No	Question	Reply
	EU GUARANTEE	
1	Maximum EU budget exposure (articles 7(1) and 8(9))	While it is proposed to use proceeds to compensate the effect of previous guarantee calls (cf Article 8(9)) by restoring the volume of guarantees, the outstanding EU guarantee to the EIB will *never* go beyond EUR16bn at any point in time. The EIB cannot have claims over the EU above this amount. As the restoration of the guarantee following guarantee calls is only possible with the proceeds available after replenishment of the guarantee fund, cf. Article 8(9), the aggregate payments using new resources from the EU budget cannot exceed 16 billion.
2	Review in 2018	The reviews will be conducted thoroughly. No follow-up option is excluded ex ante.
3	Risk sharing	The EU does not guarantee the projects: it guarantees the investments of the EIB into the projects. The EIB is expected to catalyse a total of EUR315bn investment (see Recital 18), which it will not be able to achieve without ensuring that the bulk of the financing comes from the private sector. For the infrastructure and innovation debt window, the EU will provide a EUR 11bn first loss piece, covering 25% of the EIB financing. As per Presidency request, the Commission services has submitted to the ad hoc Working Group on EFSI a non-paper detailing a numerical example for remuneration and cost where the risk sharing and remuneration principles are illustrated.
4	Reporting (Article 10(2)&(3))	Reporting obligations must be put on the EIB, since the EFSI has no legal personality and is not a separate entity. While paragraph 1 mentions that the reporting is to cover the operations under this Regulation, this precision seems to have been inadvertently omitted in paragraph 2 and 3 and should

		indeed be added. The reporting by the Commission foreseen in Article 12(1) will cover the use of the EU guarantee (i.e., possible guarantee calls, outstanding volume of guarantees…), the functioning of the Guarantee Fund (e.g. proceeds from the investment of the GF, adequacy of its resources…) and the use of endowments (i.e. proceeds accumulated in the GF).
5	Time frame, performance indicators (Article 2(g))	The Regulation does limit the use of the EU guarantee by putting a clear ceiling to it. Some further explanations on the functioning of the guarantee are provided in the non-paper from Commission services on 'risk calibration of the EU guarantee under EFSI', distributed to the AHWG. Key performance indicators need to be included at contractual level, rather than legislative level, in order to allow adaptations to changing market situations.
6	Voting rights (Article 3(2))	The formulation in Article 3(2) is a dynamic reference, involving a change over time of the respective voting weight with the consumption of the EU guarantee and of the EIB own resources.
6b	Eligibility criteria	Article 5 ("Requirements for the use fo the EU guarantee"), Article 6 ("Eligible Instruments") and Article 16 ("Excluded activities and non-cooperative jurisdictions") provide a set of eligibility criteria. The regulation strikes a balance between transparency and flexibility on the principles to be established at legislative level and the details to be left to implementation.
	GUARANTEE FUND	

7	Clarify the functioning of the guarantee fund (Article 8)	A change in the target amount by +/- 10% may (for the first decision) lead to an increase of the target up to 55% or decrease down to 45%. Should a modification be proposed, the impact on the EU budget will depend on the outstanding volume of guarantee to which the target amount of the guarantee fund applies. The total guarantee to the EIB is EUR16bn. Its availability to the EIB is not conditional on the availability of resources in the GF. The target amount of the GF is calculated using as reference the outstanding volume of guarantees to the EIB under this Regulation. Should the GF be empty while a call is made by the EIB, the Union will have 3 years to provide the resources to the EIB, which leaves enough time to take the necessary budgetary steps. The use of 'may' in Article 8(1) is a typo and should be replaced by 'shall'. The GF should remain in place as long as there are used outstanding guarantees by the EIB. Should the operations under the support of the EFSI be all terminated, the resources in the GF will be treated as revenue for the EU Budget. Should it be decided to replenish the GF, the modalities for such replenishment will be decided under the normal budgetary procedures. Shortages of resources during the initial phase would be covered with the gradual constitution in the following years.
8	Is 10% of the target amount a "non essential element"? (Article 8(6))	It should be recalled that the relevant essential element of the Commission's proposal is the EU guarantee of EUR 16 billion. The establishment of the EU guarantee fund is proposed for easing the functioning of the EU guarantee in case of default. The delegated act is provided in Article 8(6) of the proposal only as a possible consequence of the review of the adequacy of the level of the guarantee fund as from 2018. It is clear from this provision that such delegated act will necessary follow this review which will assess the functioning of the EFSI, of the EU guarantee and of the EU guarantee fund. At that time, the practical experience will be sufficient to evaluate the level of the guarantee fund on

