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INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on establishing a Union programme to support specific activities enhancing the involvement of consumers and other financial services end-users in Union policy making in the field of financial services for the period of 2017-2020 – Outcome of the European Parliament's first reading (Brussels, 26 to 27 April 2017)

I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the joint declaration on practical arrangements for the codecision procedure ¹, a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this dossier at first reading, thereby avoiding the need for second reading and conciliation.

In this context, the rapporteur, Philippe LAMBERTS (Green/EFA, BE) presented a compromise amendment to the proposal for Regulation, on behalf of the Committee on Economic and Monetary Affairs. This amendment had been agreed during the informal contacts referred to above.

¹ OJ C 145, 30.6.2007, p.5

II. VOTE

When it voted on 27 April 2017, the plenary adopted the compromise amendment to the proposal for a Regulation. The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto².

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

² The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in ***bold and italics***. The symbol "■" indicates deleted text.

(27.4.2017)**Union programme to enhance the involvement of consumers in financial services policy-making ***I**

European Parliament legislative resolution of 27 April 2017 on the proposal for a regulation of the European Parliament and of the Council on establishing a Union programme to support specific activities enhancing the involvement of consumers and other financial services end-users in Union policy making in the field of financial services for the period of 2017-2020 (COM(2016)0388 – C8-0220/2016 – 2016/0182(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2016)0388),
 - having regard to Article 294(2) and point (b) of Article 169(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0220/2016),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 19 October 2016³,
 - having regard to the provisional agreement approved by the responsible committee under Rule 69f(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 15 March 2017 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs and the opinion of the Committee on the Internal Market and Consumer Protection (A8-0008/2017),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

³ OJ C 34, 2.2.2017, p. 117.

Position of the European Parliament adopted at first reading on 27 April 2017 with a view to the adoption of Regulation (EU) 2017/... of the European Parliament and of the Council on establishing a Union programme to support specific activities enhancing the involvement of consumers and other financial services end-users in Union policy-making in the *area* of financial services for the period of 2017-2020

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular point (b) of Article 169(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee⁴,

Acting in accordance with the ordinary legislative procedure⁵,

⁴ OJ C 34, 2.2.2017, p. 117.

⁵ Position of the European Parliament of 27 April 2017.

Whereas:

- (1) The Union contributes to ensuring a high level of consumer protection and to placing consumers at the heart of the internal market, by supporting and complementing Member States' policies in seeking to ensure that citizens can fully reap the benefits of the internal market and, in so doing, that their legal and economic interests are properly addressed and defended. A well-functioning and trustworthy financial services sector is a key component of the internal market ***and its cross-border capabilities***. It requires a solid framework for regulation and supervision, which simultaneously ensures financial stability and supports a sustainable economy. At the same time, a well-functioning and trustworthy financial services sector should provide a high level of protection to consumers and other financial services end-users, including retail investors, savers, insurance ***policyholders***, pension fund ***members and beneficiaries***, individual shareholders, borrowers and SMEs.

- (2) Since 2007, the confidence of financial services' end-users, in particular of consumers, has been shaken by the financial and economic crisis. To restore their confidence in the soundness of the financial sector *and to contribute to its best practices*, it is therefore important to increase the level of *active participation and* involvement of consumers and other *financial services* end-users, *including retail investors, savers, insurance policyholders, pension fund members and beneficiaries, individual shareholders, borrowers and SMEs*, as well as of stakeholders representing their interests, in Union and *in other relevant multilateral policy-making* in the financial sector.

- (3) In order to achieve *those objectives, and following a cross-party initiative of the European Parliament*, the Commission initiated at the end of 2011 a pilot project aimed at providing grants to support the development of a financial expertise centre for the benefit of consumers, other end-users and stakeholders who represent their interests, **■** to enhance their ability to participate in Union policy-making in the *area* of financial services *and to foster the development of a resilient banking system*. The main policy objectives were to ensure that Union policy-makers, when initiating new Union law, would be provided with views other than those expressed by financial sector professionals, *to ensure that the interests of consumers and other financial services end-users would be reflected in new Union law*, to ensure that the wider public would be better informed about issues at stake in financial regulation, *thereby enhancing financial literacy*, and to ensure that the *active* participation of consumers *and other financial services end-users* would be enhanced in Union policy-making in the area of financial services, resulting in well-balanced Union law.

