



Council of the
European Union

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'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee (Part 2)/Council
Subject:	Financial services - Extension of objection period for certain delegated acts

1. In accordance with the Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on better Law-Making¹, the Commission shall not transmit any delegated acts during the following periods:

- from 22 December to 6 January;
- from 15 July to 20 August.

¹ OJ L 123, 12 May 2016, pp. 1-14.

2. In the area of financial services many delegated acts relate to regulatory technical standards, where the objection period is very often one month, which can be extended by one month, and further by another one month in accordance with Article 13(1) of the ESA Regulations². There are also other cases, where the objection period for delegated acts is exceptionally short, but it can be extended. It is therefore very difficult to leave delegations enough time to scrutinize these kind of delegated acts that are transmitted by the Commission in late June and early July, and to have the position of the Council confirmed by Coreper and Council in a timely manner.
3. In order to avoid the above-mentioned situation, all delegations agreed in a silence procedure within the framework of the Working Party on Financial Services, which ended on 30 June 2016, that the objection period for the above-mentioned delegated acts should be extended.
4. It is therefore suggested that the Permanent Representatives Committee invites the Council to extend the objection period for certain delegated acts as follows:

² Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC, Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC and Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC; OJ L 331, 15.12.2010, p. 12–119.

a) COMMISSION DELEGATED REGULATION (EU) .../...of 29.6.2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards specifying information to be notified by investment firms, market operators and credit institutions³;

- this delegated act was transmitted to the Council on 29 June 2016, and the Council has one month, i.e. until 29 July 2016 to object to it. It is suggested that the objection period is extended in accordance with Article 13(1) of Regulation (EU) No 1095/2010 by one month, and further by another one month, i.e. until 29 September 2016.

b) COMMISSION DELEGATED REGULATION (EU) .../...of 29.6.2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to regulatory technical standards specifying the obligation to clear derivatives traded on regulated markets and timing of acceptance for clearing⁴;

- this delegated act was transmitted to the Council on 29 June 2016, and the Council has one month, i.e. until 29 July 2016 to object to it. It is suggested that the objection period is extended in accordance with Article 13(1) of Regulation (EU) No 1095/2010 by one month, and further by another one month, i.e. until 29 September 2016.

³ Doc. 10785/16.

⁴ Doc. 10786/16.

c) COMMISSION DELEGATED REGULATION (EU) .../...of 30.6.2016 supplementing Regulation (EU) No 1286/2014 of the European Parliament and of the Council on key information documents for packaged retail and insurance-based investment products (PRIIPs) by laying down regulatory technical standards with regard to the presentation, content, review and revision of key information documents and the conditions for fulfilling the requirement to provide such documents⁵;

- this delegated act was transmitted to the Council on 30 June 2016, and the Council has in accordance with Article 31 of Regulation (EU) No 1286/2014 two months, i.e. until 30 August 2016 to object to it. It is suggested that the objection period is extended in accordance with the above-mentioned Article by one month, i.e. until 30 September 2016.

5. It is also recalled that there is a high probability that the Commission adopts, between 7 July 2016 and 15 July 2016, other delegated acts based on regulatory technical standards in application of the following basic acts :

- Directive 2014/65/EU of the European Parliament and of the Council on markets in financial instruments (MiFID II);
- Regulation (EU) No 600/2014 of the European Parliament and of the Council on markets in financial instruments (MiFIR);
- Directive 2014/59/EU of the European Parliament and of the Council establishing a framework for the recovery and resolution of credit institutions and investment firms (BRRD);

⁵ Doc. 10834/16 + ADD 1.

- Directive 2013/36/EU of the European Parliament and of the Council on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms (CRD IV), and
- Regulation (EU) No 575/2013 of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms (CRR).

Because of their late adoption by the Commission, the Coreper will not have the possibility to examine those delegated acts before the Council meeting of 18 July 2016, which is the last Council meeting before the month of September. It is therefore suggested that the Permanent Representatives Committee decides, in accordance with Article 19(2) of the Rules of Procedure of the Council, that the decision to extend the objection period by one month, and further by one month in accordance with Article 13 (1) of the ESA Regulations for any such delegated act that is transmitted to the Council between 7 July 2016 and 15 July 2016, is taken by the Council without preparation by the Coreper.

6. Finally, for the same reasons, it is suggested that the Permanent Representatives Committee decides, in accordance with Article 19(2) of the Rules of Procedure of the Council, that the decision to extend the objection period by one month in accordance with Article 64(5) of Directive (EU) 2015/849 of the European Parliament and of the Council on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing for any delegated act that is adopted pursuant to Article 9 of that Directive and which is transmitted to the Council between 7 July 2016 and 15 July 2016, is taken by the Council without preparation by the Coreper.
7. The European Parliament and the Commission shall be informed of these decisions.