		the basis of real data. Consequently the possible Commission delegated act will only draw conclusion on the basis of these evaluations. If the review concludes on a factual basis that the target amount of 50 % is correct, no delegated act will be needed. Besides, the adjustment of the target amount is limited to a maximum of 10 % of the target amount. If this adjustment is a reduction, the reduced amount will go back to the EU budget. If the adjustment is an increase, the final decision will be made via the Union's annual budget by the Parliament and the Council. It can therefore be concluded that the delegation of power to the Commission in Article 8(6) of the proposal is sufficiently framed, and hence concerns a non-essential element within the meaning of Article 290 TFEU. [The Commission has agreed in the Ad-hoc Working Party for EFSI to present a non paper with alternative proposals to achieve flexibility concerning the adaptation of the target amount.]
9	<u>Target amount different than the external guarantee fund one (Article 8(6))</u>	The Council Regulation establishing a Guarantee Fund for external actions, as updated, provides that the "Commission shall, if necessary, submit to the Council appropriate proposals for modification of the parameters of the Fund." The Commission proposal for a Regulation on the European Fund for Strategic Investments, in contrast, proposes that the "Commission shall be empowered to adopt delegated acts in accordance with Article 17 adjusting the target amount provided for in paragraph 5 by a maximum of 10% to better reflect the potential risk of the EU guarantee being called." The procedure of adopting a delegated act requires the consent of both the European Parliament and the Council. No delegated act, and as such no amendment of the target level, can take place unless the European Parliament and the Council agree. Additionally, the power proposed to be

		granted to the Commission is limited to adjustments of a maximum of 10%. The power granted to the Commission is, therefore, a framed power. The Commission proposal for a Regulation on the European Fund for Strategic Investments calls for the use by the EIB of a wide range of instruments in order to generate the expected EUR 315bn additional investment in the Union. This wide range of instruments will have varying risk exposures, very different to the external actions of the EIB which involve lending to sovereigns. These risk exposures will evolve over time, depending on the nature of projects that are invested in (i.e. the risk of the portfolio) as well as the outstanding risk related to the amounts of the portfolio covered (i.e. the outstanding size of the guarantee). Given this evolution, it is appropriate that a mechanism is available to allow small amendments to take place so that the guarantee fund better reflects the risk to the EU budget. Given that no delegated act can be adopted without the approval of the European Parliament and the Council, the Commission believes that the option of a delegated act is an appropriate mechanism to assure the necessary flexibility whilst giving the co-legislators an oversight of the process. [The Commission has agreed in the Ad-hoc Working Party for EFSI to present a non paper with alternative proposals to achieve flexibility concerning the adaptation of the target amount.]
10	<u>EU budget lines to be used in case of increase of the target amount (Article 8(7))</u>	If in a given year, following the assessment foreseen in Article 8(6), the Commission proposes to increase the target amount, a proposal would be made to implement Article 8(7)(b), indicating the source of funds (e.g. from the margins and/or by transfer from other budgetary lines for which an availability has been detected) and the schedule.
11	<u>Assumptions to propose a 50% target amount (article 8(5))</u>	As per Presidency request, the Commission services has submitted to the ad hoc Working Group on the European Fund for Strategic Investments a non-

		paper detailing the risk assumptions and risk calibration of the guarantee fund.
12	Recital 35 – reference to Annex I	Recital 35, which mentions in relation to the delegated act the possibility to amend Annex I, contains a typo. The wording "and to amend Annex I accordingly" should be deleted.
13	Information in the context of the review of the adequacy of the level of the guarantee fund (article 8(6))	The reference to Article 10(3) confirms the Commission's willingness to include all the information at its disposal in order to carry out a comprehensive assessment. Moreover, Article 10(3)(a) requires the EIB and EIF to provide their risk assessments regarding projects for the Commission's management of the guarantee fund. However, the *publication* of information on single projects may be subject to confidentiality arrangements.
14	Replenishment mechanisms, surplus, "special heading"? (Article 8)	Implementation of Article 8(7)(b): the timing foreseen for the assessment provided by Article 8(6) has been defined to allow the inclusion of the budgetary implications in the draft budget for the following year (i.e. review in early year n of the adequacy of the guarantee fund resources by 31 December of year n-1 and proposal for replenishment in the draft budget for year n+1). The draft budget would be accompanied by a working document justifying the proposal. Within the overall limits of Article 7(1) and 8(5), there is no annual ceiling for replenishment but the burden can be spread over a period of maximum three years. This is a smoothing mechanism to fit a need for replenishment, due either to losses and/or to an upwards revision of the target amount following a recalibration of risks, within the financial programming (i.e. without modifying MFF ceilings). Given the higher share of the guarantee devoted to debt instruments (11

		billion) and the fact that losses on debt instruments will spread over a long time frame, the eventual necessity of modifying the 2014-2020 MFF to cope with significant guarantee calls is virtually ruled out. If the application of Article 8(6) leads to a surplus, one single transaction to pay it in full to the general budget should automatically be included in the draft budget. This transaction will be recorded in a special heading on the revenue side of the budget. It lowers national contributions to the EU budget; it is not assigned to CEF or H2020. The special heading refers to the budgetary item where the revenue would be registered. As for expenditure, revenues require a specific budgetary item (principle of specification, Article 24 of the Financial Regulation). For the external guarantee fund, for instance, revenues are recorded in Chapter 83, "Revenue resulting from the EU guarantee for loans granted by financial establishments in third countries", of the General Statement of Revenue by Budget Heading, Volume 1 of the EU budget (Total Revenue). Article 8(8) is a flagging provision to signal a significant reduction of the guarantee fund resources (i.e. if the target amount is 50% and the outstanding guarantee obligations are 16 billion, Article 8(8) applies if the resources of the guarantee fund fall below 25%, 4 billion). Exceptional measures could include *inter alia* a temporary suspension of new guarantees, a recalibration of the risks to be taken in new projects, a multiannual replenishment schedule, etc. The same provision applies for the external guarantee fund and has never materialised.
	FINANCING OF THE GUARANTEE FUND	
15	<u>Additional possibilities for re-allocation</u>	First of all, re-allocations were to be made within Heading 1a, the Heading where EFSI's budgetary items will be located in accordance with its

