Member State. In Member States where such an institution does not exist, the EIAH shall provide, where</b>

No.	Ref. EFSI I	EFSI - II(consolidated version)*	Ref. EFSI II	EFSI II COM proposal	COUNCIL**	PARLIAMENT	Proposed compromise text
				relevant for the purposes of the EIAH, may take the form of a contractual partnership.';	having expertise relevant for the purposes of the EIAH, may take the form of a contractual partnership. <b>The EIAH should aim to conclude at least one cooperation agreement with a national promotional bank or institution per Member State. In Member States where such an institution does not exist, the EIAH may provide, where appropriate, pro-active advisory support on its establishment. ';</b>	<i>where such institutions do not exist, the EIAH shall provide, where appropriate and at the request of the Member State concerned, pro-active advisory support on the establishment thereof.';</i>	<i>appropriate, and at the request of the Member State concerned, pro-active advisory support on its establishment.'</i>
403.	Art. 14 para 6 a (new)		Art. 14 - para 6a (new)		<b>6a. Without prejudice to paragraph 6, in order to facilitate a wider geographic outreach of advisory services and to support the local development of advisory services, a local presence of the EIAH shall be established in (...) Member States where there are difficulties to develop projects in particular under the EFSI.'</b>	<i>'6a. In order to actively ensure a wide geographic outreach of the advisory services across the Union and to successfully leverage local knowledge about the EFSI, a local presence of the EIAH shall be ensured, where needed and taking into account existing support schemes, with a view to providing tangible, pro-active, tailor-made assistance on the ground. It shall be established in particular in Member States or regions that face</i>	<i>'In order to develop a wide geographic outreach of the advisory services across the Union and to successfully leverage local knowledge about the EFSI, a local presence of the EIAH shall be ensured where needed, taking into account existing support schemes, with a view to providing tangible, pro-active, tailor-made assistance on the ground. It shall be established in particular in</i>

No.	Ref. EFSI I	EFSI - II(consolidated version)*	Ref. EFSI II	EFSI II COM proposal	COUNCIL**	PARLIAMENT	Proposed compromise text
						<i>difficulties in developing projects under the EFSI. The EIAH shall aim to promote a transfer of knowledge to the regional and local level and shall ensure the continuous build-up of regional and local capacity and expertise.'</i>	<i>Member States or regions that face difficulties in developing projects under the EFSI. The EIAH shall assist in the transfer of knowledge to the regional and local level with a view to building-up regional and local capacity and expertise.'</i>
405.	Art. 14 para 7	7. The Union shall contribute up to a maximum of EUR 20 000 000 per annum towards covering the costs of EIAH operations until 31 December 2020 for the services provided by the EIAH under paragraph 2 which are in addition to those already available under other Union programmes, insofar as those costs are not covered by the remaining amount from fees referred to in paragraph 4.	Art. 14 - para 7			<i>'7. An annual reference amount of EUR 20 000 000 shall be made available from the general budget of the Union to contribute towards covering the costs of EIAH operations until 31 December 2020 for the services provided by the EIAH under paragraph 2 which are in addition to those already available under other Union programmes, insofar as those costs are not covered by the remaining amount from fees referred to in paragraph 4.'</i>	<i>'An annual reference amount of EUR 20 000 000 shall be made available from the general budget of the Union to contribute towards covering the costs of EIAH operations until 31 December 2020 for the services provided by the EIAH under paragraph 2 which are in addition to those already available under other Union programmes, insofar as those costs are not covered by the remaining amount from fees referred to in paragraph 4.'</i>

9 June 2017

PUBLIC

**ADDITIONALITY**  
**SECOND COMPROMISE PROPOSAL**

Recitals lines 16, 22, 23, 25  
Articles lines 159, 160, 163, 164, 166, 167, 168  
Annex lines 559

**ALL CHANGES IN COMPROMISE PROPOSALS MARKED COMPARED TO COM PROPOSAL ON EFSI 2.0**

**Rationale (lines 16, 159) – general additionality**

*The compromise proposal includes references to the importance of additionality in a Recital and makes a link to the general objectives and broader aims of the EFSI's – to create employment and sustainable growth – in an Article. Combined, these reinforce the concept of additionality.*

**Compromise proposal**

**Line 16: Rec 6**

'The EFSI was established for an initial period of three years and with the aim of mobilising at least EUR 315 billion in investments. **However, the drive to meet that quantitative target should not prevail over the additionality of the projects selected.** The ~~Union Commission~~ is **therefore** committed **not only to extending the investment period and financial capacity** of the EFSI, **but also to raising the level of additionality**. The legal extension covers the period of the current Multiannual Financial Framework and should provide a total of at least half a trillion euro investments by 2020. In order to enhance the firepower of the EFSI even further and reach the aim of doubling the investment target, Member States should also contribute as a matter of priority.'

**Line 159: Art. 5 - para 1- subpara 1**

'For the purposes of this Regulation, 'additionality' means the support by the EFSI of operations which address market failures or sub-optimal investment situations and which could not have been carried out in the period during which the EU guarantee can be used, or not to the same extent, by the EIB, the EIF or under existing Union financial instruments without EFSI support. Projects supported by the EFSI, **while supporting any of the general objectives laid down in Article 9(2), striving to create employment and sustainable growth**, shall typically have a higher risk profile than projects supported by EIB normal operations and the EFSI portfolio shall have overall a higher risk profile than the portfolio of investments supported by the EIB under its normal investment policies before the entry into force of this Regulation.'

**Rationale (lines 22, 164, 166, 168) – cross border projects**

*The compromise proposal results in no automatic link between cross-border projects and additionality of projects. The initial proposal from the Commission aimed at promoting cross-border investments between Member States, due to this being an important policy objective as well as to the inherent*

*difficulty in realising these types of projects. However, allowing for any cross-border project with no physical link to give a strong indication of additionality may open up difficult questions of interpretation. To allow for projects related to broadband and similar services to fall under this category, but in order not to leave it open to any cross-border project, without a tangible and meaningful link, we propose to limit projects to physical infrastructure, including e-infrastructure, and specify further details in a Recital.*

#### **Compromise proposal**

Line 22: Rec. 9

'Additionality, a key feature of the EFSI, should be strengthened in the selection of projects. In particular, operations should only be eligible for EFSI support if they address clearly identified market failures or sub-optimal investment situations. Operations in **physical** infrastructure under the Infrastructure and Innovation Window linking two or more Member States, including e-infrastructure, **in particular broadband infrastructure, as well as services necessary for the construction, implementation, maintenance or functioning of such infrastructure**, should **give a strong indication of additionality** given their inherent difficulty and their high added value for the Union.'

Line 164: Art. 5 para 1 - subpar 5

~~'The projects supported by the EFSI that consist of physical infrastructure linking two or more Member States or of the extension of physical infrastructure or services linked to physical infrastructure from one Member State to one or more Member States, shall also be considered to provide additionality.'~~

*NB. see also line 168 below (to be read in conjunction with 166 and 167)*

#### **Rationale (lines 23, 25, 160, 163, 166, 167, 559) – special activities and regions**

*The compromise proposal results in no automatic link between EIB special activities and additionality of projects. Instead, EIB special activities are one category that would give a strong indication of additionality. The issue of projects located in less developed and transition regions is important to both co-legislators. The compromise text therefore keeps a balanced approach, as in any case projects located in less developed and transition regions would first and foremost need to be EIB special activities in order to give a strong indication of additionality. This is reflected also in Recitals.*

#### **Compromise proposal**

Line 23: Rec. 9a

**'The Investment Committee should take into account region specific conditions when assessing the additionality.'**

Line 25: Rec. 11

*'In order to reinforce the take-up of the EFSI in less-developed and transition regions, the scope of the general objectives eligible for EFSI support should be enlarged. **Such projects would remain subject to examination by the Investment Committee and need to adhere to the same eligibility criteria for the use of the EU guarantee including the principle of additionality. Given the fact that there should be no restriction on the size of the projects eligible for EFSI support, small-scale projects should not be deterred from applying for EFSI financing. Moreover, further action to strengthen technical assistance and the promotion of the EFSI in those regions is necessary.**'*

Line 160: Art. 5 para 1 - subpara 2

~~'The projects supported by the EFSI, while striving to create employment and sustainable growth, shall be considered to provide additionality if they carry a risk corresponding to EIB special activities, as defined in Article 16 of the EIB Statute and by the credit risk policy guidelines of the EIB.'~~

Line 163: Art. 5 para 1 - subpar 4

~~'EIB projects carrying a risk lower than the minimum risk under EIB special activities may also be supported by the EFSI if the use of the EU guarantee is required to ensure additionality as defined in the first subparagraph of this paragraph.'~~

Line 166: Art. 5 para 1 - subpar 5b (new) (to be read in conjunction with line 167 and 168)

***'Without prejudice to the requirement to meet the definition of additionality as set out in the first subparagraph, the following elements give strong indication of additionality:'***

Line 167: Art. 5 para 1 - subpara 5b - indent 1 (new)

***'- projects that carry a risk corresponding to EIB special activities, as defined in Article 16 of the EIB Statute and by the credit risk policy guidelines of the EIB, especially if such projects are located in less developed and transition regions;'***

Line 168: Art. 5 para 1 - subpara 5b - indent 2 (new)

***'- projects that consist of physical infrastructure, including e-infrastructure, linking two or more Member States or of the extension of such infrastructure or services linked to such infrastructure from one Member State to one or more Member States;'***

Line 559: Annex II - point 2a

***'attention shall be paid to region-specific conditions when assessing the additionality.'***

## ANNEX: Extract of relevant lines from the 5-column table

No.	Ref. EFSI I	EFSI - II(consolidated version)*	Ref. EFSI II	EFSI II COM proposal	COUNCIL**	PARLIAMENT	Proposed compromise text
16.	Rec. 6	(6) On 15 July 2014, the then President-elect of the Commission presented Political Guidelines for the next Commission to the European Parliament. Those Political Guidelines called for the mobilisation of 'up to EUR 300 billion in additional public and private investment in the real economy over the next three years' to stimulate investment for the purpose of job creation.	Rec. 6	(6) The EFSI was established for an initial period of three years and with the aim of mobilising at least EUR 315 billion in investments. Given its success, the Commission is committed to the doubling of the EFSI, both in terms of duration and financial capacity. The legal extension covers the period of the current Multiannual Financial Framework and should provide a total of at least half a trillion euro investments by 2020. In order to enhance the firepower of the EFSI even further and reach the aim of doubling the investment target, Member States should also contribute as a matter of priority	(6) The EFSI was established for an initial period of three years and with the aim of mobilising at least EUR 315 billion in investments. Given its success, the Commission is committed to the doubling of the EFSI, both in terms of duration and financial capacity. The legal extension covers the period of the current Multiannual Financial Framework and should provide a total of at least half a trillion euro investments by 2020. In order to enhance the firepower of the EFSI even further and reach the aim of doubling the investment target, Member States <b>are encouraged to</b> contribute.	(6) The EFSI was established for an initial period of three years and with the aim of mobilising at least EUR 315 billion in investments. <b>However, the drive to meet that quantitative target should not prevail over the additionality of the projects selected.</b> The Commission is <b>therefore</b> committed <b>not only to extending the investment period and financial capacity of the EFSI, but also to raising the level of additionality.</b> The legal extension covers the period of the current Multiannual Financial Framework and should provide a total of at least half a trillion euro investments by 2020. In order to enhance the firepower of the EFSI even further and reach the aim of doubling the investment target, Member States should also contribute as a matter of	(6) The EFSI was established for an initial period of three years and with the aim of mobilising at least EUR 315 billion in investments. <b>However, the drive to meet that quantitative target should not prevail over the additionality of the projects selected.</b> The <b>Union</b> Commission is <b>therefore</b> committed <b>not only to extending the investment period and financial capacity of the EFSI, but also to raising the level of additionality.</b> The legal extension covers the period of the current Multiannual Financial Framework and should provide a total of at least half a trillion euro investments by 2020. In order to enhance the firepower of the EFSI even further and reach the aim of doubling the investment target, Member States should



No.	Ref. EFSI I	EFSI - II(consolidated version)*	Ref. EFSI II	EFSI II COM proposal	COUNCIL**	PARLIAMENT	Proposed compromise text
						priority.	also contribute as a matter of priority.'
22.	Rec. 9	(9) On 13 January 2015, the Commission issued a communication entitled 'Making the best use of the flexibility within the existing rules of the Stability and Growth Pact' detailing how it will apply those rules.		<p>(9) Additionality, a key feature of the EFSI, should be strengthened in the selection of projects. In particular, operations should only be eligible for EFSI support if they address clearly identified market failures or sub-optimal investment situations.</p> <p>Operations in infrastructure under the Infrastructure and Innovation Window linking two or more Member States, including e-infrastructure, should be considered additional given their inherent difficulty and their high added value for the Union.</p>	<p>(9) Additionality, a key feature of the EFSI, should be strengthened in the selection of projects. In particular, operations should only be eligible for EFSI support if they address clearly identified market failures or sub-optimal investment situations.</p> <p><b>Market failures have different causes (...) and can lead to insufficient demand for investment and an undersupply or an inadequate supply of finance by market-based operators, resulting in sub-optimal investment situations.</b></p>	<p>(9) Additionality, a key feature of the EFSI, should be strengthened in the selection of projects. In particular, operations should only be eligible for EFSI support if they address clearly identified market failures or sub-optimal investment situations.</p> <p>Operations in infrastructure under the Infrastructure and Innovation Window linking two or more Member States <b>or regions</b>, including e-infrastructure <b>or the TEN-T and TEN-E networks</b>, should <b>give a strong indication of additionality</b> given their inherent difficulty and their high added value for the Union.</p>	<p>(9) 'Additionality, a key feature of the EFSI, should be strengthened in the selection of projects. In particular, operations should only be eligible for EFSI support if they address clearly identified market failures or sub-optimal investment situations.</p> <p>Operations in <b>physical</b> infrastructure under the Infrastructure and Innovation Window linking two or more Member States, including e-infrastructure, <b>in particular broadband infrastructure, as well as services necessary for the construction, implementation, maintenance or functioning of such infrastructure</b>, should <b>give a strong indication of additionality</b> given their inherent difficulty and their high added value for the</p>

