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'I' ITEM NOTE

From:	Presidency
To:	Permanent Representatives Committee (Part 1)
Subject:	Interinstitutional agreement on a mandatory Transparency Register - State of play and guidance for further work

I. INTRODUCTION

1. The Transparency Register concerns the contacts between the Commission, the Council and the European Parliament (EP), on the one hand, and interest representatives, on the other hand. On 28 September 2016, the Commission presented its proposal for a new, tripartite Interinstitutional Agreement (IIA) on a *mandatory* Transparency Register¹, in order to replace the current bilateral *voluntary* one².
2. The main objective of the proposal is to establish a framework for transparent interactions between interest representatives and the three EU institutions. The registration of interest representatives in the Transparency Register should become a precondition for activities with decision-makers in the three EU institutions ('conditionality principle').

¹ 12882/16.

² In 2011, the Commission and the European Parliament signed an IIA establishing a common Transparency Register, providing for *voluntary* registration of lobbyists, revised in 2015. The Council decided not to participate but made a unilateral statement, expressing its support. In 2014, President Juncker included the establishment of a *mandatory* Transparency Register in his political priorities.

II. WORK IN THE EUROPEAN PARLIAMENT

3. In June 2017, the European Parliament Conference of Presidents (CoP) adopted the EP negotiating mandate³, revised in June 2018⁴.
4. In April 2020, the CoP appointed its negotiators for the new legislative term 2019-2024 - Katarina BARLEY (S&D, DE), Vice-President in charge of transparency, and Danuta HÜBNER (EPP, PL). A Contact group with political groups' representatives was also established.

III. WORK WITHIN THE COUNCIL

5. The Permanent Representatives Committee approved, and made public, the Council's negotiating mandate in December 2017⁵. It consists of a package of two instruments - a draft IIA (amended Commission proposal)⁶ and a draft Council decision (new document)⁷.
6. The file was intensively discussed by the General Affairs Working Party since September 2016. The Presidency regularly reported to delegations on the interinstitutional negotiations.

IV. INTERINSTITUTIONAL NEGOTIATIONS

7. After two preliminary political level meetings during the Estonian Presidency, negotiations started in January 2018. Twenty-one technical level and seven political level meetings took place until December 2020.
8. The Romanian Presidency presented to the Permanent Representatives Committee a progress report in June 2019⁸. Under the new legislature, negotiations resumed in June 2020 and continued intensively during the German Presidency.

V. MAIN ISSUES

9. **The scope** (who should be committed by the conditionality principle) was a central issue in the negotiations. The Commission called in particular on *binding* commitments for MEPs and the Council Presidency (Permanent Representatives and Deputies of current and incoming Presidencies). The Council mandate provided for coverage of the GSC (Secretary-General

³ [http://www.europarl.europa.eu/RegData/publications/reg/2017/602260/EP-PE_REG\(2017\)602260_XL.pdf](http://www.europarl.europa.eu/RegData/publications/reg/2017/602260/EP-PE_REG(2017)602260_XL.pdf)

⁴ http://www.epgencms.europarl.europa.eu/cmsdata/upload/2018_06_27_EP_transparency_package_-_proposals_to_strengthen_conditionality.pdf

⁵ 15173/17.

⁶ 15332/17, 15332/17 COR1, 15332/17 COR2.

⁷ 15336/17.

⁸ 9688/19.

and Directors-General, as in the proposal), while considering that interactions between interest representatives and Member States' organs (including Permanent Representatives, and including at regional and local levels) are under the exclusive competence of the respective Member State and should not be subject to the conditionality principle via an IIA⁹. The EP shared the Council's approach on *voluntary* commitments, specific for each institution. It opposed the inclusion of MEPs, due to concerns over their 'freedom of mandate', but gradually included in its Rules of Procedure (RoPs) provisions incentivising voluntary commitments¹⁰.

10. **Legal architecture:** there were different views on the instruments through which the institutions' respective conditionality commitments should be taken. The three Legal Services finally found together a legally sound solution.
11. The issues of **staffing, resources and organisation** of the Secretariat, as well as the role of the Managing Board were also intensively discussed.