		objectives. Re-allocations from other Headings, including from Heading 1b under CEF, would necessitate a modification of the MFF commitments ceilings, a complex political option deemed not suitable for an urgent initiative as the Investment Plan. To fit the purpose of the Investment Plan, re-allocations should mobilise additional investments in comparison to the use of funds as initially foreseen. The higher multiplying effect is the reason why funds are transferred from grants envelopes (and why the envelope for financial instruments under Horizon 2020, "Access to risk finance", is not pledged). In particular, it should come from programmes with both grants and financial instruments as the financial products that EFSI will guarantee are similar to the existing EU budget financial instruments and the use of financial instruments under a programme shows that there is a market demand that has been evaluated by the Commission and the EIB. Another criterion was to transfer funds from policy areas with the same or similar objectives than EFSI, in order to ensure that the transfer does not undermine the global EU budgetary support to that policy area. Finally, the re-allocations should involve programmes with a sizeable financial envelope, for which the transfer would represent a small percentage. This reduces the number of programmes involved, simplifies the amending procedure and minimises the impact on planned EU activities. Against this background, CEF and Horizon 2020 are the programmes with the higher matching of these criteria.
16	<u>Commitments and payments schedule</u>	See Annex.

17	Full disbursement of the 8 billion by 2020	As the non-paper by the Commission services detailing the risk assumptions and risk calibration of the guarantee fund, submitted to the ad hoc Working Group on the EFSI, shows, the target amount of 50% by 2020 is a conservative approach. The Commission believes that a conservative approach is highly preferable in order to avoid difficult budgetary negotiations in the last years of the 2014-2020 MFF if the guarantee fund happens to be not sufficiently resourced. Although the EIB can call the guarantee immediately the moment a default occurs (i.e. they can register a claim against the Union when the default occurs), the actual transfer of payments will only occur once a year. This will allow all calls on the EU guarantee to be netted with remuneration due to the Union. However, when payments are made from the Union, if there are sufficient resources in the guarantee fund, payments are to be made immediately (in the external guarantee, the Commission/EIB agreement foresees within three months). The possibility of a payment schedule with the EIB to a maximum of three years applies only when the resources in the guarantee fund are insufficient and new budgetary appropriations have to be voted.
	CEF	
18	Articles 14(2) and 21(4) of the CEF Regulation	The Commission built on the existing spirit of the CEF legal basis which foresees that the 10% currently earmarked for financial instruments could be increased. The idea behind the proposed redeployment is that the amounts moved to EFSI would bring similar effects as using the provision of Article 21.4 of the CEF regulation. This does not mean that the Commission intends to further use this article, as with this redeployment, the Commission considers that the maximum amount that could be earmarked for financial

		instruments is achieved.
19	<u>Rationale for the use of CEF and the breakdown of the EUR 3.3 bn reduction</u>	<u>How was the cut distributed among budget lines?</u> The contribution from CEF to the EFSI has been calculated proportionally among the three strands of the programme. This translates in 10% cut for Transport, 9% for Energy and 9% for ICT. The redeployment concerns only the budget lines financing grants, without any reduction for the financial instruments envelope. The idea behind EFSI is to leverage the investments of the EU budget. Hence the target is on maximising the EU added value by transforming, to a limited extent, activities such as grants into financial instruments. Furthermore, under the principle of additionality, it is expected that the EFSI will be able to support riskier projects than those supported by CEF financial instruments (or traditional EIB lending) At the level of the budget lines, the foreseen redeployment is proportionate to the existing financial programming. See question 15 for the non use of CEF Cohesion.
20	<u>Accumulated contribution to date to financial instruments from CEF</u>	To date, 128 270 729 EUR have been committed under the respective budget lines of Transport, Energy and ICT as a contribution to the CEF financial instruments.
21	<u>Implication for projects of CEF annex list</u>	<u>Impact on on-going and future projects</u> The redeployment from the CEF envelope to the EFSI will not result in modifications on the already launched calls for proposals under the CEF programme, or in a need to amend signed grant agreements. Therefore,

		DAB/1 will have no impact for already approved proposals and beneficiaries. The modifications of the CEF financial programming will be taken into account in the planning of future calls for proposals under each strand. Accordingly, it will be incorporated in annual or multi-annual work programmes submitted for the approval of the CEF coordination committee prior to their adoption. In particular for transport, there is no change for the projects pre-identified in the CEF Annex I Part I, they will continue to be eligible to the multiannual calls, which was not a guarantee of receiving support from the CEF. The Commission expects that an important number of these projects, which now will not receive support from CEF, will qualify to receive support from the EFSI. The Commission expects that the same will apply also to the Projects of Common Interest eligible for CEF Energy funding. The Commission expects that the net result of re-directing CEF funds to EFSI will be positive. <u>Is it possible that potential CEF beneficiaries will not be eligible for EFSI support?</u> As far as the impact on the potential CEF beneficiaries is concerned, at this point is time it is still premature to prejudge the concrete conditionalities and eligibility criteria that will apply to the EFSI projects. However, as per article 5 of the proposed EFSI regulation, the general objectives of the EFSI for infrastructure are wider than the objective of the CEF which is to support projects on trans-European networks.
22	<u>Governance regimes EFSI/financial instruments</u>	Coherence will be ensured by the fact that the EIB board will have to approve all projects supported under EFSI as well as those supported under