No.	Ref. EFSI I	EFSI - II(consolidated version)*	Ref. EFSI II	EFSI II COM proposal	COUNCIL**	PARLIAMENT	Proposed compromise text
							Union.
23.			<i>Rec 9 a</i>		(9a) Operations in infrastructure under the Infrastructure and Innovation Window linking two or more Member States, including e-infrastructure, should be, as a rule, considered additional given their inherent difficulty and their high added value for the Union.	<i>(9a) The fulfilment of the additionality criterion is dependent upon region specific economic conditions, as a project may be additional in one region but not in another. The Investment Committee, therefore should take into account region specific conditions when assessing compliance with the additionality criterion.</i>	<i>(9a) The Investment Committee should take into account region specific conditions when assessing the additionality.</i>
25.	Rec. 11	(11) The EFSI should be part of a comprehensive strategy designed to address uncertainty surrounding public and private investments and to reduce the investment gaps in the Union. The strategy has three pillars: mobilising finance for investment, making investment reach the real economy and improving the investment environment in the Union. The strategy should	<i>Rec. 11</i>	(11) In order to reinforce the take-up of the EFSI in less-developed and transition regions, the scope of the general objectives eligible for EFSI support should be enlarged.	(11) In order to reinforce the take-up of the EFSI in less-developed and transition regions, the scope of the general objectives eligible for EFSI support should be enlarged.  <b>Such projects would remain subject to examination by the Investment Committee and need to adhere to the same eligibility criteria for the use of the EU guarantee including</b>	(11) In order to reinforce the take-up of the EFSI in less-developed and transition regions, the scope of the general objectives eligible for EFSI support should be enlarged.  <i>Given the fact that there should be no restriction on the size of the projects eligible for EFSI support, small-scale projects should not be deterred from applying</i>	(11) In order to reinforce the take-up of the EFSI in less-developed and transition regions, the scope of the general objectives eligible for EFSI support should be enlarged.  <i>Such projects would remain subject to examination by the Investment Committee and need to adhere to the same eligibility criteria for the use of the EU guarantee including</i>

No.	Ref. EFSI I	EFSI - II(consolidated version)*	Ref. EFSI II	EFSI II COM proposal	COUNCIL**	PARLIAMENT	Proposed compromise text
		boost competitiveness and economic recovery and should be complementary to the objective of economic, social and territorial cohesion across the Union. The EFSI should be seen as a complement to all other actions needed to reduce the investment gaps in the Union and – by acting as a guarantee fund – as a stimulus for new investments.			the principle of additionality.	<i>for EFSI financing. Moreover, further action to strengthen technical assistance and the promotion of the EFSI in those regions is necessary.</i>	<i>the principle of additionality. Given the fact that there should be no restriction on the size of the projects eligible for EFSI support, small-scale projects should not be deterred from applying for EFSI financing. Moreover, further action to strengthen technical assistance and the promotion of the EFSI in those regions is necessary.</i>
159.	Art. 5 para 1 - subpara 1	1. For the purposes of this Regulation, 'additionality' means the support by the EFSI of operations which address market failures or sub optimal investment situations and which could not have been carried out in the period during which the EU guarantee can be used, or not to the same extent, by the EIB, the EIF or under existing Union financial instruments without EFSI support. Projects supported by the EFSI shall typically have a higher risk	Art. 5 - para 1- subpara 1			'1. For the purposes of this Regulation, 'additionality' means the support by the EFSI of operations which address market failures or sub-optimal investment situations and which could not have been carried out in the period during which the EU guarantee can be used, or not to the same extent, by the EIB, the EIF or under existing Union financial instruments without EFSI support. Projects supported by the EFSI, <b>while supporting any of the general</b>	1. For the purposes of this Regulation, 'additionality' means the support by the EFSI of operations which address market failures or sub-optimal investment situations and which could not have been carried out in the period during which the EU guarantee can be used, or not to the same extent, by the EIB, the EIF or under existing Union financial instruments without EFSI support. Projects supported by the EFSI, <b>while supporting any of the general</b>

No.	Ref. EFSI I	EFSI - II(consolidated version)*	Ref. EFSI II	EFSI II COM proposal	COUNCIL**	PARLIAMENT	Proposed compromise text
		profile than projects supported by EIB normal operations and the EFSI portfolio shall have overall a higher risk profile than the portfolio of investments supported by the EIB under its normal investment policies before the entry into force of this Regulation.				<i>objectives laid down in Article 9(2), striving to create employment and sustainable growth</i> , shall typically have a higher risk profile than projects supported by EIB normal operations and the EFSI portfolio shall have overall a higher risk profile than the portfolio of investments supported by the EIB under its normal investment policies before the entry into force of this Regulation.	<i>objectives laid down in Article 9(2), striving to create employment and sustainable growth</i> , shall typically have a higher risk profile than projects supported by EIB normal operations and the EFSI portfolio shall have overall a higher risk profile than the portfolio of investments supported by the EIB under its normal investment policies before the entry into force of this Regulation.'
160.	Art. 5 para 1 - subpara 2	The projects supported by the EFSI, while striving to create employment and sustainable growth, shall be considered to provide additionality if they carry a risk corresponding to EIB special activities, as defined in Article 16 of the EIB Statute and by the credit risk policy guidelines of the EIB.					<del>The projects supported by the EFSI, while striving to create employment and sustainable growth, shall be considered to provide additionality if they carry a risk corresponding to EIB special activities, as defined in Article 16 of the EIB Statute and by the credit risk policy guidelines of the EIB.</del>
163.	Art. 5 para 1 -	EIB projects carrying a risk lower than the minimum risk	Art. 5 <i>para 1</i>	EIB projects carrying a risk lower than the minimum risk	EIB projects carrying a risk lower than the minimum risk	EIB projects carrying a risk lower than the minimum risk under EIB special activities	<del>EIB projects carrying a risk lower than the minimum risk</del>

No.	Ref. EFSI I	EFSI - II(consolidated version)*	Ref. EFSI II	EFSI II COM proposal	COUNCIL**	PARLIAMENT	Proposed compromise text
	subpara 4	under EIB special activities may also be supported by the EFSI if the use of the EU guarantee is required to ensure additionality as defined in the first subparagraph of this paragraph.	- subpara 4	under EIB special activities may also be supported by the EFSI if the use of the EU guarantee is required to ensure additionality as defined in the first subparagraph of this paragraph.	under EIB special activities may also be supported by the EFSI if the use of the EU guarantee is required to ensure additionality as defined in the first subparagraph of this paragraph.	may also be supported by the EFSI if the use of the EU guarantee is required to ensure additionality as defined in the first subparagraph of this paragraph.	<del>under EIB special activities may also be supported by the EFSI if the use of the EU guarantee is required to ensure additionality as defined in the first subparagraph of this paragraph.</del>
164.	Art. 5 para 1 - subpara 5	<u>The projects supported by the EFSI that consist of physical infrastructure linking two or more Member States or of the extension of physical infrastructure or services linked to physical infrastructure from one Member State to one or more Member States, shall also be considered to provide additionality.</u>	Art. 5 para 1 - subpara 5	The projects supported by the EFSI that consist of physical infrastructure linking two or more Member States or of the extension of physical infrastructure or services linked to physical infrastructure from one Member State to one or more Member States, shall also be considered to provide additionality.';	The projects <b>considered for</b> (...) EFSI <b>support</b> that consist of physical infrastructure linking two or more Member States, <b>including e-infrastructure, as well as the extension of infrastructure and services associated with such infrastructures (...)</b> shall, <b>as a rule</b> , also be considered to provide additionality.';		<del>The projects supported by the EFSI that consist of physical infrastructure linking two or more Member States or of the extension of physical infrastructure or services linked to physical infrastructure from one Member State to one or more Member States, shall also be considered to provide additionality.</del>
166.			Art. 5 para 1 - subpara 5b (new)			<i>Without prejudice to the requirement to meet the definition of additionality as set out in the first subparagraph, the following elements give strong indication of additionality:</i>	<i>Without prejudice to the requirement to meet the definition of additionality as set out in the first subparagraph, the following elements give strong indication of additionality:</i>

No.	Ref. EFSI I	EFSI - II(consolidated version)*	Ref. EFSI II	EFSI II COM proposal	COUNCIL**	PARLIAMENT	Proposed compromise text
167.			Art. 5 para 1 - subpar a 5b - indent 1 (new)			- projects that carry a risk corresponding to EIB special activities, as defined in Article 16 of the EIB Statute and by the credit risk policy guidelines of the EIB, especially if such projects are located in less developed and transition regions;	- projects that carry a risk corresponding to EIB special activities, as defined in Article 16 of the EIB Statute and by the credit risk policy guidelines of the EIB, especially if such projects are located in less developed and transition regions;
168.			Art. 5 para 1 - subpar a 5b - indent 2 (new)			- projects that consist of infrastructure linking two or more Member States or of the extension of infrastructure or services linked to infrastructure from one Member State to one or more Member States;	- projects that consist of physical infrastructure, including e-infrastructure, linking two or more Member States or of the extension of such infrastructure or services linked to such infrastructure from one Member State to one or more Member States;
559.			Annex II - point 2a			'(d a) attention shall be paid to region-specific conditions when assessing the additionality.'	attention shall be paid to region-specific conditions when assessing the additionality.

## EVALUATION AND REVIEW

Recitals line 18

Articles lines 462, 463, 464, 466, 471

**ALL CHANGES IN COMPROMISE PROPOSALS MARKED COMPARED TO COM PROPOSAL ON EFSI 2.0**

### Rationale

*The compromise proposal recognises the importance of the EFSI and the likely need for a further legislative proposal to ensure a continuation of strategic investment post EFSI 2.0, but does not prejudge the outcome of the independent evaluation of the EFSI, nor the prerogative of the Commission to put forward a possible legislative proposal. The compromise proposal also aligns better the timing of the independent evaluation with the broader timeline for the future MFF.*

### Compromise proposal

Line 18: Rec. 7

'For the period after 2020, the Commission intends to put forward the necessary proposals to ensure that strategic investment will continue at a sustainable level. ***That legislative proposal should be based on the conclusions of the Commission report and independent evaluation to be submitted by 31 December 2018 to the European Parliament and the Council. That report and independent evaluation should also examine the application of Regulation (EU) 2015/1017 as revised by this Regulation, under the extended EFSI period.***'

Line 462: Art. 18 -para 6

'By ***31 December*** 2018 ~~and 30 June 2020~~, the Commission shall submit to the European Parliament and the Council a report containing an independent evaluation of the application of this Regulation, ***as regards:***'

Line 463: Art. 18 para 6 point a (new)

***'the assessment of the functioning of the EFSI, the use of the EU guarantee and the functioning of the EIAH;'***

Line 464: Art. 18 para 6 point b (new)

***'whether the EFSI consists of a good use of resources of the EU Budget, mobilizes a sufficient level of private capital, and crowds-in private investment.'***

Line 466: Art. 18 - para 7- intro part

***'Taking due account of the conclusions of the 31 December 2018 report containing an independent evaluation, the Commission may put forward a legislative proposal together with an appropriate financing under the new multiannual financial framework.'***

Line 471: Art. 18 - para 8

***'The report referred to in paragraph 6 shall include an evaluation concerning the use of the scoreboard referred to in Article 7(14) and Annex II, in particular with regard to the consideration of the appropriateness of each pillar and their relative roles in the assessment. The report shall, if appropriate and duly justified with its findings, be accompanied by a proposal for a revision of the delegated act referred to in Article 7(14).';'***