VI. STATE OF PLAY AND CONCLUSIONS

12. Since June 2020, a new impetus has been given to negotiations, which made it possible to find mutually acceptable solutions on the outstanding issues. The Commission agreed to take into account the specificities of each institution, as suggested by the Council and the EP. The Presidency considers that it found practical, sound and cooperative solutions during the intensive negotiations, while staying within and defending the negotiating mandate.
13. Several parts of the compromise were provisionally agreed at political level between the three institutions in November and December 2020. On 30 November, they reached a provisional agreement at technical level on the whole compromise package, and on 7 December 2020 the political negotiators tentatively endorsed the provisions on the key issue of the conditionality, paving the way for a political agreement.
14. The package provisionally agreed includes an IIA on a mandatory Transparency Register, as set out in the Annex to this note, as well as a political statement by the signatory institutions¹¹. A draft Council decision regulating the contacts between the interest representatives and the General Secretariat will also be submitted for adoption in parallel, as part of the overall

⁹ Based on the Council Legal Service opinion, issued in January 2017 (5151/1/17).

¹⁰ MEPs *should* adopt the systematic practice of only meeting registered lobbyists (i.e. voluntarily) and *should* also publish information on these meetings. More constraining commitments for rapporteurs, shadows and committee Chairs were included in the EP RoPs, as revised in January 2019 (legislative footprint principle).

¹¹ 13813/2020.

package¹². A political declaration on additional voluntary commitments of Member States will complete it.

15. The Presidency reported to the Working Party on General Affairs on this outcome on 8 December 2020. A final meeting at political level to confirm the political agreement on the overall package is expected to take place mid-December, subject to prior acceptance by Permanent Representatives Committee.
16. The Permanent Representatives Committee is therefore invited to endorse the draft compromise package, with a view to a political agreement.

¹² 13663/20

COMPROMISE PACKAGE AT TECHNICAL LEVEL FOR THE ATTENTION OF THE
POLITICAL NEGOTIATORS

AGREEMENT ON A MANDATORY TRANSPARENCY REGISTER

**Agreement between the European Parliament, the Council of the European Union and the
European Commission on a mandatory transparency register**

THE EUROPEAN PARLIAMENT, THE COUNCIL OF THE EUROPEAN UNION AND THE
EUROPEAN COMMISSION

Having regard to the Treaty on the Functioning of the European Union (TFEU), in particular Article 295 thereof, and the Treaty establishing the European Atomic Energy Community (EURATOM), in particular Article 106a thereof,

Whereas:

(1) The European Parliament, the Council of the European Union and the European Commission ('the ~~three~~ **signatory** institutions') maintain an open, transparent and regular dialogue with representative associations and civil society in accordance with the Treaty on European Union (TEU), in particular Article 11(1) and (2) thereof.

(2) This openness allows for all stakeholders to present their views on decisions that may affect them and hence contribute effectively to the evidence base on which policy proposals are made. Engaging with stakeholders enhances the quality of decision-making by providing channels for the input of external views and expertise.

(3) The ~~three~~ **signatory** institutions affirm that transparency and accountability are essential to maintain the trust of European citizens in the legitimacy of the political, legislative and administrative processes in the Union.

(3a) (new) The signatory institutions recognise the importance of coordinating their approach in order to further promote transparent and ethical interest representation through the adoption of a joint framework for their cooperation.

(4) Transparency of interest representation is especially important in order to allow citizens to follow the activities and potential influence of interest representatives, ***including through financial***

support and sponsorship. The ~~three~~ *signatory* institutions consider that such transparency is best ensured by a Code of Conduct which contains the rules and principles applicable to *be observed by* interest representatives signing up to ~~the~~ a Transparency Register (*'register'*) and, ~~thereby, to the Code.~~

(5) In view of the positive experience with the Transparency Register for organisations and self-employed individuals engaged in EU policy-making and policy implementation established by the agreement of the European Parliament and the European Commission of 16 April 2014¹, the ~~three~~ *signatory* institutions consider that such an agreement should be extended in an appropriate way.

(6) The ~~three~~ *signatory* institutions recognise the necessity to ~~establish a mandatory Transparency Register (~~ *make the register mandatory* ~~) by adopting, by means of individual decisions, measures of equivalent effect that~~ *make ing registration in the register a necessary precondition for carrying out* certain types of *interest representation activities*. ~~interactions with them conditional upon prior registration, thereby making registration a de facto precondition for interest representation, and thus ensuring that such representation occurs according to the rules and principles enshrined in the Code of Conduct.~~

(6a) (new) In order to further strengthen the joint framework and build on the progress made in establishing a common transparency culture, the signatory institutions should publish on the website of the register conditionality and complementary transparency measures they have adopted to encourage registration, such as dedicated mailing lists, the recommendation that certain decision-makers meet only registered interest representatives or the publication of meetings between certain decision-makers and interest representatives.

(6b) (new) This agreement should make arrangements for the benefit of other Union institutions, bodies, offices and agencies or Member States' permanent representations, who voluntarily wish to apply the operating principles of the joint framework so as to promote this agreement beyond the signatory institutions.