		CEF financial instruments. The governance structure envisaged under EFSI is just here to make sure that the mobilisation of the EU guarantee is submitted to a specific procedure that ensure the coherence between projects selected and the objectives of EFSI. Additionally, when selecting projects, the Investment Committee will be required to assess the "additionality" of the projects. If the project would be able to receive financing from another financial instrument, it would not qualify for support with the EU guarantee.
	HORIZON 2020	
23	Use of H2020 funds for R&D under EFSI	One of the underlying aspects of the Commission proposal is that projects will only be selected on their 'economic viability', without geographic or thematic quotas and be done to support one of a wide range of objectives, including support of research and development (Article 5(2)(b)). As of the way that EFSI works, with the leverage effect created, the provision of the EU guarantee will enable the EIB to create a leverage of 15x the resources of EFSI. Whilst there is no direct link between the reduction of the H2020 envelope and EFSI, as of EFSI's leverage affect, EFSI should be able to multiply the financial affect within certain areas of the H2020 mandate than if the resources had been spent via grants within the planned H2020 programme (see recital 29).
24	Impact of the use of ITER	The multi-annual budgetary planning of F4E until 2020 was developed on the basis of a schedule for project construction adopted by the ITER Council in 2010. It is not surprising in such a challenging project as ITER that the multi-

		annual planning needs to be revised from time to time. During 2014, all ITER parties (European and non-European) have acknowledged that an adaptation of the initial plans is necessary and it is this adaptation which allows transferring in 2015 commitment appropriations from ITER to EFSI. It is therefore proposed that Horizon 2020 makes a "loan" of 500 Million EUR from ITER in 2015, which would allow safeguarding already published Horizon 2020 work programmes and calls for proposals. This "loan" would be returned by Horizon 2020 to ITER in the years 2018 (80 Million EUR), 2019 (150 Million EUR) and 2020 (270 Million EUR). The amount 2014-2020 foreseen in the MFF for the ITER project will remain unchanged. In parallel, a new payment profile for the ITER project will need to be developed. This is currently being done by Fusion For Energy (F4E).
25	<u>Rationale for the breakdown of the reduction and implications</u>	The following elements have been taken into consideration in deciding which parts of Horizon 2020 will contribute to the EFSI: o Ensuring predictability by safeguarding the budget of 2015 calls already published, o Due to their similarity with EFSI in terms of nature and logic, not cutting financial instruments as they leverage private financing, o Not cutting joint undertakings to ensure the leveraging of private financing for research (preserving the EU's financial commitment will show that it is a reliable partner). o Protecting individual and bottom-up research schemes, such as the ERC dealing with frontier research and the Marie Skłodowska-Curie Actions (MSCA) dealing with the training and mobility of researchers. Excellence in research and the European Research Council (ERC) is a top priority for the Union. This is reflected in the ERC's budget for 2014-2020. The ERC budget in 2014-2020 will still represent an increase of over 70% compared to the 2007-2013 ERC budget.

		o Regarding the EIT, its model (long-term business-like partnerships operating close to the market with strong commitment from higher education, research and business partners) means that the KICs' ability to attract further funding from other sources could potentially compensate for the decrease in resources available through Horizon 2020. All KICs must develop in the medium-term financial sustainability strategies, which should allow for additional resources to be leveraged in order to overcome the unexpected changes, particularly in 2016 and 2017 when higher reductions are expected. o The percentage of the growth of the budget of DG Joint Research Centre (JRC) represented only 9% which is much lower than the H2020 increase compared to FP7. Secondly, it is also important to stress the specificity of the JRC and its unique situation compared to the other DGs participating in Horizon 2020. The JRC is indeed the only DG that carries out research activities in-house ("Direct Research") and this determines its specific budget structure. The greatest part of the JRC costs are fixed in nature and cover permanent and temporary scientific staff (64% of the JRC budget from Horizon 2020) as well as the operation, maintenance and ensuring safety and security of infrastructures and facilities used to perform research activities (23%). While the philosophy behind the EFSI is that the investments stimulated by the package will bring benefits to many of the projects carried out by third parties, which are traditionally funded by calls for proposals of the various EU programmes, the JRC will have to continue to perform its research on the basis of its own budget only. Therefore, JRC's contribution to the EFSI package may seem relatively modest compared to the contribution of other DGs, but it will have significant consequences.