## ANNEX: Extract of relevant lines from the 5-column table

No.	Ref. EFSI I	EFSI - II(consolidated version)*	Ref. EFSI II	EFSI II COM proposal	COUNCIL**	PARLIAMENT	Proposed compromise text
18.	Rec. 7	(7) On 26 November 2014, the Commission issued a communication entitled 'An Investment Plan for Europe' (Investment Plan) which envisaged the creation of the EFSI, a transparent portal of investment projects at Union level (European Investment Project Portal) and an investment advisory hub (European Investment Advisory Hub) and placed emphasis on an agenda to remove obstacles to investment and complete the internal market.	Rec. 7	(7) For the period after 2020, the Commission intends to put forward the necessary proposals to ensure that strategic investment will continue at a sustainable level.	<b>(7) (...) Any new proposal extending the investment period after 2020 should be based on reports submitted by the Commission to the European Parliament and to the Council containing an independent evaluations of the application of this Regulation. The first report to be submitted by 30 June 2018 should assess the functioning of the EFSI, the use of the EU guarantee and the functioning of EIAH. Moreover, the report should specify whether the EFSI consists of good use of resources of the EU Budget, mobilizes sufficient levels of private capital and crowds-in private investment. The main conclusions of this report should provide the basis of the discussions on the EFSI in the negotiations on next Multiannual Financial Framework. The following report to be submitted by 31 December 2019 should specify whether the EFSI is</b>	(7) For the period after 2020, the Commission <i>should</i> put forward, <i>under the new multiannual financial framework, a legislative proposal for a comprehensive investment scheme to effectively address the lack of investment in the Union. That legislative proposal should be based on the conclusions of the Commission report and independent evaluation to be submitted by 31 December 2018 to the European Parliament and the Council. That report and independent evaluation should also examine the application of Regulation (EU) 2015/1017 as revised by this Regulation, under the extended EFSI period.</i>	(7) For the period after 2020, the Commission intends to put forward the necessary proposals to ensure that strategic investment will continue at a sustainable level. <i>That legislative proposal should be based on the conclusions of the Commission report and independent evaluation to be submitted by 31 December 2018 to the European Parliament and the Council. That report and independent evaluation should also examine the application of Regulation (EU) 2015/1017 as revised by this Regulation, under the extended EFSI period.</i>

No.	Ref. EFSI I	EFSI - II(consolidated version)*	Ref. EFSI II	EFSI II COM proposal	COUNCIL**	PARLIAMENT	Proposed compromise text
					achieving its objectives in particular concerning the additionality of projects. Furthermore, the report should assess the wider investment situation in the EU and conclude whether maintaining the scheme for supporting investment is still warranted or whether a smooth termination of the EFSI, while preserving the EU guarantee for the operations already approved under this Regulation, should be ensured. The main conclusions from <i>that</i> report should provide impetus for further continuation or termination of the scheme post 2020.		
462.	Art. 18 para 6	6. <u>By 30 June 2018 and 30 June 2020</u> , the Commission shall submit to the European Parliament and the Council a report containing an independent evaluation of the application of this Regulation.	Art. 18 - para 6	'6. By 30 June 2018 and 30 June 2020, the Commission shall submit to the European Parliament and the Council a report containing an independent evaluation of the application of this Regulation.';	'6. By <b>30 June 2018 (...)</b> the Commission shall submit to the European Parliament and the Council a report containing an independent evaluation (...) <b>as regards:</b>	'6. By <b>31 December</b> 2018 and 30 June 2020, the Commission shall submit to the European Parliament and the Council a report containing an independent evaluation of the application of this Regulation.';	'6. By <b>31 December</b> 2018 and <del>30 June 2020</del> , the Commission shall submit to the European Parliament and the Council a report containing an independent evaluation of the application of this Regulation, <b>as regards:</b>
463.	Art. 18 para 6		Art. 18 para 6		(a) the assessment of the functioning of the EFSI, the		(a) the assessment of the functioning of the EFSI, the

No.	Ref. EFSI I	EFSI - II(consolidated version)*	Ref. EFSI II	EFSI II COM proposal	COUNCIL**	PARLIAMENT	Proposed compromise text
	point a (new)		<i>point a (new)</i>		use of the EU guarantee and the functioning of the EIAH;		<i>use of the EU guarantee and the functioning of the EIAH;</i>
464.	Art. 18 para 6 point b (new)		<i>Art. 18 para 6 point b (new)</i>		<b>(b) whether the EFSI consists of a good use of resources of the EU Budget, mobilizes a sufficient level of private capital, and crowds-in private investment.</b>		<b>(b) whether the EFSI consists of a good use of resources of the EU Budget, mobilizes a sufficient level of private capital, and crowds-in private investment.</b>
466.	Art. 18 para 7 intro. part	<del>7. In the event that the report referred to in paragraph 6 concludes that the EFSI:</del>	<i>Art. 18 - para 7- intro part</i>		<b>'7. By 31 December 2019, the Commission shall submit to the European Parliament and the Council a report containing an independent evaluation of the application of this Regulation as regards:</b>	<b>'7. The Commission shall put forward a legislative proposal, under the new multiannual financial framework, on a comprehensive investment scheme to effectively address the lack of investment in the Union. The proposal shall take due account of the conclusions of the 31 December 2018 report containing an independent evaluation, which shall be submitted in time to be duly considered for that purpose.'</b>	<b>'7. Taking due account of the conclusions of the 31 December 2018 report containing an independent evaluation, the Commission may put forward a legislative proposal together with an appropriate financing under the new multiannual financial framework.</b>
471.	Art. 18 para 8	<del>8. The report referred to in paragraph 6 shall be submitted without delay by the Commission in the event that the approved projects absorb in full the amount of the EU guarantee available before 5 July 2018.</del>	<i>Art. 18 - para 8</i>			<b>'8. The report referred to in paragraph 6 shall include an evaluation concerning the use of the scoreboard referred to in Article 7(14) and Annex II, in particular with regard to the consideration of the appropriateness of each pillar and their relative roles in the</b>	<b>'The report referred to in paragraph 6 shall include an evaluation concerning the use of the scoreboard referred to in Article 7(14) and Annex II, in particular with regard to the consideration of the appropriateness of each pillar</b>

No.	Ref. EFSI I	EFSI - II(consolidated version)*	Ref. EFSI II	EFSI II COM proposal	COUNCIL**	PARLIAMENT	Proposed compromise text
						<i>assessment. The report shall, if appropriate and duly justified with its findings, be accompanied by a proposal for a revision of the delegated act referred to in Article 7(14).';</i>	<i>and their relative roles in the assessment. The report shall, if appropriate and duly justified with its findings, be accompanied by a proposal for a revision of the delegated act referred to in Article 7(14).';</i>

**PRICING**  
**SECOND COMPROMISE PROPOSAL**

Recitals lines 41, 42  
Articles lines 119, 172, 173  
Annex lines 577 and 585

**ALL CHANGES IN COMPROMISE PROPOSALS MARKED COMPARED TO COM PROPOSAL ON EFSI 2.0**

**Rationale**

*Under its own decision-making procedures the EIB can modulate pricing of its operations. The compromise put forward by the Commission defines the situations in which the EIB should consider the possibility to modulate pricing of operations supported by EFSI and the pursued aim. Furthermore, the compromise proposal foresees that, where needed to contribute to a modulation of the EIB pricing, the remuneration of the EU guarantee could also be modulated.*

**Compromise proposal**

Line 41: Recital 21 a (new)

***'(21a) In order to address market failures and gaps, to stimulate adequate additional investments, and to promote the geographic and regional balance of EFSI-backed operations, an integrated and streamlined approach to the aim of promoting growth, jobs and investments is necessary. Pricing policy should contribute to the achievement of these goals.'***

Line 42: Recital 21b (new)

***'(21b) To promote the investment goals of Regulation (EU) 2015/1017, blending with existing funds should be encouraged in order to provide adequate concessionality in the financing terms and conditions, including the pricing, of EFSI operations.'***

Line 42a: Recital 21c (new)

***'(21c) In cases where stressed financial market conditions would prevent the realisation of a viable project or where needed to facilitate the establishment of investment platforms or the funding of projects in sectors or areas experiencing a very significant market failure or suboptimal investment situation the EIB should modulate where necessary the pricing of the operation so as to facilitate its implementation.'***

Line 119: Article 4 - point 2 - point c - point iv

***'(iv) the pricing of operations under the EU guarantee which is to be in line with the EIB's general pricing policy;'***

Line 119a (new): Article 4 - point 2 - point c - point v (new)

***'(v) the modulation of the remuneration of the EU guarantee, where needed to contribute to a modulation of the EIB pricing in particular in situations where stressed financial market conditions would prevent the realisation of a viable project or where needed to facilitate the establishment of investment platforms or the funding of projects in sectors or areas experiencing a very significant market failure or suboptimal investment situation;'***

## ANNEX: Extract of relevant lines from the 5-column table

No.	Ref. EFSI I	EFSI - II(consolidated version)*	Ref. EFSI II	EFSI II COM proposal	COUNCIL**	PARLIAMENT	Proposed compromise text
41.			<i>Rec 21 a (new)</i>			<i>(21a) In order to address market failures and gaps, to stimulate adequate additional investments, and to promote the geographic and regional balance of EFSI-backed operations, an integrated and streamlined approach to the aim of promoting growth, jobs and investments is necessary. Pricing policy should contribute to the achievement of these goals.</i>	<i>'(21a) In order to address market failures and gaps, to stimulate adequate additional investments, and to promote the geographic and regional balance of EFSI-backed operations, an integrated and streamlined approach to the aim of promoting growth, jobs and investments is necessary. Pricing policy should contribute to the achievement of these goals.'</i>
42.			<i>Rec. 21b (new)</i>			<i>(21b) To promote the investment goals of Regulation (EU) 2015/1017, blending with existing funds should be encouraged in order to provide adequate concessionality in the financing terms and</i>	<i>'(21b) To promote the investment goals of Regulation (EU) 2015/1017, blending with existing funds should be encouraged in order to provide adequate</i>

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						<i>conditions, including the pricing, of EFSI operations.</i>	<i>concessionality in the financing terms and conditions, including the pricing, of EFSI operations.'</i>
42.a			<i>Rec. 21c (new)</i>				<i>'(21c) In cases where stressed financial market conditions would prevent the realisation of a viable project or where needed to facilitate the establishment of investment platforms or the funding of projects in sectors or areas experiencing a very significant market failure or suboptimal investment situation the EIB should modulate where necessary the pricing of the operation so as to facilitate its implementation.'</i>
119.	Art. 4 para 2	(iv) the pricing of operations under the EU guarantee	<i>Art. 4 - para 2</i>			'(iv) the pricing of operations under the EU	'(iv) the pricing of operations under the



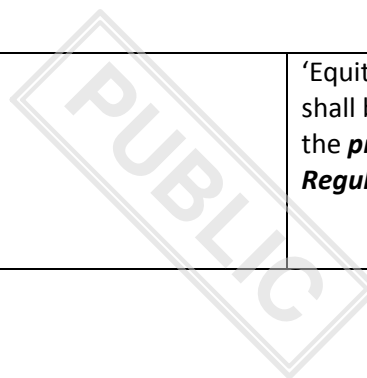
PUBLIC

	point (a) point (iv)	which is to be in line with the EIB's general pricing policy;	- point a - point iv			guarantee which is to be in line with the the EIB general pricing policy <b><i>in compliance with the purpose of this Regulation. Under circumstances where tighter economic and financial market conditions would prevent the realisation of a viable project, the pricing of the guarantee shall be modulated in order to promote geographic and regional balance of EFSI-backed operations and to address market failures;</i></b>	EU guarantee which is to be in line with the EIB's <del>general</del> pricing policy;'
119.a			Article 4 - point 2 - point c - point v (new)				<b><i>'(v) the modulation of the remuneration of the EU guarantee, where needed to contribute to a modulation of the EIB pricing in particular in situations where stressed financial market conditions would prevent the realisation of a viable project or where needed to facilitate the establishment of investment platforms or the funding of projects in sectors or areas</i></b>

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							<i>experiencing a very significant market failure or suboptimal investment situation;'</i>
172.			<i>Art. 5 - para 2a (new)</i>			<i>- as a preferred way and if duly justified, take junior positions versus other investors, and ensure that the pricing of its operations is modulated including blending, where necessary, to enable projects to maximise leverage of funds and to take into account local market conditions; and</i>	
173.			<i>Art. 5 - para 2a (new)</i>			<i>- if necessary for achieving the objectives of the EFSI and addressing market failures and investment gaps, ensure that the pricing levels for equity-type operations remains below market prices for the same kind of transactions.</i>	
577.	Section 6 - point b - indent 4	– Debt-type products shall be priced in line with the EIB's loan pricing methodology.	<i>Annex II - point 4 - point a - point iii(a)</i>			<i>'Debt-type products shall be priced in line with the provisions of this Regulation.'</i>	

585.	Section 6 - point c - indent 3	– Equity-type investments shall be priced in line with the market, absent which market testing or benchmarking shall be used.	<i>Annex II - point 4 - point b - point ii(a)</i>			‘Equity-type investments shall be priced in line with the <b><i>provisions of this Regulation.</i></b> ’	
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<p style="text-align: center;"><b>SCOREBOARD</b></p> <p style="text-align: center;"><b>SECOND COMPROMISE PROPOSAL</b></p> <p style="text-align: center;">Recitals lines 35 and 36 Articles lines 236 and 240</p> <p style="text-align: center;"><b>ALL CHANGES IN COMPROMISE PROPOSALS MARKED COMPARED TO COM PROPOSAL ON EFSI 2.0</b></p>
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**Rationale for line 236**

*The compromise proposal foresees that the decisions of the Investment Committee include the global assessment stemming from the scoreboard, to ensure full transparency in the decision-making process that led to the approval of the use of the EU guarantee. At the same time, the compromise ensures the full protection of commercially sensitive information, while such information could be forwarded by the EIB to the European Parliament upon request, subject to strict confidentiality requirements. As regards reporting, the compromise proposes to build on the existing reporting requirements, while adding a reference to the scoreboard of indicators as requested by the European Parliament.*

**Compromise proposal for line 236**

Line 35: Recital 18a (new)

***(18a) The scoreboard should be used in strict conformity with this Regulation and with Delegated Regulation (EU) 2015/1558, and the Annex thereto, as an independent and transparent assessment tool for the investment committee to prioritise the use of the EU guarantee for operations that display higher scores and added value. The EIB should calculate the scores and indicators ex ante and monitor the results at project completion.***

Line 236: Article 7 – para 11 – subpara 2

'Decisions approving the use of the EU guarantee shall be public and accessible, and include the rationale for the decision, with particular focus on compliance with the additionality criterion. ***The decisions shall also refer to the global assessment stemming from the scoreboard of indicators referred to in paragraph 14.*** The publication shall not contain commercially sensitive information. In reaching its decision, the Investment Committee shall be supported by the documentation provided by the EIB.

