

Investment Guidelines

for EFSI Expansion & Growth window of the EFSI Equity Instrument

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This document is for information purposes only. This document is an outline of the principal operational guidelines for the product described herein, which are subject to change and non-exhaustive.

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Annex II to the Open Call for Expression of Interest to select Financial Intermediaries under the EFSI Equity Instrument

1. Definitions

Whenever used in these guidelines, the following terms shall have the meanings opposite them. Any capitalised items not defined in this Annex have the meaning given to them in the Open Call for Expression of Interest or as the case may be Annex III thereto.

EFSI Final Recipients	SMEs, Small Mid-caps, Social Enterprises or Social Sector Organisations.
EFSI Financial (Sub-) Intermediary	Means an investment fund, a Fund-of-Funds, a (co-) investment scheme in any form (including managed accounts and other types of contractual arrangements), and a special purpose vehicle, in any form, established or to be established, that undertakes long term risk capital investments in the form of equity, preferred equity, Hybrid Debt-Equity Instruments, other type of mezzanine financing, and/or debt in case of PbR Investment Schemes and/or SIB Investment Schemes, but excluding entities targeting buy-out (or replacement capital) intended for asset stripping.
EFSI Financial Intermediary¹	Means an EFSI Financial (Sub-) Intermediary that has entered into an EFSI Investment with the EIF and commits to invest directly (or indirectly through EFSI Financial Sub-Intermediaries) in the Target Final Recipients at least an aggregate amount equal to the Minimum Allocation.
EFSI Financial Sub-Intermediary	Means an EFSI Financial (Sub-)Intermediary that has entered into an investment with an EFSI Financial Intermediary.
EFSI Fund Agreement	Means, the agreement whereby the EIF commits to invest in an EFSI Financial Intermediary and/or alongside an EFSI Financial Intermediary.
EFSI Investment	Means a commitment in any form entered into by the EIF with an EFSI Financial Intermediary to invest in or alongside such EFSI Financial Intermediary pursuant to an EFSI Fund Agreement.
Expansion and Growth Stage	Means the stage of development of a company that has already established a product or service, and has already generated revenue, but may or may not be making a profit and needs financing to grow and expand, including in order to finance increased production capacity, market or product development, provide additional working capital or is used for a transfer of business with a view to further grow the business.
Final Recipient	Means either an InnovFin Final Recipient or an EFSI Final Recipient.
Financial Intermediary	InnovFin Financial Intermediary or EFSI Financial Intermediary.
Financial Sub-Intermediary²	InnovFin Financial Sub-Intermediary or EFSI Financial Sub-Intermediary.
Fund Agreement	Means either an InnovFin Fund Agreement or EFSI Fund Agreement, as appropriate. In the case of a Multi-Stage Financial Intermediary any such single agreement where the EIF commits in or alongside the Multi-Stage Financial Intermediary resources of both Early Stage and Expansion & Growth windows of the EFSI Equity Instrument.
Fund-of-Funds	Means a Financial Intermediary holding or targeting to build a portfolio of Financial Sub-Intermediaries rather than investing directly in Final Recipients.
Hybrid Debt-Equity Instrument	Means a debt financial instrument (alone or in conjunction with an equity component or link), which, in light of its subordination or of other special circumstances of the issuer, is expected to yield a return in excess of

¹ Save for Social Impact, EFSI Financial Intermediaries will typically target in its investment strategy investments in Expansion and Growth Stage.

² In the case of fund-of funds, whenever this term is used in this Annex it refers both Financial Intermediaries (fund-of funds) and Financial Sub-Intermediaries (investee funds of the fund of funds).