- (4) As a result, between 2012 and 2015, and following an open call for proposals, the Commission awarded operating grants to two non-profit entities: Finance Watch and Better Finance. *Those* grants were awarded *in 2012 and 2013* under a pilot project *lasting* two years ■ , and since 2014 in the form of a preparatory action. Furthermore, in 2016, it was decided to provide action grants instead of operating grants, as action grants ensure better control of Union budget spending. Given that a preparatory action can be used *for* up to three *consecutive* years⁶, a legislative act is necessary to provide a legal basis for the funding of such actions as of 2017.
- (5) Finance Watch was set up *with Union grants* in 2011 as an international non-profit association under Belgian law. Its mission is to defend the interests of civil society in the financial sector. *As a result of* Union grants, Finance Watch managed in a short period of time to set up a team of qualified experts, who were able to conduct studies, policy analysis and communication activities in the *area* of financial services.

⁶ **Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).**

- (6) Better Finance is the product of successive re-organisations and rebranding of pre-existing European federations of investors and shareholders since 2009. Thanks to Union grants, the organisation formed a centre of financial expertise, focusing primarily on the interests of consumers, individual investors, individual shareholders, savers and other end-users of financial services, coherent with its membership base *and its resources*.
- (7) The evaluation carried out in 2015 of the pilot project and the subsequent preparatory action concluded that the policy objectives have generally been achieved. Finance Watch and Better Finance have worked on complementary policy areas and have targeted different audiences. Together their activities have covered most of the Union financial political agenda since 2012 *and, as far as their resources have allowed, Finance Watch and Better Finance have made efforts to expand their activities in order to have wide geographical coverage within the Union.*

- (8) Both organisations have provided added value to the activities of their national members and to Union consumers ■. National organisations that deal with *a wide range* of consumers' issues *often* lack technical expertise in policy areas related *specifically* to financial services *and to the related Union policy-making processes*. In addition, no similar organisations have so far been identified at Union level. *Although the* evaluation of the pilot project ■ showed that no other applicant has responded to the successive yearly calls for proposal that have taken place since 2012, *the programme provided for in this Regulation should be open to other potential beneficiaries after the end of the 2017-2020 period if they meet its requirements*.

- (9) Despite regular efforts, Finance Watch and Better Finance have not managed to attract stable and significant funding from other donors, who are independent from the financial industry, and, therefore, remain heavily dependent on Union funding ***in order to be financially sustainable***. Co-funding from the Union is therefore ***currently*** necessary to ensure that they receive the resources needed to achieve the desired policy objectives in the coming years, and to provide financial stability to those organisations ***and to their experts and administrative staff***, which have so far managed to launch their relevant activities in a short period of time. It is thus necessary to establish a Union programme for the 2017-2020 period to support the activities of Finance Watch and Better Finance (the 'Programme'), ***which will supplement similar policies pursued by Member States at national level. Financial stability is of key importance in preserving expertise, as well as for project planning for both organisations. The organisations that receive support under the Programme should nonetheless aim to increase the proportion of funding from other sources.***

- (10) Continuing to fund Finance Watch and Better Finance for the 2017-2020 period along the same lines as under the preparatory action, would ensure that the positive impacts of the activities of those organisations assessed so far are maintained. The financial envelope for the implementation of the Programme should be based on the average actual costs incurred by each organisation between 2012 and 2015. The ***maximum co-financing rate of 60 % Union funding*** should remain unchanged. ***In the event that the Programme and corresponding funding is extended beyond 2020 and if other potential beneficiaries emerge, the call for applicants should be open to any other organisations that fulfil the criteria, and contribute to the objectives, of the Programme.***

- (11) This Regulation *lays* down a financial envelope for the entire duration of the Programme, which is to constitute the prime reference amount, within the meaning of point 17 of the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management⁷, for the European Parliament and the Council during the annual budgetary procedure.
- (12) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission in respect of the establishment of the annual work programmes.
- (13) Every year before **30 November**, each beneficiary should submit to the Commission a description of the activities to achieve the policy objectives of the Programme that are planned for the following year. Those activities should be described in detail, including their objectives, expected results and impact, estimated costs and timeframe, as well as relevant indicators by which to assess them.

⁷ OJ C 373, 20.12.2013, p. 1.

- (14) Financial support should be granted in accordance with the conditions laid down in Regulation (EU, Euratom) No 966/2012 and Commission Delegated Regulation (EU) No 1268/2012⁸.
- (15) *An evaluation report on the results obtained under the Programme should be submitted by the Commission to the European Parliament and to the Council no later than 12 months before the end of the Programme. The evaluation report should assess whether the Programme is to be pursued after the 2017-2020 period. Any prolongation, modification or renewal of the Programme after the 2017-2020 period should be subject to an open call procedure in order to select the beneficiaries.*
- (16) The financial interests of the Union should be protected through proportionate measures throughout the expenditure cycle, including the prevention, detection and investigation of irregularities, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, administrative and financial penalties.