***The scoreboard is a tool for the Investment Committee to prioritise the use of the EU guarantee for operations that display higher scores and added value. It shall be publicly available after the signature of a project. The publication shall not contain commercially sensitive information.***

***Commercially sensitive parts of the decisions of the Investment Committee or of the scoreboards shall be forwarded by the EIB to the European Parliament upon request and under strict confidentiality requirements. '***

Line 237: Article 7 – para 12 – subpara 3 (reference in EFSI 1)

'The EIB shall submit twice a year to the European Parliament, the Council and the Commission a list of all decisions of the Investment Committee rejecting the use of the EU guarantee, **as well as a compilation of scoreboard results. That submission shall be,** subject to strict confidentiality requirements.'

#### **Rationale for line 240**

*The compromise proposal ensures that, despite providing a strong indication of the thresholds in the scoreboard (in those pillars where quantitative thresholds are possible), a global assessment of a project would still be possible where needed. The recital provides clarification on the use to be made of the scoreboard.*

#### **Compromise proposal for line 240**

Line 36: Recital 18b (new)

***'18b) The Steering Board should, in the strategic orientation of the EFSI, establish a minimum indicative threshold for the different criteria in the scoreboard with a view to enhancing the assessment of projects.'***

Line 240: Article 7 – para 14

'14. The Commission shall be empowered to adopt delegated acts in accordance with Article 23(1) to (3) and (5) to supplement this Regulation by establishing a scoreboard of indicators to be used by the Investment Committee to ensure an independent and transparent assessment of the potential and actual use of the EU guarantee. Such delegated acts shall be prepared in close dialogue with the EIB.

***The Steering Board shall, in the strategic orientation of the EFSI, establish a minimum indicative threshold for the criteria in the scoreboard with a view to enhancing the assessment of projects.'***

## ANNEX: Extract of relevant lines from the 5-column table

No.	Ref. EFSI I	EFSI - II(consolidated version)*	Ref. EFSI II	EFSI II COM proposal	COUNCIL**	PARLIAMENT	Proposed compromise text
35.			Rec. 18a			<i>(18a) The scoreboard should be used in strict conformity with this Regulation and with Delegated Regulation (EU) 2015/1558<sup>1</sup>, and the Annex thereto, as an independent and transparent assessment tool for the investment committee to prioritise the use of the EU guarantee for operations that display higher scores and added value. The EIB should calculate the scores and indicators ex ante and monitor the results at project completion.</i>	<i>(18a) The scoreboard should be used in strict conformity with this Regulation and with Delegated Regulation (EU) 2015/1558, and the Annex thereto, as an independent and transparent assessment tool for the investment committee to prioritise the use of the EU guarantee for operations that display higher scores and added value. The EIB should calculate the scores and indicators ex ante and monitor the results at project completion.</i>
36.			Rec. 18b			<i>(18b) The Steering Board should revise the investment guidelines to</i>	<i>'18b) The Steering Board should, in the strategic orientation of the EFSI,</i>

<sup>1</sup> Commission Delegated Regulation (EU) 2015/1558 of 22 July 2015 supplementing Regulation (EU) 2015/1017 of the European Parliament and of the Council by the establishment of a scoreboard of indicators for the application of the EU guarantee (OJ L 244, 19.9.2015, p. 20).

No.	Ref. EFSI I	EFSI - II(consolidated version)*	Ref. EFSI II	EFSI II COM proposal	COUNCIL**	PARLIAMENT	Proposed compromise text
						<i>establish a minimum threshold for the different criteria in the scoreboard with a view to enhancing the assessment of projects.</i>	<i>establish a minimum indicative threshold for the different criteria in the scoreboard with a view to enhancing the assessment of projects.'</i>
236.	Art. 7 para 12 subpar a 2	Decisions of the Investment Committee shall be taken by simple majority. Decisions approving the use of the EU guarantee shall be public and accessible, <u>and include the rationale for the decision, with particular focus on compliance with the additionality criterion</u>	Art. 7 - <i>para</i> 11 - <i>subpar</i> <i>a 2</i>	'Decisions approving the use of the EU guarantee shall be public and accessible, and include the rationale for the decision, with particular focus on compliance with the additionality criterion. The publication shall not contain commercially sensitive information. In reaching its decision, the Investment Committee shall be supported by the documentation provided by the EIB.';	'Decisions approving the use of the EU guarantee shall be public and accessible, and include the rationale for the decision, with particular focus on compliance with the additionality criterion. The publication <b>to be made after the approval of the operation by the EIB Board of Directors</b> shall not contain commercially sensitive information. In reaching its decision, the Investment Committee shall be supported by the documentation provided by the EIB.';	'Decisions approving the use of the EU guarantee shall be public and accessible <b>through detailed minutes. The publication of such decisions shall</b> include the rationale for the decision, with particular focus on compliance with the additionality criterion <b>and an explanation on how the scoreboard of indicators referred to in paragraph 14 was used to justify the use of the EU guarantee.</b> <b>The scoreboard is a tool for the investment committee to prioritise the use of the EU guarantee for operations that display higher scores and added</b>	'Decisions approving the use of the EU guarantee shall be public and accessible, and include the rationale for the decision, with particular focus on compliance with the additionality criterion. <b>The decisions shall also refer to the global assessment stemming from the scoreboard of indicators referred to in paragraph 14.</b> The publication shall not contain commercially sensitive information. In reaching its decision, the Investment Committee shall be supported by the documentation provided by the EIB.

No.	Ref. EFSI I	EFSI - II(consolidated version)*	Ref. EFSI II	EFSI II COM proposal	COUNCIL**	PARLIAMENT	Proposed compromise text
						<p><b>value. It shall be publicly available after the final decision on a project has been taken.</b> The publication shall not contain commercially sensitive information.</p> <p><b>In the case of commercially sensitive decisions, the EIB shall forward to the European Parliament such decisions and information concerning promoters or financial intermediaries at the date of closing of the relevant financing or any earlier date when commercial sensitivity ends.</b> In reaching its decision, the Investment Committee shall be supported by the documentation provided by the EIB.</p> <p><b>The EIB shall, on an annual basis, submit to the European Parliament, the Council and the Commission a list of all</b></p>	<p><b>The scoreboard is a tool for the Investment Committee to prioritise the use of the EU guarantee for operations that display higher scores and added value. It shall be publicly available after the signature of a project. The publication shall not contain commercially sensitive information.</b></p> <p><b>Commercially sensitive parts of the decisions of the Investment Committee or of the scoreboards shall be forwarded by the EIB to the European Parliament upon request and under strict confidentiality requirements. ';</b></p>



No.	Ref. EFSI I	EFSI - II(consolidated version)*	Ref. EFSI II	EFSI II COM proposal	COUNCIL**	PARLIAMENT	Proposed compromise text
						<i>decisions of the Investment Committee rejecting the use of the EU guarantee, as well as a compilation of the scoreboard results. That submission shall be subject to strict confidentiality requirements.'</i>	
237.	Art. 7 para 12  subpar a 3	The EIB shall submit twice a year to the European Parliament, the Council and the Commission a list of all decisions of the Investment Committee rejecting the use of the EU guarantee, subject to strict confidentiality requirements.					'The EIB shall submit twice a year to the European Parliament, the Council and the Commission a list of all decisions of the Investment Committee rejecting the use of the EU guarantee, <b>as well as a compilation of scoreboard results. That submission shall be</b> , subject to strict confidentiality requirements.'
240.	Art. 7 para	14. The Commission shall be empowered to adopt delegated acts in	Art. 7 - para			'14. The Commission shall be empowered to adopt delegated acts in	'14. The Commission shall be empowered to adopt delegated acts in

No.	Ref. EFSI I	EFSI - II(consolidated version)*	Ref. EFSI II	EFSI II COM proposal	COUNCIL**	PARLIAMENT	Proposed compromise text
	14	accordance with Article 23(1) to (3) and (5) to supplement this Regulation by establishing a scoreboard of indicators to be used by the Investment Committee to ensure an independent and transparent assessment of the potential and actual use of the EU guarantee. Such delegated acts shall be prepared in close dialogue with the EIB.	14			accordance with Article 23(1) to (3) and (5) to supplement this Regulation by establishing a scoreboard of indicators to be used by the Investment Committee to ensure an independent and transparent assessment the potential and actual use of the EU guarantee. Such delegated acts shall be prepared in close dialogue with the EIB. <b><i>The Steering Board shall revise the investment guidelines in order to establish a minimum threshold for the different criteria in the scoreboard with a view to enhancing the assessment of projects.'</i></b>	accordance with Article 23(1) to (3) and (5) to supplement this Regulation by establishing a scoreboard of indicators to be used by the Investment Committee to ensure an independent and transparent assessment of the potential and actual use of the EU guarantee. Such delegated acts shall be prepared in close dialogue with the EIB. <b><i>The Steering Board shall, in the strategic orientation of the EFSI, establish a minimum indicative threshold for the criteria in the scoreboard with a view to enhancing the assessment of projects.'</i></b>

## GOVERNANCE

Articles lines 124, 126, 194, 196, 201, 203, 205, 233, 447, 448

ALL CHANGES IN COMPROMISE PROPOSALS MARKED COMPARED TO COM PROPOSAL ON EFSI 2.0

### Rationale

The proposed compromise foresees that the European Parliament and the Council appoint one independent expert each to advise the Steering Board. This would improve the functioning of the EFSI's governance structure, by allowing the Steering Board to rely on external expert advice when taking decisions. The proposed compromise would ensure an equal treatment of the Parliament and Council.

Furthermore, the compromise aims at further clarifying the roles of the Managing Director and Deputy Managing Director. For instance, it is proposed that both the Managing Director and the Deputy Managing Director attend the Steering Board meetings as observers, which would allow them to be fully informed of any decisions taken as regards the strategic orientation of the EFSI – which is of relevance both to the daily management of the EFSI and to the work of the Investment Committee (chaired by the Managing Director). The proposal also aims to ensure that a breach of any of the Investment Committee members is appropriately addressed: since it is not necessarily the Managing Director who would implement such action, the proposal suggests that the Managing Director should be responsible to ensure appropriate action. Furthermore, the Managing Director should exercise his duty of care but cannot be held responsible to inform the Steering Board of any breach of obligations of Investment Committee members, but rather the ones that come to his knowledge while exercising his duty of care.

The accountability of the Managing Director is already covered in the current EFSI Regulation (see Article 17 paragraphs 1 and 2). The compromise proposal builds on this provision, adding that the Managing Director is also requested to report on the work of the Investment Committee and answer questions regarding the work of the Investment Committee, to the EP and the Council.

As regards the status of the Managing Director and the Deputy Managing Director, considering the need to respect the legal principle of legitimate expectation of the current jobholders, it is proposed not to change the status for the EFSI 2.0.

### Compromise proposal

Lines 124 and 126: Article 4 - para 2 - point b - points iii and iv

- '(b) (iii) a provision that the Steering Board is to take decisions by consensus; ***the decisions of the Steering Board shall consider the advice of the independent experts referred to in Article 7(3);***'
- (iv) the procedure for the appointment of the Managing Director and of the Deputy Managing Director, their remuneration and working conditions, in accordance with the Staff Regulations of the EIB, the rules and procedures on their replacement in their functions and on accountability, without prejudice to this Regulation;

Lines 194 and 196: Art. 7 - para 3 - subparagraphs 1 and 2

'The Steering Board shall comprise four members: three appointed by the Commission and one by the EIB. The Steering Board shall elect a Chairperson from among its members for a fixed term of three years, renewable once. The Steering Board shall take its decisions by consensus. ***The Steering Board shall be advised by two independent experts: one appointed by the European Parliament and one by the Council.***

The ***detailed*** minutes of Steering Board meetings shall be published as soon as they have been approved by the Steering Board. ***The European Parliament shall be immediately notified of their publication.***

Lines 201 and 203: Art. 7 para 5 - subparagraphs 1 and 2

'The EFSI Agreement shall provide that the EFSI is to have a managing director, who is to be responsible for the day to day management of the EFSI and the preparation and chairing of meetings of the Investment Committee referred to in paragraph 6.

The Managing Director shall be assisted by a deputy Managing Director. ***The Managing Director and the Deputy Managing Director shall participate in the meetings of the Steering Board as observers.*** The Managing Director shall report every quarter on the activities of the EFSI to the Steering Board.'

Line 205: Art. 7 - para 6 - subpara 1

'Following an open and transparent selection process in line with EIB procedures, the Steering Board shall select a candidate for each of the positions of Managing Director and Deputy Managing Director.'