		Further reduction of the JRC budget would jeopardise the ability of the JRC to deliver on the requirement in the Specific Programme of Horizon 2020. The planned reduction will already decrease the JRC's capacity to offer the entire range of activities it has been requested by Commission policy DGs. It will also lead to reduction in the activities of JRC to directly support EU Member States. Last but not least, the reduction of the JRC's budget will also have an impact on its capacity to hire young scientists (mainly Post-Docs) coming from all 28 Member States. Against the backdrop of high youth unemployment rates across Europe the JRC offers young scientists an opportunity to work and develop in their field of competence. For many of them the JRC is their first working experience and it helps them to become competitive on the labour market. o As regards "Secure societies – Protecting freedom and security of Europe and its citizens" – the proposed level of the redeployment for EFSI is a result of the general line taken for deciding which H2020 parts shall contribute to EFSI, and a slight variation between the contribution of various objectives. The budget redeployment from Horizon 2020 to the EFSI Guarantee Fund, allowing investments to be made, including in the area of research and innovation, will have no impact on already selected Horizon 2020 projects. Indeed, already signed projects are not affected by this redeployment, as they are covered by past commitment appropriations. It needs to be noted that 2015 calls have also been preserved as most of them have already been published last year, and the Commission should act and be perceived as a reliable partner. Horizon 2020 financial instruments (i.e. InnovFin – EU finance for Innovators) will continue to be implemented as initially foreseen and agreed, as they are complementary to the expected support provided under the EFSI. Indeed, EFSI will support riskier projects and entities than those supported

		under InnovFin; No proportional contributions are foreseen. In this context it is important to underline that Horizon 2020 is not – legally speaking – contributing financially to EFSI. The EU contribution to EFSI is the result of budget redeployment within the 2014-2020 MFF to which Horizon 2020 contributes. A demand-driven approach will be followed, in order to ensure the financing of the more mature projects / infrastructures as soon as possible. Consequently there will be no pre-allocation among the EFSI objectives (i.e. development of infrastructure, including in the areas of transport, particularly in industrial centres; energy, in particular energy interconnections; and digital infrastructure; investment in education and training, health, research and development, information and communications technology and innovation; expansion of renewable energy and energy and resource efficiency; infrastructure projects in the environmental, natural resources, urban development and social fields; providing financial support for SMEs and midcaps, including working capital risk financing). After this redeployment, the Horizon 2020 financial envelope is still 38% higher in current prices than that of the 7th Framework Programme 2007-2013 (25% in constant prices). Grant financing under Horizon 2020 thus remains a high priority during the period 2014-2020. There will be no impact on the signature date of the grant agreements to be signed this year or in the future.
26	<u>Impact on SMEs</u>	Opportunities for SMEs will remain, not only within Horizon 2020, but there will also be new opportunities under EFSI. It is important to recall in this context that the target of a minimum of 20% of the total combined budget for the specific objective "Leadership in enabling and industrial technologies" and the priority "Societal challenges" of Horizon 2020 going to SMEs is maintained; as well as the minimum of 7

		% of the total budgets of the specific objective 'Leadership in enabling and industrial technologies' and the priority 'Societal challenges' to be allocated to the dedicated SME instrument averaged over the duration of Horizon 2020. Consequently, the budget reduction proposed under article 18 of the EFSI regulation will lead to a reduction of the minimum budget target to be dedicated to SMEs in the form of grants under the specific objective "Leadership in enabling and industrial technologies" and the priority "Societal challenges" of around EUR 335 million (out of which around EUR 117 million for the SME Instrument). Even with this reduction, the minimum budget target for SME in the form of grants will still be 8,3 billion EUR. However, while grant financing from Horizon 2020 – and Connecting Europe Facility (see article 19) – will be slightly reduced, the multiplier effect generated by the EFSI (expected to be equal to 15) will allow for a significant overall increase of investment in the policy areas covered by those two existing programmes. This is true for SMEs, and in particular for innovative SMEs, as it is expected that a quarter (i.e. EUR 75 billion) of the Investment Plan will benefit SMEs and (small) midcaps. The leveraged loan approach of the EFSI complements the grant approach of Horizon 2020.
	UNALLOCATED MARGIN	
27	Available margin under MFF	See Annex.
28	Date of publication of updated financial programming	The impact of EFSI will be incorporated in the next version of the financial programming, to be published as part of the DB 2016 budgetary documents.

29	Impact on the margin under the own resources ceiling.	Since any budgetary impact of EFSI will need to be covered within the existing MFF ceilings for payments, the margin between the OR ceiling and the MFF payment ceiling will not be impacted. Article 3(3) of the MFF Regulation only foresees an exception for the EFSM and the BOP: the mobilisation of a guarantee covered by the EU budget for these instruments will be over and above the MFF ceilings. Other guarantees (including EFSI guarantees) need to be covered within the MFF ceiling. Hence the need for a guarantee fund which functions as a buffer to protect the EU budget.
	LEGAL AND REGULATORY ISSUES	
30	EFSI not a financial instrument	A financial instrument is a budgetary intervention by means of a budgetary contribution, in the form of a loan, a guarantee, an equity participation or a risk sharing instrument, conditional to the implementation of an action and where the financial liability of the Union cannot exceed the amount of the relevant budgetary commitment made for the instrument. The EU guarantee for EFSI is not a financial instrument in the sense of the Financial Regulation due to the special nature of its constitution. It is a general guarantee granted to the EIB directly on the basis of the legislative act and does not constitute a budget contribution. It generates a contingent liability for the EU budget, which it not feasible for financial instruments. The guarantee fund is a budgetary reserve to allow an orderly response to guarantee calls. Being a reserve, it is also not a financial instrument in the sense of the Financial Regulation, but the Commission's management of the guarantee fund is subject to the rules on direct management in the Financial Regulation. The guarantee and the guarantee fund are separate instruments. The guarantee is fully effective and admissible by the EIB independently from