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	traditional senior bank financing.
Minimum Allocation	A Financial Intermediary shall invest in Target Final Recipients an amount equal to at least the Minimum Allocation, defined as, the lower of: (i) 2 times of the aggregate amounts drawn down under the Fund Agreement for the purpose of investments in Final Recipients and (ii) two-thirds of the total amount drawn down by the Financial Intermediary from its investors for the purpose of investments.
Multi-Stage Financial Intermediary	Means a Financial Intermediary that has entered into a Fund Agreement with the EIF and commits to invest directly (or indirectly through Financial Sub-Intermediaries) in eligible InnovFin Final Recipients or Target Final Recipients at least an aggregate amount equal to the Minimum Allocation.
NPB	Means a national promotional bank or a national promotional institution
Non-Cooperating Jurisdiction	Financial Intermediaries shall comply with relevant standards and applicable legislation on the prevention of money laundering, the fight against terrorism and tax fraud to which they may be subject.
Payment by Results (or PbR) Investment Scheme	Means a financial mechanism whereby the payment of returns is linked directly to the achievement by Social Enterprises or Social Sector Organizations of specific measurable and verified results (outcomes).
Small Mid-Cap	Means an entity with fewer than 500 FTEs that is not an SME.
SME	Means a micro, small or medium-sized enterprise as defined in Commission Recommendation 2003/361/EC (OJ L 124, 20.5.2003, p. 36).
Social Enterprise³	<p>Means an undertaking, regardless of its legal form, which:</p> <ul style="list-style-type: none"> (a) in accordance with its articles of association, statutes or with any other legal document by which it is established, has as its primary objective the achievement of measurable, positive social impacts rather than generating profit for its owners, members and shareholders, and which: <ul style="list-style-type: none"> a. provides services or goods which generate a social return; and/or b. employs a method of production of goods or services that embodies its social objective; (b) uses its profits first and foremost to achieve its primary objective and has predefined procedures and rules covering any distribution of profits to shareholders and owners that ensure that such distribution does not undermine the primary objective; and (c) is managed in an entrepreneurial, accountable and transparent way, in particular by involving workers, customers and stakeholders affected by its business activities. <p>This definition shall be implemented taking into account the guidance set out in the Appendix 1 to this Annex II.</p>
Social Impact	Means the positive net change in social terms induced through the business activity or service provision of a Social Enterprise or Social Sector Organization.
Social Impact Bonds (or	Means the specific type of PbR Investment Scheme in which investors' return

³ For further information on the Social Enterprise, please refer to the accompanying note "Guidance for Social Impact Investors"

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SIB) Investment Scheme	depends on payments public or private commissioners undertake to make subject to the delivery of pre-defined social outcomes by Social Enterprises or Social Sector Organizations.
Social Sector Organization	Means an organization or a consortium of organizations, regardless of its legal form, that is responsible for social services delivery and pursues defined social missions, including Social Impact objectives.
Target Final Recipients	The Final Recipients which meet criteria set out in the section 4 of this Annex II.

2. The terms of an EFSI Investment

Nature	Equity investments in, or alongside EFSI Financial Intermediaries and Multi-stage Financial Intermediaries jointly with Early-Stage window.
Investor	The EIF in its own name with financing from the EFSI Expansion & Growth Facility
Types of EFSI Financial Intermediaries	EFSI Financial Intermediaries focusing on Expansion and Growth Stage including Multi-Stage Financial Intermediaries. These will typically include venture capital funds, private equity funds, fund-of-funds, investment funds investing in the area of Social Impact, PbR Investment Schemes and/or SIB Investment Schemes.
Size of EFSI Investment	Each EFSI Investment shall: <ul style="list-style-type: none"> a) not exceed fifty million euros (EUR 50,000,000) or its EUR equivalent at time of commitment; except if the EFSI Investment is entered into with a Fund-of-Funds; b) represents at least 7.5% of the commitments made at the closing at which the EIF is admitted (excluding any amount committed to the EFSI Financial Intermediary in previous closings, if any); c) not exceed 50% of the aggregate commitments made to the EFSI Financial Intermediary, except in case of EFSI Financial Intermediaries investing in the area of Social Impact and co-investment funds/schemes, in which EFSI Investment may constitute up to 100% of total commitments⁴.
Duration of EFSI Investment	The lifetime of the EFSI Investment shall not exceed 15 years (or 20 years in case of investments in a Fund-of-Funds or Technology Transfer Funds), plus up to 3 years extension.
Investor Base of an EFSI Financial Intermediary	Except EFSI Financial Intermediaries investing in the area Social Impact or co-investment schemes/funds at least 30% of total commitments to an EFSI Financial Intermediary at the time of the closing of the relevant EFSI Investment (including commitments made in earlier closings, if any) are made by independent private investment sources (as set forth below): <ul style="list-style-type: none"> • EIF/EIB own resources, invested at own risk and excluding public parts of mandates • Financial institutions (investing at own risk and from own

⁴ Subject to EIF's analysis. Other conditions may apply.

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resources)

- Private endowments & foundations
- family offices & Business Angels (including joint investment vehicles set-up by/with Business Angels)
- Corporate investors
- Insurance companies
- Pension funds
- Private individuals
- Academic institutions (including universities and public and private research institutions)
- NPBs investing own resources, for their own risk, and on commercial terms.