Line 233: Art. 7 para 11

'Following a request from the Steering Board, the contract of any member of the Investment Committee who breaches the obligations set out in paragraphs 9 and 10 shall be terminated, in accordance with applicable employment and labour law rules. The Managing Director shall be responsible for informing the Steering Board of any such breach that comes to his knowledge and ~~propose~~ be ***responsible to ensure*** appropriate action. ***The Managing Director shall exercise his duty of care regarding potential conflicts of interest of any member of the Investment Committee.***

Line 447: Art. 17 para 1

'1. At the request of the European Parliament or of the Council, the Chairperson of the Steering Board and the Managing Director shall report on the performance of the EFSI to the requesting institution, including by participating in a hearing before the European Parliament. ***In addition, at the request of the European Parliament or of the Council, the Managing Director shall report on the work of the Investment Committee to the requesting institution.***

Line 448: Art. 17 para 2

'2. The Chairperson of the Steering Board and the Managing Director shall reply orally or in writing to questions addressed to the EFSI by the European Parliament or the Council, in any event within five weeks of the date of receipt of a question. ***In addition, the Managing Director shall reply orally or in writing to the European Parliament or the Council to questions regarding the work of the Investment Committee.***

## ANNEX: Extract of relevant lines from the 5-column table

No.	Ref. EFSI I	EFSI - II(consolidated version)*	Ref. EFSI II	EFSI II COM proposal	COUNCIL**	PARLIAMENT	Proposed compromise text
124.	Art. 4 para 2  point (b)  point (iii)	(iii) a provision that the Steering Board is to take decisions by consensus;	Art. 4 - para 2 - point b - point iii			‘(iii) a provision that the Steering Board is to take decisions by consensus, <b>and that, in the event that a consensus cannot be reached, it is to take its decisions by a four-fifths majority of its component members;</b> ’	(iii) a provision that the Steering Board is to take decisions by consensus; <b>the decisions of the Steering Board shall consider the advice of the independent experts referred to in Article 7(3);</b> ’
126.	Art. 4 para 2  point (b)  point (iv)	(iv) the procedure for the appointment of the Managing Director and of the Deputy Managing Director, their remuneration and working conditions, in accordance with the Staff Regulations of the EIB, the rules and procedures on their replacement in their functions and on accountability, without prejudice to this Regulation;	Art. 4 - para 2 - point b - point iv			‘(iv) the procedure for the appointment of the Managing Director and of the Deputy Managing Director, their remuneration and working conditions, the rules and procedures on their replacement in their functions and on accountability, without prejudice to this Regulation;’;	(iv) the procedure for the appointment of the Managing Director and of the Deputy Managing Director, their remuneration and working conditions, in accordance with the Staff Regulations of the EIB, the rules and procedures on their replacement in their functions and on accountability, without prejudice to this Regulation;

No.	Ref. EFSI I	EFSI - II(consolidated version)*	Ref. EFSI II	EFSI II COM proposal	COUNCIL**	PARLIAMENT	Proposed compromise text
194.	Art. 7 para 3 - subpar a 1	3. The Steering Board shall comprise four members: three appointed by the Commission and one by the EIB. The Steering Board shall elect a Chairperson from among its members for a fixed term of three years, renewable once. The Steering Board shall take its decisions by consensus	Art. 7 - para 3 - subpar a 1			'The Steering Board shall comprise <b>five</b> members: three appointed by the Commission, one by the EIB <b>and one by the European Parliament</b> . The Steering Board shall elect a Chairperson from among its members for a fixed term of three years, renewable once. The Steering Board shall <b>strive to</b> take its decisions by consensus. <b>In the event that a consensus cannot be reached, the Steering Board shall take its decisions by a four-fifths majority of its component members.</b> '	'The Steering Board shall comprise four members: three appointed by the Commission and one by the EIB. The Steering Board shall elect a Chairperson from among its members for a fixed term of three years, renewable once. The Steering Board shall take its decisions by consensus. <b>The Steering Board shall be advised by two independent experts: one appointed by the European Parliament and one by the Council.</b>
196.	Art. 7 para 3 - subpar a 2	The minutes of Steering Board meetings shall be published as soon as they have been approved by the Steering Board.	Art. 7 - para 3 - subpar a 2			'The <b>detailed</b> minutes of Steering Board meetings shall be published as soon as they have been approved by the Steering Board. <b>The European Parliament shall be immediately notified of their publication.</b> '	'The <b>detailed</b> minutes of Steering Board meetings shall be published as soon as they have been approved by the Steering Board. <b>The European Parliament shall be immediately notified of their publication.</b> '

No.	Ref. EFSI I	EFSI - II(consolidated version)*	Ref. EFSI II	EFSI II COM proposal	COUNCIL**	PARLIAMENT	Proposed compromise text
201.	Art. 7 para 5 - subpar a 1	5. The EFSI Agreement shall provide that the EFSI is to have a managing director, who is to be responsible for the day to day management of the EFSI and the preparation and chairing of meetings of the Investment Committee referred to in paragraph 6.	Art. 7 - para 5 - subpar a 1			'5. The EFSI Agreement shall provide that the EFSI is to have a managing director, who is to be responsible for the day-to-day management of the EFSI and the preparation and chairing of meetings of the Investment Committee referred to in paragraph 6. <b><i>In addition, the managing director is to be accountable to the European Parliament regarding the work of the Investment Committee.'</i></b>	'The EFSI Agreement shall provide that the EFSI is to have a managing director, who is to be responsible for the day to day management of the EFSI and the preparation and chairing of meetings of the Investment Committee referred to in paragraph 6.'
203.	Art. 7 para 5 - subpar a 2	The Managing Director shall be assisted by a deputy managing director. The Managing Director shall report every quarter on the activities of the EFSI to the Steering Board.	Art. 7 - para 3 - subpar 2			'The Managing Director shall be assisted by a deputy managing director. The Managing Director shall <b><i>participate in the meetings</i></b> of the Steering Board <b><i>as a non-voting member. In the event that the Managing Director cannot attend meetings or parts of meetings of</i></b> the Steering Board, <b><i>the Deputy Managing Director shall participate in such</i></b>	'The Managing Director shall be assisted by a deputy Managing Director. <b><i>The Managing Director and the Deputy Managing Director shall participate in the meetings of the Steering Board as observers.</i></b> The Managing Director shall report every quarter on the activities of the EFSI to the Steering

No.	Ref. EFSI I	EFSI - II(consolidated version)*	Ref. EFSI II	EFSI II COM proposal	COUNCIL**	PARLIAMENT	Proposed compromise text
						<i>meetings or parts thereof as a non-voting member.</i>	Board.'
205.	Art. 7 para 6 - subpar a 1	6. Following an open and transparent selection process in line with EIB procedures, the Steering Board shall select a candidate for each of the positions of Managing Director and Deputy Managing Director.	Art. 7 - para 6 - subpar a 1			'6. Following an open and transparent selection process in line with <b>the provisions laid down in this Regulation</b> , the Steering Board shall select a candidate for each of the positions of Managing Director and Deputy Managing Director, <b>who shall each be remunerated from the general budget of the Union.</b> '	'Following an open and transparent selection process in line with EIB procedures, the Steering Board shall select a candidate for each of the positions of Managing Director and Deputy Managing Director.'
233.	Art. 7 para 11	11. Following a request from the Steering Board, the contract of any member of the Investment Committee who breaches the obligations set out in paragraphs 9 and 10 shall be terminated, in accordance with applicable employment and labour law rules. <u>The Managing</u>	Art. 7 - para 11	'The Managing Director shall be responsible for informing the Steering Board of any such breach that comes to his knowledge and propose appropriate action.';	'The Managing Director shall be responsible for informing the Steering Board of any such breach that comes to his knowledge and propose appropriate action.';	'The Managing Director shall be responsible for informing the Steering Board of any such breach and propose <b>and implement</b> appropriate action.';	'Following a request from the Steering Board, the contract of any member of the Investment Committee who breaches the obligations set out in paragraphs 9 and 10 shall be terminated, in accordance with applicable employment and labour law rules. The Managing



No.	Ref. EFSI I	EFSI - II(consolidated version)*	Ref. EFSI II	EFSI II COM proposal	COUNCIL**	PARLIAMENT	Proposed compromise text
		<u>Director shall be responsible for informing the Steering Board of any such breach that comes to his knowledge and propose appropriate action.</u>					Director shall be responsible for informing the Steering Board of any such breach that comes to his knowledge and <del>propose</del> be <b>responsible to ensure</b> appropriate action. <b><i>The Managing Director shall exercise his duty of care regarding potential conflicts of interest of any member of the Investment Committee.'</i></b>
447.	Art 17 para 1	1. At the request of the European Parliament or of the Council, the Chairperson of the Steering Board and the Managing Director shall report on the performance of the EFSI to the requesting institution, including by participating in a hearing before the					'1. At the request of the European Parliament or of the Council, the Chairperson of the Steering Board and the Managing Director shall report on the performance of the EFSI to the requesting institution, including by participating in a hearing before the European Parliament. <b><i>In</i></b>

No.	Ref. EFSI I	EFSI - II(consolidated version)*	Ref. EFSI II	EFSI II COM proposal	COUNCIL**	PARLIAMENT	Proposed compromise text
		European Parliament.					<i>addition, at the request of the European Parliament or of the Council, the Managing Director shall report on the work of the Investment Committee to the requesting institution.'</i>
448.	Art 17 para 2	2. The Chairperson of the Steering Board and the Managing Director shall reply orally or in writing to questions addressed to the EFSI by the European Parliament or the Council, in any event within five weeks of the date of receipt of a question.					'2. The Chairperson of the Steering Board and the Managing Director shall reply orally or in writing to questions addressed to the EFSI by the European Parliament or the Council, in any event within five weeks of the date of receipt of a question. <i>In addition, the Managing Director shall reply orally or in writing to the European Parliament or the Council to questions regarding the work of the</i>

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No.	Ref. EFSI I	EFSI - II(consolidated version)*	Ref. EFSI II	EFSI II COM proposal	COUNCIL**	PARLIAMENT	Proposed compromise text
							<i>Investment Committee.</i> '

## SECTORS AND COP21

Recitals lines 19, 20, 21, 32

Articles lines 228, 268, 275, 276, 277, 289, 293, 297, 298, 300

Annex line 541

ALL CHANGES IN COMPROMISE PROPOSALS MARKED COMPARED TO COM PROPOSAL ON EFSI 2.0

### **Rationale (lines 19, 20, 21, 32, 228, 268, 275, 276, 277, 289, 293, 297, 298) – general sectors**

*The compromise proposal takes into account the proposals put forward by both co-legislators and thus specifies in more detail the sectors that are eligible. At the same time it does not put undue constraints on certain sectors. Notably, the reference to the cultural and creative industries remains sufficiently broad to allow for other projects to be eligible in addition to those that fall under the umbrella of Creative Europe and its Guarantee Facility. In addition, given the recently launched initiatives in the context of the follow-up from the European Defence Action Plan, there is no specific reference to the defence sector in the compromise proposal.*

### **Compromise proposal**

#### Line 19: Rec. 8

'The extended EFSI should address remaining market failures and sub-optimal investment situations and continue to mobilise private sector financing in investments crucial for Europe's future job creation – including for the youth –, growth and competitiveness with strengthened additionality. They include investments in the areas of energy, environment and climate action, social and human capital and related infrastructure, healthcare, research and innovation, cross-border and sustainable transport, as well as the digital transformation. [...see below COP 21...] Energy interconnection priority projects and energy efficiency projects should also be increasingly targeted. [...see below motorways...] ***In the digital sector, and within the scope of the ambitious Union policy on the Digital Economy, new digital infrastructure targets should be set in order to ensure the bridging of the digital divide and that the Union will be a global pioneer in the new age of the so-called internet of things, blockchain technology, and cyber- and network-security.*** For reasons of clarity, although they are already eligible, it should be explicitly laid down that projects in the fields of agriculture, **forestry**, fishery, aquaculture **and other elements of a wider bioeconomy** come within the general objectives eligible for EFSI support.'

#### Line 21: Rec. 8b

***'Cultural and creative industries play a key role in reindustrialising Europe, are a driver for growth and are in a strategic position to trigger innovative spill-overs in other industrial sectors, such as tourism, retail, and digital technologies. In addition to the Creative Europe and the Guarantee Facility, the EFSI should help to overcome capital shortages in these sectors.'***

#### Line 32: Rec. 16

'In line with the exceptional market demand for SME financing under the EFSI which is expected to continue, the EFSI SME Window should be enhanced. Particular attention should be paid to social

enterprises **and social services**, including through the development and deployment of new instruments **adequate for the sector's needs and specificities.**'

Line 228: Art. 7 - para 8 - subpara 3 - point l

'(l) agriculture, **forestry**, fishery, (...) aquaculture **and other elements of the wider bioeconomy.**.'