(6c) (new) In order to avoid unnecessary administrative burden and in line with current practice as regards registration, activities carried out by interest representatives exclusively on behalf of and in the name of an association or network they are a part of are considered to be activities of that network or association.

¹ Agreement between the European Parliament and the European Commission on the transparency register for organisations and self-employed individuals engaged in EU policy-making and policy implementation, OJ L 277, 19.9.2014, p. 11.

(6d) (new) Activities of public authorities of the Member States, as well as of any association or network of public authorities acting on their behalf at the Union, national or subnational level, should not be covered by this Agreement, although associations and networks of public authorities at the Union, national or sub-national level engaging in interest representation activities can register.

~~(7) The three institutions respond hereby to the need to adopt as swiftly as possible an interinstitutional agreement establishing a mandatory register, in accordance with the European Parliament's resolution of 28 April 2016 on public access to documents².~~

(7 a) (new) The practice of the adoption of an annual report on the operations of the register should be maintained as a tool to ensure the appropriate visibility of the coordinated approach and to bolster citizens' trust; at the same time, the content of the report should be expanded to cover conditionality and complementary transparency measures adopted by the institutions.

~~(8) The operation of this register **should** ~~shall~~ not impinge on the competences of any of the ~~three~~ **signatory** institutions or affect their respective internal organisational powers, without prejudice to the agreement they shall conclude in respect of the modalities on their contributions to the administrative and financial resources of the Secretariat of the register.~~

(8a) (new) In the exercise of their respective power of internal organisation, the signatory institutions have delegated to the Secretariat and the Management Board the power to act on their behalf for the adoption of individual decisions concerning applicants and registrants in accordance with this agreement. The signatory institutions should be co-defendants with regard to any legal action brought before the competent Union Courts against final decisions of the Management Board adversely affecting applicants or registrants.

~~(9) The ~~three~~ **signatory** institutions **should** ~~shall~~ act in mutual sincere cooperation in implementing this agreement.~~

(10) Any of the ~~three~~ **signatory** institutions may pursue other good governance and transparency policies outside the framework of this agreement to the extent that such policies do not interfere with the implementation and the objectives pursued by this agreement.

² ~~Resolution of 11 March 2014 on public access to documents (Rule 104(7)) for the years 2011-2013), text adopted P8_TA(2016)0202.~~

(11) This agreement ~~should~~ shall be without prejudice to the exercise of rights under Article 11(4) TEU (European citizens' initiative) and Article 227 TFEU (the right to petition the European Parliament),

AGREE AS FOLLOWS:

Article 1

Purpose and scope of the interinstitutional agreement

This ~~interinstitutional~~ agreement establishes a framework *and operating principles* for a *coordinated approach of the signatory institutions on* transparent and ethical ~~interaction between~~ interest *representation* ~~representatives engaging in activities covered by this agreement and any of the three institutions.~~

By means of individual decisions taken out of their power of internal organisation, the signatory institutions agree to implement the coordinated approach with regard to the activities covered by this agreement ('activities covered') and to define the activities that they decide to make conditional upon registration in the register.

Article 2

Definitions

For the purposes of this ~~interinstitutional~~ agreement, the following definitions shall apply:

- a) '*Interest representatives*' ~~shall~~ means any natural or legal person, or formal *and* informal groups, associations or networks thereof, engaging in activities covered ~~by this agreement~~;
- b) '*Applicant*' ~~shall refer to~~ means any interest representative applying to join the register;
- c) '*Registrant*' ~~shall refer to~~ means any interest representative with an ~~existing~~ entry in the register;
- d) '*Client*' ~~shall~~ means an interest representative that has ~~instructed~~ *entered into a contractual relationship with* an intermediary to represent the client's own interests *concerning the provision of activities covered* ~~vis-à-vis any of the three institutions~~;
- e) '*Intermediary*' ~~shall~~ means an interest representative that represents the interests of a client *concerning the provision of activities covered* ~~vis-à-vis any of the three institutions~~;

f) '*Client – intermediary relationship*' shall mean any contractual relationship between a client and *an intermediary* ~~one or more service (sub)providers~~ concerning the provision of *activities* covered activity;

g) '*Officials Staff*' shall refer to means all categories of staff *subject to the staff regulations*³ of any of the ~~three~~ *signatory* institutions.

h) (new) 'Conditionality' means the principle whereby registration in the register is a necessary precondition for interest representatives to carry out certain activities covered.

Article 3

Activities covered and not covered by the interinstitutional

1) This agreement applies to activities ~~which promote certain interests by interacting with any of the three signatory institutions, their members or officials,~~ *carried out by interest representatives* with the objective of influencing the formulation or implementation of policy or legislation, or the decision-making processes ~~within these~~ *of the Union* institutions, ~~unless an exception defined in paragraph 2 or in~~ *without prejudice to* Article 4 applies.