		the existence or not of the guarantee fund or from its endowment. Article 21(4) of the CEF Regulation does not apply as the Commission's proposal implies that the CEF budget will be reduced and transferred to EFSI and thus outside the scope of the CEF Regulation.
31	<u>Assigned revenues. Alignment of rules on revenues with provisions for financial instruments</u>	The EFSI guarantee fund does not constitute a financial instrument and will be implemented according to a specific mechanism, very similar to the one designed for the external guarantee fund. Concerning returns on guarantee fund resources invested, Article 8(2)(b), it is proposed to treat them as assigned revenue, as in the external guarantee fund. Any surplus above the target amount resulting from these returns is transferred to the general budget as general revenue. Recoveries, Article 8(2)(c), are automatically considered assigned revenue following Article 21(3)(c) of the Financial Regulation. Revenues from EFSI, Article 8(2)(d), are considered assigned revenue as long as the guarantee fund needs replenishment or the guarantee is to be restored following Article 8(9); otherwise, they are general revenue. As for repayments with financial instruments, the guarantee freed after the successful completion of a project is available for new projects. As for revenues with financial instruments, revenues are to be considered net of costs and fees. By virtue of Article 21(4) of the Financial Regulation, a basic act may define other revenues as assigned revenue. This is the purpose of Article 8(3) of the EFSI regulation [there is a typo mistake in the wording of the proposal, it should read "…provided for in points **(b)** and (d) of paragraph 2…"].

32	Scope of the Court of Auditors powers	The wording of Articles 14 and 15 coincides with the equivalent articles in the basic act of the external guarantee to the EIB (articles 16 and 17). The external guarantee and the EFSI guarantee are of the same nature, hence identical provisions concerning the Court of Auditors and OLAF.
	EIAH, costs, fees, revenues	
33	Confirmation that no additional resources required under heading 5?	The Commission confirms that the impact on administrative appropriations outlined in the LFS (EUR 7.5 million / 8 officials) will be met through redeployment within the Commission envelope (in first instance within the DG concerned, as indicated on pages 41-42 of the LFS). The amounts needed for the functioning of EIAH will be met through the unallocated margin in H1A and will not have an impact on H5. The EFSI proposal will therefore not result in any increase of appropriations under H5.
34	Clarify tasks of EIAH	The EIAH will provide advisory support for investment project identification, preparation and development and act as a single technical advisory hub for project financing within the Union. This will include support on the use of technical assistance for project structuring, use of innovative financial instruments, use of public-private partnerships and advice, as appropriate, on relevant issues of EU legislation. To meet that objective, the EIAH will be able to use the expertise of the EIB, the Commission, national promotional banks and the managing authorities of the European Structural and Investment Funds. Operational details on the functioning on the EIAH will be determined by agreement between the Commission and the EIB. As per Presidency request, the Commission services has submitted to the ad hoc Working Group on the European Fund for Strategic Investments a non-

		paper with details on the European Investment Advisory Hub.
35	Assumptions underpinning the EIAH budgeting	While the objective of the EIAH is clearly identified, its exact future workload is difficult to determine. It will depend on the number of assistance requests received and of the number of projects for which none of the existing technical assistance envelopes (Fi-Compass, Jaspers, Elena…etc) can be used. . However, considering that the scope of EIAH is extremely broad, the number of requests could be very high. Therefore, a maximum financing by the Union of € 20 million has been foreseen. This remains a cap that will in any case not be exceeded, and the exact amount will be determined by the effective demand for advice. For the year 2015, a maximum amount of €10 million has been foreseen. Although the EIAH will become operational only late 2015, preparatory work will be required. Such preparatory work often entails exceptional one-off higher costs than during regular operations. No decision has been taken on whether to charge fees to the EIAH users.
36	EIAH staffing	The exact headcount of the EIAH is still to be determined, and will in any case certainly evolve depending on its workload. As the EIAH will house all the existing EIB staff who provides technical assistance, the additional headcount will only be for the extra services that EIAH will provide. EIAH will also rely to the maximum extent possible on a technical assistance network, building on the expertise of the Commission services, NPBs and ESIF managing authorities so as to avoid duplicating efforts.
37	EIF costs	In accordance with Article 7(2), up to €2.5bn of the guarantee can be used for the EIB increasing, on behalf of the Union, the financing capacity of the EIF. The standing policy of the EIF does not include charging its administrative expenses to beneficiaries but to contributors. Given that the EIB would therefore incur costs on behalf of the Union by using the