Line 268: Art. 9 - para 2 - point c - point iia (new)

'(iia) **railway infrastructure and other rail projects;**'

Line 275: Art. 9 - para 2 - point e - point ia (new)

'(ia) **blockchain technology;**'

Line 276: Art. 9 - para 2 - point e - point ib (new)

'(ib) **internet of things;**'

Line 277: Art. 9 - para 2 - point e - point ic (new)

'(ic) **cybersecurity and network protection infrastructures;**'

Line 289: Art. 9 - para 2 - point g - point ii

'(ii) cultural and creative industries;'

Line 293: Art. 9 - para 2 - point g - point v

'(v) social infrastructures, **social services**, social and solidarity economy;'

Line 297: Art. 9 - para 2 - point h

'(h) agriculture, **forestry**, fishery (...), aquaculture **and other elements of the wider bioeconomy;**'

Line 298: Art. 9 - para 2 - point i

'(i) **within the requirements of this Regulation**, for less-developed regions and transition regions as listed respectively in Annex I and Annex II of Commission Implementing Decision 2014/99/EU, other industry and services eligible for EIB support.;

### **Rationale (lines 19, 300) – COP21**

*The compromise proposal takes into account the need to retain the commitment to the Union's ambitious COP21 targets, whilst firstly confirming that SMEs and midcaps are not included in the computation, and secondly clarifying that the EIB is using internationally agreed methodology to identify the relevant project components that contribute to this target.*

### **Compromise proposal**

Line 19: Rec. 8

'[...see above general sectors...] In particular, the contribution of operations supported by the EFSI to achieving the Union's ambitious targets set at the Paris Climate Conference (COP21) **and the Union commitment to reduce greenhouse gas emissions by 80 - 95 %** should be reinforced. **In order to reinforce the climate action element under the EFSI, the EIB should build on its experience as one of the largest providers of climate finance worldwide and use state-of-the-art internationally agreed methodology to credibly identify climate action components or cost shares.** [...see above general sectors and below motorways...]'

Line 300: Art. 9 - para 2 - subpara 1a (new)

'**Whilst recognising the demand-driven nature of the EFSI, the EIB shall target that at least 40 % of EFSI financing under the infrastructure and innovation window supports projects with components that contribute to climate action, in line with the COP21 commitments. EFSI financing for SMEs and mid-cap companies shall not be included in that computation. The EIB's shall use internationally agreed methodology to identify climate action components or cost shares.** The Steering Board shall, **where needed,** provide detailed guidance to that end.'

#### **Rationale (lines 19, 541) – motorways**

*The compromise proposal goes beyond the initial Commission proposal to avoid support to motorways unless needed to support private investment in transport in cohesion countries or in cross-border transport projects involving at least one cohesion country and proposes to allow for support to less-developed regions and more broadly all countries in certain cases, including maintenance and upgrading. It therefore proposes a balanced compromise between restricting support to only specific countries and the status quo, which sees all motorway projects being eligible.*

#### **Compromise proposal**

Line 19: Rec. 8

'[...see above general sectors and COP21...] In addition, EFSI support to motorways should be **limited** to support private **and/or public** investment in transport in cohesion countries, **less developed regions** or in cross-border transport projects **or if it is necessary to upgrade, maintain or improve road safety, develop intelligent transportation system (ITS) devices, or guarantee the integrity and standards of existing motorways on the trans-European transport network, in particular safe parking areas, alternative clean fuels stations and electric charging systems.** [...see above general sectors and COP21...]'

Line 541: Annex II - point 1 -point a

'EFSI support to motorways shall be **limited to public and/or** private investment in transport in cohesion countries, **less developed regions** or in cross-border transport projects **or, if it is necessary to upgrade, maintain or improve road safety, develop intelligent transportation system (ITS) devices or guarantee the integrity and standards of existing motorways on the trans-European transport network, in particular safe parking areas, alternative clean fuels stations and electric charging systems. EFSI support shall also be explicitly possible for maintaining and upgrading existing transport infrastructure.'**

## ANNEX: Extract of relevant lines from the 5-column table

No.	Ref. EFSI I	EFSI - II(consolidated version)*	Ref. EFSI II	EFSI II COM proposal	COUNCIL**	PARLIAMENT	Proposed compromise text
19.	Rec. 8	(8) The European Council on 18 December 2014 concluded that ‘fostering investment and addressing market failure in Europe is a key policy challenge’ and that ‘the new focus on investment, coupled with Member States’ commitment to intensifying structural reforms and to pursuing growth-friendly fiscal consolidation, will provide the foundation for growth and jobs in Europe’. The European Council called for ‘setting up a European Fund for Strategic Investments (EFSI) in the EIB Group with the aim to mobilise 315 billion euro in new investments between 2015 and 2017’, and invited the EIB Group ‘to start activities by using its own funds as of January 2015’. The European Council also underlined that ‘the EFSI will complement and be additional to ongoing EU programmes and traditional EIB activities’.	Rec. 8	<p>(8) The extended EFSI should address remaining market failures and sub-optimal investment situations and continue to mobilise private sector financing in investments crucial for Europe’s future job creation – including for the youth –, growth and competitiveness with strengthened additionality. They include investments in the areas of energy, environment and climate action, social and human capital and related infrastructure, healthcare, research and innovation, cross-border and sustainable transport, as well as the digital transformation.</p> <p>In particular, the contribution of operations supported by the EFSI to achieving the Union's ambitious targets set at the Paris Climate Conference (COP21) should be reinforced.</p> <p>Energy interconnection priority projects and energy efficiency projects should also be</p>	<p>(8) The extended EFSI should address remaining market failures and sub-optimal investment situations and continue to mobilise private sector financing in investments crucial for Europe’s future job creation – including for the youth –, growth and competitiveness with strengthened additionality. They include investments in the areas of energy, environment and climate action, social and human capital and related infrastructure, healthcare, research and innovation, cross-border and sustainable transport, as well as the digital transformation.</p> <p><b>(...) In line with the EU's commitment to the global fight against climate change, operations supported by the EFSI should contribute, as</b></p>	<p>(8) The extended EFSI should address remaining market failures and sub-optimal investment situations and continue to mobilise private sector financing in investments crucial for Europe’s future job creation – including for the youth –, growth and competitiveness with strengthened additionality. They include investments in the areas of energy, environment and climate action, social and human capital and related infrastructure, healthcare, research and innovation, cross-border and sustainable transport, as well as the digital transformation.</p> <p>In particular, the contribution of operations supported by the EFSI to achieving the Union's ambitious targets set at the Paris Climate</p>	<p>(8) The extended EFSI should address remaining market failures and sub-optimal investment situations and continue to mobilise private sector financing in investments crucial for Europe’s future job creation – including for the youth –, growth and competitiveness with strengthened additionality. They include investments in the areas of energy, environment and climate action, social and human capital and related infrastructure, healthcare, research and innovation, cross-border and sustainable transport, as well as the digital transformation.</p> <p>In particular, the contribution of operations supported by the EFSI to achieving the Union's ambitious targets set at the Paris Climate</p>

No.	Ref. EFSI I	EFSI - II(consolidated version)*	Ref. EFSI II	EFSI II COM proposal	COUNCIL**	PARLIAMENT	Proposed compromise text
				<p>increasingly targeted. In addition, EFSI support to motorways should be avoided, unless it is needed to support private investment in transport in cohesion countries or in cross-border transport projects involving at least one cohesion country.</p> <p>For reasons of clarity, although they are already eligible, it should be explicitly laid down that projects in the fields of agriculture, fishery and aquaculture come within the general objectives eligible for EFSI support.</p>	<p><b>much as possible, to achieving the objectives of COP21.</b></p> <p><b>In order to reinforce the climate action element under the EFSI, the EIB should build on its experience as one of the largest providers of climate finance worldwide and use its internationally agreed methodology to credibly identify climate action components or cost shares.</b></p> <p>Energy interconnection priority projects and energy efficiency projects should also be increasingly targeted. (...)</p> <p>For reasons of clarity, although they are already eligible, it should be explicitly laid down that projects in the fields of agriculture, forestry, fishery, aquaculture and other elements of a wider bioeconomy come within the general objectives eligible for</p>	<p>Conference (COP21) <b>and the Union commitment to reduce greenhouse gas emissions by 80 - 95 %</b> should be reinforced.</p> <p>Energy interconnection priority projects and energy efficiency projects should also be increasingly targeted.</p> <p>In addition, EFSI support to motorways should be <b>limited</b> to support private <b>and/or public</b> investment in transport in cohesion countries, <b>less developed regions</b> or in cross-border transport projects <b>or if it is necessary to upgrade, maintain and improve road safety, develop intelligent transportation system (ITS) devices, or guarantee the integrity and standards of existing motorways on the trans-European transport network, in particular safe parking areas, alternative clean fuels stations and</b></p>	<p>Conference (COP21) <b>and the Union commitment to reduce greenhouse gas emissions by 80 - 95 %</b> should be reinforced.</p> <p><b>In order to reinforce the climate action element under the EFSI, the EIB should build on its experience as one of the largest providers of climate finance worldwide and use state-of-the-art internationally agreed methodology to credibly identify climate action components or cost shares.</b></p> <p>Energy interconnection priority projects and energy efficiency projects should also be increasingly targeted.</p> <p>In addition, EFSI support to motorways should be <b>limited</b> to support private <b>and/or public</b> investment in transport in cohesion countries, <b>less developed regions</b> or in cross-border transport projects <b>or if</b></p>



No.	Ref. EFSI I	EFSI - II(consolidated version)*	Ref. EFSI II	EFSI II COM proposal	COUNCIL**	PARLIAMENT	Proposed compromise text
					EFSI support.	<p><b><i>electric charging systems.</i></b></p> <p><b><i>In the digital sector, and within the scope of the ambitious Union policy on the Digital Economy, new digital infrastructure targets should be set in order to ensure the bridging of the digital divide and that the Union will be a global pioneer in the new age of the so-called internet of things, blockchain technology, and cyber- and network-security.</i></b></p> <p>For reasons of clarity, although they are already eligible, it should be explicitly laid down that projects in the fields of agriculture, fishery and aquaculture come within the general objectives eligible for EFSI support.</p>	<p><b><i>it is necessary to upgrade, maintain or improve road safety, develop intelligent transportation system (ITS) devices, or guarantee the integrity and standards of existing motorways on the trans-European transport network, in particular safe parking areas, alternative clean fuels stations and electric charging systems.</i></b></p> <p><b><i>In the digital sector, and within the scope of the ambitious Union policy on the Digital Economy, new digital infrastructure targets should be set in order to ensure the bridging of the digital divide and that the Union will be a global pioneer in the new age of the so-called internet of things, blockchain technology, and cyber- and network-security.</i></b></p> <p>For reasons of clarity, although they are already eligible, it should be explicitly</p>

No.	Ref. EFSI I	EFSI - II(consolidated version)*	Ref. EFSI II	EFSI II COM proposal	COUNCIL**	PARLIAMENT	Proposed compromise text
							laid down that projects in the fields of agriculture, <b>forestry</b> , fishery, aquaculture <b>and other elements of a wider bioeconomy</b> come within the general objectives eligible for EFSI support.
20.			<i>Rec. 8 a</i>		(8a) On 14 November 2016, the Council in its foreign affairs configuration, concluded that it (...) would take note with interest of the outcome of discussions on the eligibility of funding for the defence industry under the (...) EIB, including through the (...) EFSI. With this in mind, it is understood that the EU guarantee may be granted for EIB financing and investment operations supporting the objectives listed in Article 9(2) of Regulation (EU) No 2015/1017, including within the limits set by the Treaties, for projects related to the security and defence	<i>(8a) In order to achieve the Union targets set at the Paris Climate Conference (COP 21), the Steering Board should provide detailed guidance and assessment tools, in particular with regard to eligible projects and to the overall portfolio of the EFSI, having particular regard to COP21. In order to strengthen climate-related action under the EFSI, the EIB should build on its experience as a major provider of climate financing and use internationally agreed methodologies to identify climate -related components and costs.</i>	

No.	Ref. EFSI I	EFSI - II(consolidated version)*	Ref. EFSI II	EFSI II COM proposal	COUNCIL**	PARLIAMENT	Proposed compromise text
					sectors. Any change to the EIB list of eligible sectors is subject to the approval of EIB governing bodies.		
21.			<i>Rec. 8b</i>			<i>(8b) Cultural and creative industries play a key role in reindustrialising Europe, are a driver for growth and are in a strategic position to trigger innovative spill-overs in other industrial sectors, such as tourism, retail, and digital technologies. The EFSI should help SMEs to overcome capital shortages in that sector and should typically target projects with a higher risk than the projects currently financed by the Creative Europe and the Guarantee Facility.</i>	<i>(8b) Cultural and creative industries play a key role in reindustrialising Europe, are a driver for growth and are in a strategic position to trigger innovative spill-overs in other industrial sectors, such as tourism, retail, and digital technologies. In addition to the Creative Europe and the Guarantee Facility, the EFSI should help to overcome capital shortages in these sectors.</i>
32.	Rec. 16	(16) The EFSI should support projects for the development of transport infrastructures, and equipment and innovative technologies for transport. EFSI support to transport	<i>Rec. 16</i>	(16) In line with the exceptional market demand for SME financing under the EFSI which is expected to continue, the EFSI SME Window should be enhanced. Particular attention	(16) In line with the exceptional market demand for SME financing under the EFSI which is expected to continue, the EFSI SME Window should be enhanced.	(16) In line with the exceptional market demand for SME financing under the EFSI which is expected to continue, the EFSI SME Window should be enhanced.	(16) In line with the exceptional market demand for SME financing under the EFSI which is expected to continue, the EFSI SME Window should be enhanced.

