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MEETING DOCUMENT

From: General Secretariat of the Council
To: Ad Hoc Working Party on EFSI

Subject: Commission Services Non-Paper on EIB and EFSI governance and competencies
Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the European Fund for Strategic Investments and amending Regulations (EU) No 1291/2013 and (EU) No 1316/2013

Delegations will find attached the above non-paper.

EIB and EFSI governance and competencies

The Commission proposal for an EFSI Regulation calls for an agreement to be reached between the Commission and EIB to create the European Fund for Strategic Investments as a part of the European Investment Bank. As such, the EFSI will not have legal personality, even if it will be a distinct, clearly identifiable and transparent guarantee facility and separate account within the EIB. Given that it does not have legal personality, the EFSI itself will not conduct financing operations or have market interactions. Instead, EFSI's risk bearing capacity will offer protection to the EIB against losses while the latter is conducting financing and investment operations. On the basis of the legislative text, further details will be agreed with the EIB.

For that reason, it is proposed that the EFSI should have its own governance structure. It is necessary that there be proper scrutiny of projects for which the Union guarantee is to be provided. Although the Commission proposal defines the nature of the EFSI, its formal creation within the EIB would be done by the EIB itself, following the conclusion of the agreement between the Commission and the EIB in which the EIB will commit itself to doing so. The proposed governance structure should ensure that the Union's assumption of financial risks serves its stated purpose to catalyse investment in priority areas and to do so in line with Union legislation and the requirements defined therein. Specifically, a Steering Board should determine the strategic orientation, the strategic asset allocation and operating policies and procedures, including the investment policy of projects that EFSI can support with the EU guarantee and the risk profile of the EFSI. An Investment Committee composed of independent experts should grant or refuse support by means of the EU guarantee for EIB operations in support of specific projects.

All projects for which Investment Committee agrees on the support of the EU guarantee will go to the EIB decision-making bodies as foreseen under the EIB Statute. EIB decision-making bodies would decide in the normal way whether or not to grant financing to the project. Notably, the EIB Management Committee would prepare specific operations for decisions; and the EIB Board of Directors would take those decisions, in line with existing or future EIB practices and policies. The proposal does not provide additional powers for Union institutions in this context. Neither does it enable the EFSI governance structure to influence or alter these decisions or the procedure leading to them.

Under the proposal, EIB decisions making bodies and the EFSI governance structure would be competent for distinct (though complementary) functions. Notably, the EIB bodies would continue to consider investment projects on a stand-alone basis (i.e. without EFSI support), and would be able to refuse to finance a project even though EFSI decision-making bodies took a favourable position towards it. In the latter case, the project would not receive financing from the EIB. Should the Investment Committee reject a project for which the EIB sought the support of the EU Guarantee, the EIB Board could still decide to finance it, without the support of the EFSI. In practice, these two scenarios are however rather theoretical, since the functional integration of the EFSI within the EIB should ensure a continuous exchange of views and information and a smooth and consistent decision making process.