		guarantee to provide €2.5bn to the EIF, the draft regulation opens the possibility to cover these costs from the EFSI's investment proceeds or (in case those are insufficient) from the Union budget. The annex to the Legislative Financial Statement indicates the Commission estimates for these expenses, based on a specific product mix as to be set up by EIF for the purposes of the initiative.
38	<u>Estimate of expected revenues generated and destination</u>	As per Presidency request, the Commission services have submitted to the ad hoc Working Group on the European Fund for Strategic Investments a non-paper detailing the use of the proceeds from EIB investments with EFSI support. After the costs have been deducted in line with the waterfall detailed in the non-paper, the net proceeds are to be allocated to the EFSI guarantee fund. If doing so results in guarantee fund endowments higher than what is required to back an outstanding guaranteed amount of €16bn, the excess over this amount is allocated to the budget as general (non-earmarked) revenue. The distribution of revenues will be subject to EIB pricing, the overall riskiness of the portfolio and its specific composition. The overall expected impact on the guarantee fund is explained in the Commission services' non-paper submitted to the ad hoc Working Group on the European Fund for Strategic Investments entitled "Risk calibration of the EU guarantee under EFSI".
	EIB	
39	<u>Recovery of costs if the beneficiary is not able to pay</u>	The Commission proposal for a Regulation on the European Fund for Strategic Investments has a number of provisions related to the recovery of claims. Firstly, it is a requirement of the terms of the guarantee that the EIB pursue the recovery of claims on behalf of the Union (Article 7(3)). Secondly, that the EFSI Agreement shall contain the provisions and procedures related to recovery of claims (Article 2(1)(f)). These provisions

		are related to the procedure for if the EU pays out on the guarantee for costs that the guarantee covers. Article 5(3), in turn, provides that the EIB may call the EU guarantee "within a cumulated maximum limit corresponding to 1% of the total outstanding EU guarantee obligations to cover expenses that whilst charged to beneficiaries of the financing operations, have not been recovered". Article 5(3) comes on top of the normal costs that would be covered by the EU guarantee. A guarantee can only pay out on costs that were due and payable by the project at the point of default, i.e. a normal guarantee cannot cover costs that the beneficiary would have paid past the point of default. The EIB will have costs (for example, administrative costs), which whilst intended to charge to the project over the lifetime of the loan, were not able to be as the project defaulted. Article 5(3) allows coverage of these additional costs (within the limit stated). The process for the recovery of claims which would be covered by the EU guarantee will need to be agreed within the EFSI Agreement. Similar processes are present within other agreements reached between the Commission and the EIB; see, for example, the external mandate of the EIB.

ANNEX: Schedule for appropriations, unallocated margin

Provisioning the EFSI Guarantee Fund in commitments – schedule and potential sources of commitments –use of the unallocated margin – use of the margins under other headings

EUR 6 billion of commitment sources are clearly identified in the legislative and financial statement (LFS) from specific budget lines (table 3.2) as being made available for the provisioning of the EFSI guarantee fund. These freed commitments are redeployed for EFSI in the same year in which they are made available so as to remain within the MFF ceiling for H1A.

This leaves EUR 2.11 billion, which needs to be covered from the margins: EUR 2 billion to cover the remaining provisioning of the guarantee fund and EUR 110 million to cover the contribution of the EU budget to the financing of the EIAH.

For purely illustrative purposes, the table below shows that this is feasible on the basis of (a) the unallocated margins remaining under heading 1A as per the January 2015 financial programming and (b) the global margin for commitments (GMC) which could potentially become available as of the year 2016 through the technical adjustments of the MFF presented respectively in Spring 2015 and 2016.

Obviously this table does not prejudge any future Commission proposals, much less any decisions of the budgetary authority to be taken in the context of the annual budget procedures.

EFSI GUARANTEE FUND: ILLUSTRATION OF POTENTIAL SOURCES OF CA FROM UNALLOCATED MARGINS

		2016	**2017**	**2018**	**2019**	**2020**	**Total**
CA needed from unallocated margins	(a)	420	1020	630	20	20	2110
of which: - for financing EIAH		*20*	*20*	*30*	*20*	*20*	110
- for ESFI guarantee fund		*400*	*1000*	*600*			2000
							0
Unallocated margin available under H1a		262	303	366	489	537	1957
Indicative use of margin for EFSI	(b)	148	189	252	20	20	629
Remaining margin under H1A		114	114	114	469	517	1328
							0
EFSI CA to be covered from GMC	(c) = (a) - (b)	272	831	378	0	0	1481
							0
GMC available	(d)	2282	2010	1179	801		6272
							0
GMC remaining after EFSI	(d) - ©	2010	1179	801			3990
							0

Assumptions
- if the remaining margin under H1A after EFSI for the period 2016-2018 were to be equal to the margin under B2015 (i.e € 114 million)
- for the GMC:
  '- € 522 million from 2014 (remaining margin under B2014)
  '- € 1760 million from 2015, assuming no modifications through ABs
  '- 2016-2017: nothing assumed at this stage, but any amounts would increase the GMC available as of 2017.

Assuming that the remaining margin under H1A in B2015 (EUR 114 million) represents an acceptable margin for the period 2016-2018, an amount of EUR 629 million could be made available for EFSI from this unallocated annual margin.

This would leave EUR 1481 million to be covered from the GMC. In the technical adjustment of the MFF in Spring 2015 the Commission will identify a first amount of EUR 522 million under the GMC, to become available in 2016. In the technical adjustment to be presented in Spring 2016, an additional amount may be added to the GMC, which will also be available as of 2016. If the margin remaining under B2015 is not increased or decreased through amending budgets later this year, an amount of EUR 1760 million will be added to the GMC at that point, bringing the total GMC available for 2016 to EUR 2282 million. As illustrated in the table above, this amount would be sufficient to cover the remaining EFSI needs in full for the period and leave EUR 801 million in the GMC (not counting the likely further significant reinforcement of the GMC resulting from the remaining margins under the MFF commitments ceilings for the years 2016-2017.

