

Brussels, 4 November 2016
(OR. en)

13915/16

EF 326
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DELECT 225

'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee (Part 2)/Council
No. Cion doc.:	C(2016) 6624 final
Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 19.10.2016 amending Commission Delegated Regulation (EU) No 148/2013 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories with regard to regulatory technical standards on the minimum details of the data to be reported to trade repositories = intention not to raise objections to a delegated act

1. The Commission notified on 19 October 2016 the above delegated act¹ to the Council in accordance with the procedure set out in Article 290 TFEU and with Article 11 (2) of Regulation (EU) No 1095/2010². The Council has one month, i.e. until 19 November 2016 to object to it.

¹ Doc. 13471/16 +ADD 1 EF 309 ECOFIN 929 DELACT 219

² 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. 84–119.

2. During the silence procedure within the framework of the Working Party on Financial Services, which expired on 3 November 2016, only the DE delegation indicated that it will object to the delegated act. As the requirement for the Council to object to the delegated act is a qualified majority, this means that the Council has no intention to object this delegated act.
 3. It is therefore suggested that Coreper invites the Council to:
 - confirm that the Council has no intention to object to the delegated act and that the Commission and the European Parliament are to be informed thereof; this implies that, unless the European Parliament objects to it, the delegated act shall be published and enter into force in accordance with Article 13 (2) of the Regulation (EU) No 1095/2010, and
 - enter into its minutes the statement as set out in the Annex.
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Statement by Germany

We consider the mandatory application of IFRS 13 by all counterparties for reporting purposes as provided for in the delegated act as being not proportionate and overly burdensome for counterparties such as small and medium banks including cooperative and savings banks as well as small and medium enterprises (SMEs) that are generally not obliged to apply IFRS for accounting purposes.

At the same time, we doubt that the aim to reduce diverging valuations of derivative contracts not cleared by a CCP can be achieved by mandating the use of this particular accounting standard since differences in valuation may have other and even more prominent reasons than the use of different accounting standards such as the use of different market data from different data sources at different points in time.

In view of this we consider the mandatory application of IFRS 13 by all counterparties for reporting purposes as not appropriate and therefore object to the delegated act.