No.	Ref. EFSI I	EFSI - II(consolidated version)*	Ref. EFSI II	EFSI II COM proposal	COUNCIL**	PARLIAMENT	Proposed compromise text
		infrastructure should contribute to the objectives of Regulations (EU) No 1315/2013 and (EU) No 1316/2013 by creating new or providing for missing infrastructure and also by modernising and rehabilitating existing facilities while allowing the financing of research and innovation operations in that sector. Particular attention should be paid to synergy projects strengthening the connections between transport, telecommunications and energy sectors and also to smart and sustainable urban transport projects.		should be paid to social enterprises, including through the development and deployment of new instruments.	Particular attention should be paid to social enterprises, including through the development and deployment of new instruments.	Particular attention should be paid to social enterprises <b>and social services</b> , including through the development and deployment of new instruments <b>adequate for the sector's needs and specificities</b> .	Particular attention should be paid to social enterprises <b>and social services</b> , including through the development and deployment of new instruments <b>adequate for the sector's needs and specificities</b> .'
228.	Art. 7 para 8 subpara 3 point k	<u>(l) agriculture, fishery and aquaculture.</u>	Art. 7 - para 8 - subpara 3 - point l	'(l) agriculture, fishery and aquaculture.';	'(l) agriculture, <b>forestry</b> , fishery, (...) aquaculture <b>and other elements of the wider bioeconomy</b> .';	'(l) agriculture, fishery and aquaculture.';	(l) agriculture, <b>forestry</b> , fishery, (...) aquaculture <b>and other elements of the wider bioeconomy</b> .

No.	Ref. EFSI I	EFSI - II(consolidated version)*	Ref. EFSI II	EFSI II COM proposal	COUNCIL**	PARLIAMENT	Proposed compromise text
	a (new)						
268.			Art. 9 - para 2 - point c - point iiia (new)			<i>'(iiia) railway infrastructure and other rail projects;'</i>	<i>(iiia) railway infrastructure and other rail projects;'</i>
275.			Art. 9 - para 2 - point e - point ia (new)			<i>'(ia) blockchain technology;</i>	<i>(ia) blockchain technology;</i>
276.			Art. 9 - para 2 - point e - point ib (new)			<i>(ib) internet of things;</i>	<i>(ib) internet of things;</i>
277.			Art. 9 - para 2 - point e - point ic (new)			<i>(ic) cybersecurity and network protection infrastructures;'</i>	<i>(ic) cybersecurity and network protection infrastructures;'</i>
289.	Art. 9 para 2	(ii) cultural and creative industries;	Art. 9 - para 2 - point g			<i>'(ii) cultural and creative industries, in which sector- specific financial mechanisms through interaction with</i>	<i>(ii) cultural and creative industries;</i>

No.	Ref. EFSI I	EFSI - II(consolidated version)*	Ref. EFSI II	EFSI II COM proposal	COUNCIL**	PARLIAMENT	Proposed compromise text
	point g point (ii)		- point ii			<i><b>Creative Europe and the Guarantee Facility in order to provide fit-for-purpose loans for cultural and creative industries shall be authorised.';</b></i>	
293.	Art. 9 para 2 point g point (v)	(v) social infrastructures, social and solidarity economy;	Art. 9 - para 2 - point g - point v			'(v) social infrastructures, <b>social services</b> , social and solidarity economy;'	(v) social infrastructures, <b>social services</b> , social and solidarity economy;'
297.	Art. 9 para 2 point g a (new)	<u>(h) agriculture, fishery, aquaculture;</u>	Art. 9 - para 2 - point h	'(h) agriculture, fishery and aquaculture;	(h) agriculture, <b>forestry</b> , fishery (...), aquaculture <b>and other elements of the wider bioeconomy</b> ;	'(h) <b>sustainable</b> agriculture, fishery, aquaculture <b>and other bioeconomy and bioindustry sectors</b> ;	(h) agriculture, <b>forestry</b> , fishery (...), aquaculture <b>and other elements of the wider bioeconomy</b> ;
298.	Art. 9 para 2 point g b (new)	<u>(i) for less-developed regions and transition regions as listed respectively in Annex I and Annex II of Commission Implementing Decision 2014/99/EU, other industry and services eligible for EIB support.'</u>	Art. 9 - para 2 - point i	(i) for less-developed regions and transition regions as listed respectively in Annex I and Annex II of Commission Implementing Decision 2014/99/EU, other industry and services eligible for EIB support.'	(i) for less-developed regions and transition regions as listed respectively in Annex I and Annex II of Commission Implementing Decision 2014/99/EU, other industry and services eligible for EIB support.'	(i) <b>within the requirements of this Regulation</b> , for less-developed regions and transition regions as listed respectively in Annex I and Annex II of Commission Implementing Decision 2014/99/EU, other industry and services eligible for EIB support.'	(i) <b>within the requirements of this Regulation</b> , for less-developed regions and transition regions as listed respectively in Annex I and Annex II of Commission Implementing Decision 2014/99/EU, other industry and services eligible for EIB

No.	Ref. EFSI I	EFSI - II(consolidated version)*	Ref. EFSI II	EFSI II COM proposal	COUNCIL**	PARLIAMENT	Proposed compromise text
							support.';
300.	Art. 9 para 2 subpara 1 a (new)	<u>The EIB shall target that at least 40 % of EFSI financing under the infrastructure and innovation window supports projects with components that contribute to climate action, in line with the COP21 commitments. The Steering Board shall provide detailed guidance to that end.</u>	Art. 9 - para 2 - subpara 1a (new)	'The EIB shall target that at least 40 % of EFSI financing under the infrastructure and innovation window supports projects with components that contribute to climate action, in line with the COP21 commitments. The Steering Board shall provide detailed guidance to that end.';	'Whilst recognising the demand-driven nature of the EFSI, the EIB shall (...) aim that at least 40 % of EFSI financing under the infrastructure and innovation window (...) contributes to climate action, in line with the COP21 commitments. <b>EFSI financing for SMEs and mid-cap companies shall not be included in that computation.</b> (...)';	<i>'The Steering Board shall provide detailed guidance and assessment tools, in particular with regard to eligible projects and to the overall portfolio of the EFSI, with particular regard to COP21. That guidance shall ensure</i> that at least 40 % of EFSI financing under the infrastructure and innovation window supports <i>project</i> components that contribute to climate action.';	<i>'Whilst recognising the demand-driven nature of the EFSI, the EIB shall target that at least 40 % of EFSI financing under the infrastructure and innovation window supports projects with components that contribute to climate action, in line with the COP21 commitments. <b>EFSI financing for SMEs and mid-cap companies shall not be included in that computation. The EIB's shall use internationally agreed methodology to identify climate action components or cost shares.</b> The Steering Board shall, <b>where needed,</b> provide detailed guidance to that end.'</i>
541.	Section 2 - point b - subpara 1 a (new)	<u>EFSI support to motorways shall be avoided, unless it is needed to support private investment in transport in cohesion countries or in cross-</u>	Annex II - point 1 - point a	'EFSI support to motorways shall be avoided, unless it is needed to support private investment in transport in cohesion countries or in cross-border transport		'EFSI support to motorways shall be <b>limited to public and/or</b> private investment in transport in cohesion countries, <b>less developed</b>	'EFSI support to motorways shall be <b>limited to public and/or</b> private investment in transport in cohesion countries, <b>less developed</b>

No.	Ref. EFSI I	EFSI - II(consolidated version)*	Ref. EFSI II	EFSI II COM proposal	COUNCIL**	PARLIAMENT	Proposed compromise text
		<u>border transport projects involving at least one cohesion country.</u>		projects involving at least one cohesion country.';		<p><i><b>regions</b> or in cross-border transport projects <b>or, if it is necessary to upgrade, maintain or improve road safety, develop ITS devices or guarantee the integrity and standards of existing motorways on the trans-European transport network, in particular safe parking areas, alternative clean fuels stations and electric charging systems.</b></i></p> <p><i><b>EFSI support shall also be explicitly possible for maintaining and upgrading existing transport infrastructure.'</b></i></p>	<p><i><b>regions</b> or in cross-border transport projects <b>or, if it is necessary to upgrade, maintain or improve road safety, develop intelligent transportation system (ITS) devices or guarantee the integrity and standards of existing motorways on the trans-European transport network, in particular safe parking areas, alternative clean fuels stations and electric charging systems.</b></i></p> <p><i><b>EFSI support shall also be explicitly possible for maintaining and upgrading existing transport infrastructure.</b></i></p>



## CEILING OF THE SME WINDOW

Article Line: 336

ALL CHANGES IN COMPROMISE PROPOSALS MARKED COMPARED TO COM PROPOSAL ON EFSI 2.0

### Rationale

*The Commission proposes to the legislators a compromise that would consist of an upper limit of EUR 9 billion for the SME window, which is considered to leave sufficient flexibility where needed.*

*The compromise proposal also clarifies the wording as regards the requirement of up to which amount the EIB needs to match the amount.*

### Compromise proposal

Line 336: Art. 11 – para 3

'3. Where the EIB provides funding or guarantees to the EIF in order to conduct EIB financing and investment operations, the EU guarantee shall provide for a full guarantee on such funding or guarantees provided that an amount of ~~at least~~ **up to** EUR 4 000 000 000 of funding or guarantees is provided by the EIB without coverage by the EU guarantee, up to an initial limit of EUR 6 500 000 000. Without prejudice to paragraph 1, that limit may where appropriate be adjusted by the Steering Board **up to a maximum of EUR 9 000 000 000, without an obligation on the EIB to match the amounts over and above the initial limit.**'

## ANNEX: Extract of relevant lines from the 5-column table

No.	Ref. EFSI I	EFSI - II(consolidated version)*	Ref. EFSI II	EFSI II COM proposal	COUNCIL**	PARLIAMENT	Proposed compromise text
336.	Art. 11 para 3	3. Where the EIB provides funding or guarantees to the EIF in order to conduct EIB financing and investment operations, the EU guarantee shall provide for a full guarantee on such funding or guarantees provided that an <del>equal</del> amount of at least EUR 4 000 000 000 of funding or guarantees is provided by the EIB without coverage by the EU guarantee, up to an initial limit of EUR 6 500 000 000. Without prejudice to paragraph 1, that limit may where appropriate be adjusted by the Steering Board <del>up to a maximum of EUR 3 000 000 000, without an obligation on the EIB to match the amounts over and above the initial limit.</del>	Art. 11 - para 3	'3. Where the EIB provides funding or guarantees to the EIF in order to conduct EIB financing and investment operations, the EU guarantee shall provide for a full guarantee on such funding or guarantees provided that an amount of at least EUR 4 000 000 000 of funding or guarantees is provided by the EIB without coverage by the EU guarantee, up to an initial limit of EUR 6 500 000 000. Without prejudice to paragraph 1, that limit may where appropriate be adjusted by the Steering Board.	3. Where the EIB provides funding or guarantees to the EIF in order to conduct EIB financing and investment operations, the EU guarantee shall provide for a full guarantee on such funding or guarantees provided that an amount of <b>up to EUR [4 000 000 000]</b> of funding or guarantees is provided by the EIB without coverage by the EU guarantee, up to an initial limit of EUR 6 500 000 000. Without prejudice to paragraph 1, that limit may where appropriate be adjusted by the Steering Board <b>up to a maximum of EUR 10 000 000 000, without an obligation on the EIB to match the amounts over and above the initial limit.</b>	'3. Where the EIB provides funding or guarantees to the EIF in order to conduct EIB financing and investment operations, the EU guarantee shall provide for a full guarantee on such funding or guarantees provided that an amount of at least EUR 4 000 000 000 of funding or guarantees is provided by the EIB without coverage by the EU guarantee, up to an initial limit of EUR 6 500 000 000. Without prejudice to paragraph 1, that limit may where appropriate be adjusted by the Steering Board <b>up to a maximum of EUR 8 000 000 000, without an obligation on the EIB to match the amounts over and above the initial limit.</b>	'3. Where the EIB provides funding or guarantees to the EIF in order to conduct EIB financing and investment operations, the EU guarantee shall provide for a full guarantee on such funding or guarantees provided that an amount of <del>at least</del> <b>up to</b> EUR 4 000 000 000 of funding or guarantees is provided by the EIB without coverage by the EU guarantee, up to an initial limit of EUR 6 500 000 000. Without prejudice to paragraph 1, that limit may where appropriate be adjusted by the Steering Board <b>up to a maximum of EUR 9 000 000 000, without an obligation on the EIB to match the amounts over and above the initial limit.'</b>

**SUBORDINATION**  
**SECOND COMPROMISE PROPOSAL**

Article Lines: 162, 165

**ALL CHANGES IN COMPROMISE PROPOSALS MARKED COMPARED TO INITIAL COM PROPOSAL ON  
EFSI 2.0**

**Rationale**

*The amendment aiming at reinforcing the use of subordination features by the EIB when structuring EFSI projects should be sufficiently flexible to ensure that all forms of subordination are included, without pre-empting the EIB's decision to be taken on a case-by-case basis.*

*The second compromise proposal builds on the amendments proposed by the Parliament following the second trilogue. The text leaves open the possibility for the EIB to decide on the most appropriate form of subordination while reflecting the preference for taking a junior position, if duly justified and where appropriate.*

**Compromise proposal**

Line 165; changes marked compared to initial COM proposal – Line 162: Art. 5 para 1 - subpara 3

To better address market failures or sub-optimal investment situations ***and to facilitate in particular the use of investment platforms for smaller projects, thereby ensuring complementarity and thus avoiding crowding out vis-à-vis participants in the same market,*** EIB special activities supported by the EFSI shall typically, ***as a preferred way and if duly justified,*** have features such as ***of*** subordination, ***including – where appropriate – take junior positions vis-à-vis other investors, as well as*** participation in risk-sharing instruments, cross-border characteristics, exposure to specific risks or other identifiable aspects as further described in Annex II.