The Commission has assumed that unallocated margins under other commitment headings cannot be taken into account since these margins would need to be transferred to H1A, which would require a (neutral) revision of the MFF. This logic precludes also the use of the large margins under heading 5.

<u>Provisioning the EFSI Guarantee Fund in payments – schedule of payments – use of the margin</u>

The provisioning of the EFSI guarantee fund (and the financing of EIAH) in payments will need to be accommodated under the existing annual MFF payment ceilings. Room under the ceilings will in first instance be created by the EUR 6 bn reduction in commitments foreseen for H2020 and CEF. The resulting savings in payments will be redirected to the provisioning of the Guarantee Fund. They will need to be complemented by additional payment appropriations to reach in total EUR 8.11 bn.

The schedule for the provisioning of the EFSI guarantee fund is indicative and has been established in agreement with the EIB in the light of the likely build-up of the lending portfolio. Since the occurrence of losses and therefore the need for a call on the EU guarantee is expected to be highly unlikely during the year 2015, there is no need to foresee any provisioning of the Guarantee Fund in payments for this year.

The exercise to identify the detailed sources of financing of the EUR 6 bn within these two programmes had two major objectives: (a) to frontload the reduction in commitments with the objective of freeing a corresponding amount in payments before the end of 2020 and (b) to manage and reduce the impact on the operational management of the H2020 and CEF programmes. These two important objectives are partially conflicting: the more frontloading, the higher the immediate impact on the programmes. More frontloading would have resulted in an unsustainable impact on legitimate expectations of stakeholders in these programmes. If the second objective had been predominant, the reductions in commitments could have been spread over the entire MFF period. But this would not have resulted in sufficient savings in payments. The Commission proposal strikes the right balance.

The importance of both objectives is illustrated by the high amount of questions already submitted on both the frontloading AND the impact on H2020 and CEF.

For purely illustrative purposes: if the payment schedules used during the MFF negotiations (and communicated in MFF 2014-2020 fiche 5) are applied to the proposed cuts in commitments, this would give a theoretical impact on payments of € 4.9 billion over the period 2016-2020. *(The MFF payment schedule for ITER given below was not included in fiche 5 since the Commission had proposed that ITER should be placed outside the MFF.)*

MFF PAYMENT SCHEDULES

	n	n+1	n+2	n+3	n+4	n+5	n+6	n+7
CEF	13,8%	15,5%	20,3%	21,0%	26,7%	2,6%	0,0%	
H2020	31,8%	18,7%	15,4%	12,8%	12,1%	5,6%	2,9%	0,8%
ITER	9,4%	28,8%	15,5%	16,8%	10,0%	9,7%	9,7%	

COMMITMENT REDUCTIONS

	2015	2016	2017	2018	2019	2020	Total
CEF	790	770	770	970			3300
H2020	70	860	871	479	150	270	2700
ITER	490			-70	-150	-270	0

THEORETICAL IMPACT ON PAYMENTS ACCORDING TO MFF SCHEDULES

	2015	2016	2017	2018	2019	2020	Total
CEF							
2015 commitments	109	122	160	166	211	21	789
2016 commitments		106	119	156	162	206	749
2017 commitments			106	119	156	162	544
2018 commitments				134	150	197	481
H2020							
2015 commitments	22	13	11	9	8	4	67
2016 commitments		273	161	132	110	104	781
2017 commitments			277	163	134	111	685
2018 commitments				152	90	74	316
2019 commitments					48	28	76
2020 commitments						86	86
ITER							
2015 commitments	46	141	76	82	49	48	442
2018 commitments				-7	-20	-11	-38
2019 commitments					-14	-43	-57
2020 commitments						-25	-25
TOTAL	177	656	911	1.108	1.084	960	4.896

The MFF payment schedules are indicative and based on past experience: they should not be interpreted as an exact forecast of the future annual savings in payments. The uncertainties related to the future rhythm of implementation for each programme do not permit this.

It is therefore not possible to determine in advance for each budget year (a) how much will result from the savings on the reduction in commitments and (b) how much additional appropriations will be needed below the MFF payment ceiling.

This element of uncertainty needs to be put in proper perspective: the actual rhythm of annual disbursements needed for large programmes such as cohesion policy may result in annual deviations from the forecast which could easily surpass the size of the total annual payments needed for EFSI. To give but one example: the forecast provided by each Member State in September 2014 with respect to the expected level of total ESIF payment claims to be submitted by the end of 2014 had an average absolute forecasting error by MS of 13%.

Approaching the issue top-down: the additional payment appropriations needed for EFSI (i.e. amounts not covered by savings resulting from the cut in commitments) are likely to represent between 0.3% and 0.4% of the total MFF payment ceiling for the period 2016-2020. This increase is simply dwarfed by the other uncertainties surrounding the speed of implementation of the MFF. It will need to be managed in the annual budget procedure in full respect of the MFF ceilings for these years (taking into account the legal obligation to offset the 2014 mobilisation of the contingency margin). The EFSI proposal has been constructed in such a way that its financial impact can be managed within the current MFF ceilings. It will not give rise to a need for an MFF revision.

The existence of the global margin for payments (GMP), which ensures that no margins under the payment ceilings are 'lost', provides additional reassurance that this is feasible.