Other categories of investors may also be considered private investment sources (e.g. sovereign wealth funds or fund-of-funds). In the case of sovereign wealth funds, they shall be considered independent private investment sources if the money invested is generated by commercial activities and is invested on commercial terms.

Fund-of-funds shall be considered as independent private investment sources provided that they invest in an EFSI Financial Intermediary exclusively on commercial terms and are managed or advised by a privately held asset manager. Any fund-of-funds fully funded by state budget resources shall not be considered an independent private investment source⁵.

For the purpose of the above provisions, state budget resources shall include European Structural and Investment Funds (for e.g. Jeremie initiative).

In assessing compliance with the above requirements, the EIF may rely on a declaration, representation or undertaking from the EFSI Financial Intermediary.

Ranking of EFSI Investments

The EIF shall rank at least *pari passu* (i.e. like risk, like reward) with other investors (including NPBs), with the exception of specific investments in the area of EFSI Financial Intermediaries investing in the area of Social Impact where a deviation from the *pari passu* ranking may be acceptable.

The relevant constitutional documents of the EFSI Financial Intermediary (including, where relevant, any side letter entered into by the EIF) shall reflect such requirement.

This requirement shall apply, *mutatis mutandis*, to the EFSI Financial Sub-Intermediaries.

Governance of EFSI (Sub-) Intermediaries

The EIF shall be represented in advisory boards or similar investor representation bodies.

The requirement to seek participation in the investor representation bodies of the EFSI Financial Sub-Intermediary shall apply, *mutatis mutandis*, to the manager or the advisor of a Fund-of-Funds.

- a) The EFSI Financial Intermediary shall have a governance structure

⁵ Where a fund-of-funds is partially funded by state budget resources, the investment made by such a fund-of-funds into an EFSI Financial Intermediary shall not be considered as an independent private investment source pro rata to the amounts invested by the fund-of-funds which are not directly funded by state budget resources.

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that allows for decisions concerning investments, divestments and risk diversification to be made in accordance with the applicable legal documentation and in line with the relevant market practice. This requirement shall also apply where a professional investment advisor provides investment-related advice to the EFSI Financial Intermediary or to the EFSI Financial Intermediary's management team.

This requirement shall apply, *mutatis mutandis*, to the EFSI Financial Sub-Intermediaries.

- b) The legal documentation governing the rights and obligations of the investors and of the EFSI Financial Intermediary shall include provisions relating, in particular, to the following principles:
 - i. changes to the fundamental nature of the EFSI Financial Intermediary, including material changes to the investment strategy that have a material impact on the eligibility criteria and requirements of the EFSI Equity Instrument, shall require prior consent from the EIF.
 - ii. possibility for investors to remove the management team for cause and without cause.
- c) The EIF will expect the EFSI Financial Intermediary to put in place appropriate measures to avoid conflicts of interests and align the interests of the EFSI Financial Intermediary, its managers and its investors, such measures to be in line with market practices. Such measures shall be transparent to the EFSI Financial Intermediary's investors.

This requirement shall apply, *mutatis mutandis*, to the EFSI Financial Sub-Intermediary.

- d) The remuneration of the EFSI Financial Intermediary's manager shall be transparent to the EFSI Financial Intermediary's investors. Management fees shall be at a level that covers operational and management costs in a sustainable way without disturbing the alignment of interests aimed for. Then level of management fees shall allow for the execution of the EFSI Financial Intermediary's strategy.

This requirement shall apply, *mutatis mutandis*, to the EFSI Financial Sub-Intermediary.

Borrowing and lending by EFSI Financial Intermediaries

Borrowing by EFSI Financial Intermediaries should be limited in amount and short-term in nature. Notwithstanding the foregoing, long term borrowings may be allowed in specific cases if:

- provided by the investors in such Financial Intermediaries alongside their equity only in their role as investors; or
- in case of Expansion & Growth window of the EFSI Equity Instrument, Financial Intermediaries pursuing Hybrid Debt/Equity investments, provided by third parties and limited at any time to a debt-equity ratio of 1:1 per Financial Intermediary.

Lending by EFSI Financial Intermediaries, other than credit-focused Financial Intermediaries, should only be made alongside or for the preparation of equity investments and should be limited to a maximum of 20% of the aggregate commitments at any point in time.

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Special attention should be paid to the economic terms of the debt financing extended rather than its legal structure. Lending structures used by an EFSI Financial Intermediary (e.g. a mezzanine fund) to make an investment carrying equity or mezzanine risk, such funding should be considered as equity or mezzanine irrespective of its legal form (convertible bonds/loans, loan with warrants, etc.).