⁸ **Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ L 362, 31.12.2012, p. 1).**

- (17) *Beneficiaries should make every effort to make their activities visible in all Member States. In order to achieve that objective, beneficiaries should endeavour to establish contacts with relevant consumer non-profit organisations across the Union, and, whenever possible, translate information related to their organisation, membership and activities, and display that information on their websites.*
- (18) *To ensure the continuity of the actions supported by Union funding that are carried out by the beneficiaries, this Regulation should enter into force on the day of its publication and should apply as of 1 May 2017.*
- (19) Since the objective of this Regulation, *namely the establishment of a Union programme supporting specific activities that enhance the involvement of consumers and other financial services end-users in Union policy-making in the area of financial services*, cannot be sufficiently achieved by the Member States, but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on **■** European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective,

HAVE ADOPTED THIS REGULATION:

Article 1

Subject-matter and scope

1. A Union programme (the ‘Programme’) is hereby established for the period from **1 May 2017** to 31 December 2020 to support the activities of the organisations referred to in Article 3(1). Those activities contribute to the achievement of the policy objectives of the Union in relation to enhancing the involvement of consumers and other financial services end-users, as well as stakeholders representing their interests, in Union ***and in other relevant multilateral*** policy-making in the ***area*** of financial services.
2. ***In order to achieve its objectives***, the following activities ***shall be co-financed by the Programme***:

- (a) research activities, including production of own research **■** and data, *and development of* expertise;
- (b) *engaging with consumers and other financial services end-users by liaising with existing consumer networks and helplines in Member States in order to identify issues relevant for Union policy-making for the protection of the interests of consumers in the area of financial services;*
- (c) activities for *raising* awareness, dissemination activities, *and the provision of financial education and training, directly or through their national members,* including to a wide audience of *consumers, other financial services end-users and* non-experts;
- (d) activities reinforcing the interactions between the members of the organisations referred to in Article 3(1) *as well as* advocacy *and policy advice* activities fostering the positions of those members at Union level *and fostering the public and general interest in financial and Union regulation.*

Article 2
Objectives of the Programme

1. The Programme shall have the following objectives:
 - (a) to enhance further the ***active*** participation ***and involvement*** of consumers and other financial services end-users, as well as stakeholders representing ***the*** interests ***of consumers and other financial services' end-users***, in Union ***and in other relevant multilateral*** policy-making in the area of financial services;
 - (b) to inform consumers and other financial services end-users, as well as stakeholders representing their interests, about issues at stake in the regulation of the financial sector.

2. *The Commission shall ensure that the Programme is regularly assessed against the objectives set out in paragraph 1, ■ in particular by requiring each beneficiary to provide the following:*

- (a) a yearly description of the actions performed by the beneficiary **under** the Programme;*
- (b) an annual activity report ■ which shall include quantitative and qualitative indicators for each activity planned and conducted by the beneficiary;*
- (c) a financial report.*

Such assessment shall include the drawing up of the report referred to in Article 9(1).

Article 3
Beneficiaries of the Programme

1. Finance Watch and Better Finance shall be beneficiaries of the Programme ('beneficiaries').
2. In order to benefit from the Programme, **a** beneficiary shall remain a non-governmental, non-profit legal entity, independent of industry, commerce or business. It shall have no conflicting interests and shall represent through its members the interests of Union consumers and other end-users in the **area** of financial services.

In order to represent the interests of consumers and other financial services end-users in as many Member States as possible, a beneficiary shall seek to expand its network of active members within the Member States and to ensure comprehensive geographical coverage.

The Commission shall assist the beneficiaries in identifying potential members in Member States. The Commission shall **also** ensure that each beneficiary continues to comply with the criteria set out in the first and second subparagraphs of this paragraph for the duration of the Programme, by including them in the annual work programmes referred to in Article 7 and by assessing annually whether the beneficiaries meet **those** criteria, before awarding the action grants referred to in Article 4.

3. ***In the event that*** the beneficiaries merge, the resulting legal entity shall become the sole beneficiary of the Programme.

Article 4

Award of grants

Financing under the Programme shall be provided in the form of action grants awarded on an annual basis and shall be based on the Proposal submitted by a beneficiary in accordance with Article 7(2).

Article 5

Transparency

1. Any communication or publication related to an action performed by a beneficiary and funded under the Programme shall indicate that the beneficiary has received funding from the budget of the Union.