## ANNEX: Extract of relevant lines from the 5-column table

No.	Ref. EFSI I	EFSI - II(consolidated version)*	Ref. EFSI II	EFSI II COM proposal	COUNCIL**	PARLIAMENT	Proposed compromise text
162.	Art. 5 para 1 - subpara 3	<u>To better address market failures or sub-optimal investment situations, EIB special activities supported by the EFSI shall typically have features such as subordination, participation in risk-sharing instruments, cross-border characteristics, exposure to specific risks or other identifiable aspects as further described in Annex II.</u>	Art. 5 para 1 - subpara 3	'To better address market failures or sub-optimal investment situations, EIB special activities supported by the EFSI shall typically have features such as subordination, participation in risk-sharing instruments, cross-border characteristics, exposure to specific risks or other identifiable aspects as further described in Annex II.	'To better address market failures or sub-optimal investment situations, EIB special activities supported by the EFSI shall typically have features such as subordination, participation in risk-sharing instruments, cross-border characteristics, exposure to specific risks or other identifiable aspects as further described in Annex II.		See No 165.
165.			Art. 5 para 1 - subpara 5a (new)			To better address market failures or sub-optimal investment situations, <b>thereby ensuring complementarity and thus avoiding crowding out vis-à-vis participants in the same market</b> , EIB special activities supported by the EFSI shall, <b>as a preferred way and if duly justified</b> , have <b>the</b> features <b>of</b> subordination <b>and take a junior position vis-à-vis other investors, as well as</b> participation in risk-sharing instruments, cross-border characteristics, exposure to specific risks or other identifiable aspects as further described in Annex II.	To better address market failures or sub-optimal investment situations <b>and to facilitate in particular the use of investment platforms for smaller projects, thereby ensuring complementarity and thus avoiding crowding out vis-à-vis participants in the same market</b> , EIB special activities supported by the EFSI shall typically, <b>as a preferred way and if duly justified</b> , have features <del>such</del> <b>as of</b> subordination, <b>including – where appropriate – take junior positions vis-à-vis other</b>

No.	Ref. EFSI I	EFSI - II(consolidated version)*	Ref. EFSI II	EFSI II COM proposal	COUNCIL**	PARLIAMENT	Proposed compromise text
							<i>investors, as well as</i> participation in risk-sharing instruments, cross-border characteristics, exposure to specific risks or other identifiable aspects as further described in Annex II.

## **TAXATION – SECOND COMPROMISE**

Recital Line: 37

Articles Lines: 488, 489, 490, 491, 492, 493, 494

### **ALL CHANGES IN THE COMPROMISE PROPOSAL MARKED COMPARED TO FIRST COMPROMISE PROPOSAL FROM 2 JUNE 2017**

#### **Rationale**

*The proposed compromise builds on the compromise circulated by the Commission on 2 June 2017, based on the agreement reached between the Parliament and the Council in the context of ELM negotiations.*

*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 (subpara 1) and non-cooperative jurisdictions (subpara 2). However, it is not suggested to refer to terminating existing business relations with financial intermediaries. Such an addition would force the EIB to break validly signed contracts, leading to litigations and compensation claims. In addition, it would trigger guarantee calls on the EU budget in relation to the projects concerned.*

*At the same time, the proposed text reflects the need to adjust the wording in relation to the exemption for projects physically implemented in a non-cooperative jurisdiction (subpara 2), as its application in the context of the EFSI, which targets investments in the EU, would be extremely limited. The only hypothetical situation where it could be applied would be a cross-border investment between an EU Member State and a non-cooperative jurisdiction.*

*The proposed compromise also aims to reinforce the reporting requirements on the implementation of policies related to non-cooperative jurisdictions by the EIB and the EIF, 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.*

**Compromise proposal**

Lines 488 to 494: Art 22 para 1; changes marked compared to the Commission compromise proposal circulated on 2 June 2017

**Prevention of money laundering, fight against terrorism, taxation, non-cooperative jurisdictions**

In their financing and investment operations, the EIB, the EIF and all financial intermediaries shall comply with applicable EU legislation and agreed international and EU standards and, therefore, shall not support projects under this Regulation that contribute to money laundering, terrorism financing, tax avoidance, tax fraud and tax evasion.

In addition the EIB, the EIF and all financial intermediaries shall not enter into new or renewed operations with entities incorporated or established in jurisdictions listed under the relevant EU policy on non-cooperative jurisdictions, or that are identified as high risk third countries pursuant to article 9.2 of Directive 2015/849, or that do not effectively comply with EU or internationally agreed tax standards on transparency and exchange of information. ~~The EIB, the EIF and all financial intermediaries may derogate from this principle only if the project is physically implemented in one of those jurisdictions, and does not present any indication that the relevant operation falls under any of the categories listed in paragraph 1.~~

When concluding agreements with financial intermediaries, the EIB, the EIF and all financial intermediaries shall transpose the requirements referred to in this Article into the relevant agreements and shall request the financial intermediaries to report on their observance.

The EIB and the EIF shall review its policy on non-cooperative jurisdictions at the latest following the adoption of the Union list of non-cooperative jurisdictions for tax purposes. ***Every year thereafter, the EIB and EIF shall submit a report to the European Parliament and to the Council on the implementation of those policies that shall include country-by-country information and a list of intermediaries with whom they cooperate.***

Line 37: Recital 19; changes marked compared to the Commission compromise proposal circulated on 2 June 2017

The relevant EU policy on non-cooperative jurisdictions for tax purposes is laid down in ***the legal acts of the Union and*** Council Conclusions, notably those of 8 November 2016, in particular in their Annex, and any subsequent updates.

## ANNEX: Extract of relevant lines from the 5-column table

No.	Ref. EFSI I	EFSI - II (consolidated version)*	Ref. EFSI II	EFSI II COM proposal	COUNCIL**	PARLIAMENT	Proposed compromise text
37.	Rec. 19	(19) The EFSI should support projects in the fields of environment and resource efficiency, including in the natural resources fields.	Rec. 19	(19) The operations supported by the EFSI should adhere to the Union's principles of tax good governance.	<b>(19) (...) In carrying out its operations, the EIB should not make use of or engage in tax avoidance structures, in particular aggressive tax planning schemes, in accordance with the Union legislation and taking utmost account of relevant principles and guidelines laid down in Council Conclusions, notably those of 8 November 2016, in particular in their Annex.</b>	(19) The operations supported by the EFSI should adhere to the Union's principles of tax good governance. <b><i>In carrying out its operations, the EIB should not make use of, engage in, or provide funds to beneficiaries that make use of or engage in tax avoidance structures, in particular aggressive tax planning schemes, in accordance with Union law, recommendations and guidelines.</i></b>	(19) The relevant EU policy on non-cooperative jurisdictions for tax purposes is laid down in <b><i>the legal acts of the Union</i></b> and Council Conclusions, notably those of 8 November 2016, in particular in their Annex, and any subsequent updates.
488.	Art 22 para 1 subpara 1	1. In their financing and investment operations covered by this Regulation, the EIB, the EIF and all financial intermediaries shall not support any activities carried out for illegal purposes, including money laundering, terrorist financing, organised crime, tax fraud and tax evasion, corruption, and fraud affecting the financial interests of the Union.	Art. 22 - para 1 - subpara 1	'1. In their financing and investment operations covered by this Regulation, the EIB, the EIF and all financial intermediaries shall not support any activities carried out for illegal purposes, including money laundering, terrorist financing, organised crime, tax fraud and tax evasion, corruption, and fraud affecting the financial interests of the Union.	'1. In their financing and investment operations covered by this Regulation, the EIB, the EIF and all financial intermediaries shall not support any activities carried out for illegal purposes, including money laundering, terrorist financing, organised crime, tax fraud and tax evasion, corruption, and fraud affecting the financial interests of the Union.	'1. In their financing and investment operations covered by this Regulation, the EIB, the EIF and all financial intermediaries shall <b><i>comply with relevant standards and applicable laws on the prevention of money laundering, and the fight against terrorism</i></b> , tax fraud and tax evasion.	1. In their financing and investment operations, the EIB, the EIF and all financial intermediaries shall comply with applicable EU legislation and agreed international and EU standards and, therefore, shall not support projects under this Regulation that contribute to money laundering, terrorism financing, tax avoidance, tax fraud and tax evasion.



No.	Ref. EFSI I	EFISI - II (consolidated version)*	Ref. EFSI II	EFISI II COM proposal	COUNCIL**	PARLIAMENT	Proposed compromise text
489.	Art 22 para 1 subpara 1 a (new)	In particular the EIB and the EIF shall not participate in any financing or investment operation through a vehicle located in a <del>non-cooperative jurisdiction, in accordance with its policy towards weakly regulated or non-cooperative jurisdictions based on policies of the Union, the Organisation for Economic Co-operation and Development or the Financial Action Task Force that does not co-operate with the Union in relation to the application of the internationally agreed tax standards on transparency and exchange of information.</del>	Art. 22 - para 1 - subpara 2	In particular the EIB and the EIF shall not participate in any financing or investment operation through a vehicle located in a jurisdiction that does not co-operate with the Union in relation to the application of the internationally agreed tax standards on transparency and exchange of information.	In particular the EIB and the EIF shall not participate in any financing or investment operation through a vehicle located in a jurisdiction that does not co-operate with the Union in relation to the application of the internationally agreed tax standards on transparency and exchange of information <b>or internationally agreed rules on anti-money laundering or fight against terrorism financing.</b>		In addition the EIB, the EIF and all financial intermediaries shall not enter into new or renewed operations with entities incorporated or established in jurisdictions listed under the relevant EU policy on non-cooperative jurisdictions, or that are identified as high risk third countries pursuant to article 9.2 of Directive 2015/849, or that do not effectively comply with EU or internationally agreed tax standards on transparency and exchange of information. <del>The EIB, the EIF and all financial intermediaries may derogate from this principle only if the project is physically implemented in one of those jurisdictions, and does not present any indication that the relevant operation falls under any of the categories listed in paragraph 1.</del>

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490.	Art 22 para 1 subpara 1 b (new)	<u>In their financing and investment operations covered by this Regulation, the EIB and the EIF shall not make use of or engage in tax avoidance structures, in particular aggressive tax planning schemes, or practices not complying with EU tax good governance principles, as set out in the Union legislation, including Commission recommendations and communications.</u>	Art. 22 - para 1 - subpara 3	In their financing and investment operations covered by this Regulation, the EIB and the EIF shall not make use of or engage in tax avoidance structures, in particular aggressive tax planning schemes, or practices not complying with EU tax good governance principles, as set out in the Union legislation, including Commission recommendations and communications.	In their financing and investment operations covered by this Regulation, the EIB and the EIF shall not make use of or engage in (...) practices not complying with EU tax good governance principles, as set out in the Union legislation (...). <b>In this context, the EIB shall take the utmost account of the policies of the Union.</b>	In their financing and investment operations covered by this Regulation, the EIB and the EIF shall not make use of, engage in, <b>or provide funds to beneficiaries that make use of or engage in</b> tax avoidance structures, in particular aggressive tax planning schemes, or practices not complying with EU tax good governance <b>criteria</b> , as set out in <b>the legal acts of the Union, Council conclusions, Commission communications or any formal notice by the Commission.</b>	When concluding agreements with financial intermediaries, the EIB, the EIF and all financial intermediaries shall transpose the requirements referred to in this Article into the relevant agreements and shall request the financial intermediaries to report on their observance.
491.	Art 22 para 1 subpara 1 c (new)	<u>The Commission shall provide detailed guidance, where needed.';</u>	Art. 22 - para 1 - subpara 4	The Commission shall provide detailed guidance, where needed.';	(...)';	<b>I</b>	The EIB and the EIF shall review its policy on non-cooperative jurisdictions at the latest following the adoption of the Union list of non-cooperative jurisdictions for tax purposes. <b>Every year thereafter, the EIB and EIF shall submit a report to the European Parliament and to the Council on the implementation of those policies that shall include country-by-country information and a list of</b>

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							<i>intermediaries with whom they cooperate.</i>
492.			Art. 22 - para 1 - subpara 4a (new)			In particular the EIB and the EIF shall not <b><i>maintain business relations with entities incorporated or established</i></b> in <b><i>jurisdictions</i></b> that <b><i>do</i></b> not co-operate with the Union in relation to the application of the internationally agreed tax standards <b><i>and Union law</i></b> on transparency and exchange of information.	Captured in compromise proposals as listed in Nos 488-490
493.			Art. 22 - para 1 - subpara 4b (new)			<b><i>When concluding agreements with financial intermediaries, the EIB and the EIF shall transpose requirements referred to in this Article into the relevant contracts and shall request country-by-country reporting about their observance. The EIB and the EIF shall publish and update on a running basis the list of financial intermediaries with whom they cooperate.</i></b>	Captured in compromise proposals as listed in Nos 488-490
494.			Art. 22 - para 1 - subpara 4c (new)			<b><i>The EIB and the EIF shall, following a consultation with the Commission and stakeholders, revise and update their policies on non-</i></b>	Captured in compromise proposals as listed in Nos 488-490

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						<i>cooperative jurisdictions at the latest following the adoption of the Union list of non-cooperative jurisdictions. Every year thereafter, the Commission shall submit a report to the European Parliament and to the Council on the implementation of those policies.';</i>	