EFSI Signing period	The EIF may enter into an EFSI Investment until 30 June 2020, provided that the EIF Board of Directors has approved the EFSI Investment on or before 5 July 2019.
State Aid	The EFSI Investment does not constitute State Aid.

3. The EFSI Financial (Sub-) Intermediaries

General Requirements	<p>The EFSI Financial Intermediaries:</p> <ol style="list-style-type: none">i. Shall provide the EIF with a representation as attached in Annex I;ii. Shall not include in their business activity any illegal activities according to applicable legislation;iii. Shall not include in their business activity any activity which would make such EFSI Investment not compatible with the Guidelines on the EIF Restricted Sectors⁶ as amended from time to time;iv. Shall comply with the terms as set out in the “Miscellaneous” section of this Annex II⁷;
Specific requirements	<ol style="list-style-type: none">i. The Financial Intermediary shall meet the definition of the EFSI Financial Intermediary or Multi-stage Financial Intermediary⁸;ii. The EFSI Financial (Sub-)Intermediary shall not to invest in any EFSI Excluded Final Recipients;iii. The EFSI Financial (Sub-)Intermediary shall be managed by an independent management team⁹ combining the appropriate mix of skills and experience to demonstrate the necessary capability and credibility to manage a risk capital fund¹⁰ and which, during the due diligence process, demonstrated to the EIF that they (i) have a clear strategy to make a sufficient number of investments into Target Final Recipients, create adequate deal flow and establish appropriate exit strategies and (ii) will apply good market practice in areas such as legal structure, investment principles, reporting and evaluation;

⁶ http://www.eif.org/news_centre/publications/2010_Guidelines_for_Restricted_Sectors.htm

⁷ In the case of Multi-Stage Financial Intermediaries the respective provisions of Annex II will apply.

⁸ In the case of investments in Multi-Stage Financial Intermediaries co-financed with EFSI Early Stage window resources, the respective provisions of Annex III to this Call also apply.

⁹ Independent management teams include teams operating within a corporate or university structure provided that the operation of the fund management business has a high degree of independence in making investment decisions from the parent company / organization.

¹⁰ The individual members of the management teams are not required to have prior direct experience of fund management provided that they can otherwise demonstrate appropriate capabilities within the team to manage the SMEW Equity Product Financial Intermediary, whereby the management team as a whole will be evaluated and this criteria does not have to be fulfilled by each individual member of the management team.

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- iv. the Financial Intermediary should be established in the EU¹¹ and shall include in its investment strategy to invest more than 50%¹² of its invested amounts, directly or indirectly, in Target Final Recipients (eligible InnovFin Final Recipients or Target Final Recipients in the case of Multi-Stage Financial Intermediaries);
- v. the Financial Intermediary, other than a Technology Transfer Fund or a BA Fund, shall be managed by entities which are controlled¹³ by individuals or privately held entities;
- vi. The Financial (Sub-)Intermediary shall not be established, at the date of the Fund Agreement, in a Non-Cooperating Jurisdiction;
- vii. The EFSI Intermediary shall accept that the EIF may not be required to participate (subject to applicable law), fully or partially, in an investment in the Final Recipient, if that investment would result in an irremediable breach of the Minimum Allocation in Target Final Recipients (in the case of Multi-Stage Financial Intermediaries: eligible InnovFin Final Recipients or Target Final Recipients) as agreed with the Financial Intermediary at the time of the Fund Agreement¹⁴.

4. EFSI Final Recipients

EFSI Financial (Sub-)Intermediaries shall select EFSI Final Recipients according to their internal rules and procedures taking due account of the economic viability of projects of EFSI Final Recipients.

EFSI Excluded Final Recipients

EFSI Financial (Sub-)Intermediaries shall not be entitled to invest in EFSI Final Recipients, which at the time of the first investment include in their business any activity which would make such investment not compatible with the Guidelines on the EIF Restricted Sectors¹⁵ as amended from time to time.

Target Final Recipients¹⁶

The EFSI Final Recipients which are: (i) neither EFSI Excluded Final Recipients nor InnovFin Excluded Final Recipients and (ii) which are established or operating in the EU, in each case as at the time of the first investment by the Financial (Sub-)Intermediary.

5. Miscellaneous

Monitoring and audit

The EFSI Financial Intermediaries must agree (and must agree to cause the EFSI Financial Sub-Intermediaries and the Target Final Recipients to agree) to allow the Commission's agents, the EIF and the European Court of Auditors to have access to adequate information to enable them to discharge their duties with respect to monitoring, control and auditing of the correct use of the EFSI Investment, including the promotion, visibility and transparency requirements specified in this Annex in this section. These controls may include on-the-spot controls of the EFSI Financial Intermediaries, EFSI Financial Sub-Intermediaries, and the EFSI Final Recipients.