2. *Each beneficiary shall, within two months of the adoption of annual work programmes by the Commission, provide the following information simultaneously to the public and to relevant consumer non-profit organisations:*
- (a) the organisation, and scope, of work;*
 - (b) the possibility of becoming a member, the conditions of membership and the structure of the beneficiary;*
 - (c) which of its activities are covered by Article 1(2).*

Article 6

Financial provisions

1. The financial envelope for the implementation of the Programme for the period from *1 May 2017* to 31 December 2020 shall be up to a maximum of EUR 6 000 000 in current prices.

2. The annual appropriations shall be authorised by the European Parliament and the Council within the limits of the multiannual financial framework.

Article 7

Implementation of the Programme

1. The Commission shall implement the Programme in accordance with Regulation (EU, Euratom) No 966/2012.
2. In order to benefit from the Programme, a beneficiary shall submit every year before **30 November** to the Commission a ***description of the*** activities referred to in Article 1(2) planned for the following year ***that pursue the policy objectives of the Programme (the ‘Proposal’)***. ***Those activities shall be described in detail, including their objectives, expected results and impact, estimated costs and timeframe, as well as relevant indicators by which to assess them.***

3. ***The Commission shall implement the Programme by means of annual work programmes in accordance with Regulation (EU, Euratom) No 966/2012.***

The annual work programmes shall set out the objectives to be pursued, the expected results of the actions to be performed by the beneficiaries, the method of implementation of those actions and the total amount of funding required to perform those actions. They shall also contain a description of the actions to be financed, an indication of the amount of funding allocated to each action and an indicative implementation timetable.

For the action grants, the annual work programmes shall ***establish*** priorities, ***the*** essential award criteria ***and the maximum rate of co-financing***. The maximum rate of ***direct*** co-financing shall be 60 % of eligible costs. ***In the event that a beneficiary receives funding from members who are themselves recipients of funding under Union financing programmes, the Commission shall limit its annual contribution to ensure that total direct and indirect Union funding for actions under the Programme to that beneficiary does not exceed 70 % of total eligible costs.***

4. The Commission shall adopt the annual work programmes by means of ***a financing decision***.

Article 8

Protection of the financial interests of the Union

1. The Commission shall take appropriate measures **to ensure** that, when **actions** financed under this Regulation are implemented, the financial interests of the Union are protected **by** the application of preventive measures against fraud, corruption and any other illegal activities, **by** effective checks and, if irregularities are detected, **by** the recovery of the amounts wrongly paid and, where appropriate, **by** effective, proportionate and dissuasive administrative and financial penalties.
2. The Commission or its representatives and the Court of Auditors shall have the power of audit, on the basis of documents and of on-the-spot **inspections**, over all grant beneficiaries, contractors and subcontractors who have **■** received Union funds under the Programme.

3. The European Anti-Fraud Office (OLAF) may carry out *investigations, including* on-the-spot checks and inspections, ■ in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council⁹ and in Council Regulation (Euratom, EC) No 2185/96¹⁰ with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant agreement or grant decision or a contract funded ■ under the Programme.
4. Without prejudice to paragraphs 1, 2 and 3, cooperation agreements with third countries and with international organisations, contracts, grant agreements and grant decisions resulting from the implementation of this Regulation shall contain provisions expressly empowering the Commission, the Court of Auditors and OLAF to conduct such audits *and investigations, in accordance with their respective competences.*

⁹ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

¹⁰ Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

Article 9
Evaluation of the Programme

1. No later than **12** months before the end of the Programme, the Commission shall submit to the European Parliament and to the Council an evaluation report on the achievement of the Programme's objectives ***and upon request shall provide them with the information used for the evaluation work and available to the Commission, while respecting applicable data protection rules and confidentiality obligations.***

The evaluation report shall evaluate the overall relevance and added value of the Programme, the effectiveness and efficiency of its execution, and the overall and individual effectiveness of the beneficiaries' performance in terms of the objectives set out in Article 2(1).

2. The evaluation report referred to in paragraph 1 shall be forwarded to the European Economic and Social Committee for its information.

Article 10

Transitional provision

Beneficiaries shall submit to the Commission the Proposal for the first year of the Programme by ... [15 days after the date of entry into force of this Regulation].

Article 11

Entry into force

This Regulation shall enter into force on the ■ day of its publication in the *Official Journal of the European Union*.

It shall apply from 1 May 2017 until 31 December 2020.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at ...,

For the European Parliament

For the Council

The President

The President