¹¹ Establishment of the Financial Intermediary in jurisdictions outside EU may be considered on case by case basis based on EIF's professional assessment of the investment proposal and any guidance in this matters received from the European Commission. Additional conditions may apply.

¹² In the case the EFSI Financial Intermediary is allowed to be established outside EU, this quotient shall be set at 75%.

¹³ For the purpose of this requirement, control means the power to direct the management of the entity which is controlled whether through the ownership of voting capital, by contract or otherwise, or the ability to exercise (whether directly or indirectly) more than 50% of the voting capital or similar rights of ownership in respect of such controlled entity or the contractual right to appoint or remove the management of such entity or a majority of the members of such entity's executive bodies.

¹⁴ In the case of Fund-of Funds this provision does not apply. However, the fund-of-funds shall demonstrate appropriate policies and procedures to monitor and adhere to the Minimum Allocation on the portfolio basis.

¹⁵ http://www.eif.org/news_publications/2010_Guidelines_for_Restricted_Sectors.htm.

¹⁶ Additional criteria may be specified in in the Fund Agreement.

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Reporting	<p>EFSI Financial Intermediaries shall provide the EIF with quarterly and annual reporting prepared in accordance with the reporting guidelines published or endorsed by Invest Europe (formerly known as European Private Equity and Venture Capital Association “EVCA”) from time to time which on date of this Call endorses the International Private Equity and Venture Capital Investor (“IPEV”) Valuation Guidelines. The indicative list of information that each Financial Intermediary shall provide to the EIF is specified in the Annex IV to this Call. Financial Intermediaries shall also provide annual audited financial statements in accordance with applicable laws. The valuation of risk capital investments in Target Recipients shall be made in accordance with the valuation principles published or endorsed by IPEV.</p>
Other Information	<p>EFSI Financial Intermediaries may be requested to provide, from time to time, further information related to the Target Final Recipients covered by EFSI Equity Instrument in the context of programme evaluations and employment and growth reports to be prepared by the EIF based on data available as of 31 December 2017 and 31 December 2019. To this end, the Financial (Sub-)Intermediaries shall require the Target Final Recipients to provide certain information on the basis of a template provided by the EIF. The provision of such information by Target Final Recipients shall (i) be subject to applicable laws, including without limitation in relation to data protection and banking secrecy, and (ii) not be mandatory requirement nor constitute a condition precedent to the relevant transaction or any eligibility criteria.</p>
Visibility	<p>EFSI Financial Intermediaries shall explicitly inform Final Recipients that financing is made possible through the support of the EFSI¹⁷.</p>
Publication	<p>The EIF may publish on its website a list of EFSI Financial (Sub-)Intermediaries containing for each EFSI Financial (Sub-)Intermediary the name and address of the Financial (Sub-) Intermediary, as well as the amount of EFSI Investment into the EFSI Financial Intermediary, an indication of the Financial (Sub-) Intermediary’s investment focus (i.e. sector specific, generalist).</p> <p>The EIF may also publish on its website a list of Target Final Recipients, containing the name, the address and the type of finance received under the EFSI Equity Instrument.</p> <p>Any EFSI Financial (Sub-)Intermediary, or Target Final Recipient may, prior to receiving financial support under the EFSI Equity Instrument , declare in writing (including by a representation in the relevant agreement) that the publication requirements set out above risks harming its commercial interests or risks threatening the rights and freedoms of individuals concerned as protected by the Charter of Fundamental Rights of the European Union. In addition such publication shall not be required if: (i) it would be illegal under the applicable laws and regulations, or (ii) the Target Final Recipient is a natural person.</p>
Record Keeping	<p>The EFSI Financial Intermediary shall maintain or be able to produce all the documentation related to the implementation of the EFSI Fund Agreement for a period of seven (7) years following the termination of the EFSI Fund Agreement. The EFSI Financial Intermediary shall require each EFSI Target Recipient and each EFSI Financial Sub-Intermediary to maintain and be able to produce all documentation related to the investment for a period of seven</p>

¹⁷ The EFSI Financial Intermediaries shall transpose same visibility requirements in their contractual documentation with the EFSI Financial (Sub-) Intermediaries.

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(7) years following the termination of the investment in such Final Recipient or the EFSI Financial (Sub-)Intermediary (as applicable).