2) *In particular, those activities may include:*

- *organisation of or participation in meetings, conferences or events as well as any similar contacts with Union institutions;*
- *contribution or participation in consultations, hearings or other similar initiatives;*
- *communication campaigns, platforms, networks and grassroots initiatives;*
- *preparation or commissioning of policy and position papers, amendments, opinion polls and surveys, research work, open letters and other communication or information material.*

Article 4

Activities not covered

~~2) The following activities are not considered to be activities in the sense of Article 3 paragraph 1:~~

a) The provision of legal and other professional advice in the context of a client-intermediary relationship, where:

³ *The Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the Union, laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68, OJ L 56, 4.3.1968, p. 1.*

—it consists of representation in the context of a conciliation or mediation procedure aimed at preventing a dispute from being brought before a judicial or administrative body;

—it consists of advice given to clients to help them ensure that their activities comply with the existing legal framework; or

—it relates to representing clients and safeguarding their fundamental or procedural rights, such as the right to be heard, the fundamental right of a client to a fair trial, including the right of defence in administrative proceedings, such as activities carried out by lawyers or by any other professionals involved therein.

b) Submissions made as a party or a third party in the framework of a legal or administrative procedure established by ~~EU~~**Union** law or by international law applicable to the Union and submissions based on a contractual relationship with the institution or based on a grant agreement financed by ~~EU~~**Union** funds.

c) Activities of the social partners as participants in the social dialogue pursuant to Article 152 TFEU.

d) Submissions made in response to direct and specific requests from any of the **Union** ~~three~~ institutions, their ~~members~~ **representatives** or **staff** officials, such as requests for factual information, data or expertise.

e) *Activities carried out by natural persons in a strictly* ~~The communication of citizens, acting solely in their personal capacity and not acting in association with others, with any of the three institutions.~~

f) Spontaneous meetings, meetings of a purely private or social character and meetings taking place in the context of an administrative procedure established by the Treaties or Union acts.

2) This agreement does not cover the activities carried out by the following bodies:

Article 4

Bodies not covered by the interinstitutional agreement

- 1 ~~a) Political parties are exempt from registration. However, any organisations created or supported by them which are engaged in activities covered are not exempt from registration.~~
- 2 ~~b) Churches and religious associations or communities as well as philosophical and non-confessional organisations foreseen in Article 17 TFEU are exempt from registration. However, the representative offices or legal entities, offices and networks created to represent churches, religious communities or philosophical and non-confessional organisations in their relations with the EU institutions, as well as their associations, are not exempt from registration.~~
- 3 a) ~~The~~ **Public** authorities of the Member States (including their permanent representations and embassies), at national and subnational level, ~~are exempt from registration, as well as any~~
- b) Associations of public authorities, *as well as their networks*, at the ~~European Union~~, national or subnational level, under the condition that they act uniquely on behalf of the relevant public bodies.
- 4) ~~The public authorities of third countries, (including their diplomatic missions and embassies) are exempt from registration.~~
- 5 c) Intergovernmental organisations, including agencies and bodies emanating from them, ~~are exempt from registration.~~
- d) Public authorities of third countries, including their diplomatic missions and embassies ~~are exempt from registration. However, activities carried out by legal entities, offices and networks representing such authorities, without diplomatic status or through an intermediary, are covered.~~
- e) Political parties ~~are exempt from registration. However, activities carried out by any organisations created or supported by or affiliated with them, are covered which are engaged in activities covered are not exempt from registration.~~
- 2f) Churches and religious associations or communities as well as philosophical and non-confessional organisations foreseen *provided for* in Article 17 TFEU. ~~are exempt from registration. However, activities carried out by the representative offices or legal entities, offices and networks created to represent churches, religious communities or philosophical~~

and non-confessional organisations in their relations with the ~~EU~~ *Union* institutions, as well as their associations, are *covered*. ~~not exempt from registration.~~

Article 5

Conditionality and complementary transparency measures ~~Interactions upon registration~~

1) The ~~three~~ *signatory* institutions ~~agree~~ *commit to the principle of conditionality, which they shall implement by means of individual decisions taken out of their power of internal organisation.*

1a) When adopting conditionality measures, or complementary transparency measures to encourage registration and strengthen the joint framework, the signatory institutions shall ensure that those measures are consistent with this agreement and reinforce the objective of the coordinated approach of setting a high standard of transparent and ethical interest representation at Union level. ~~to make the following types of interaction conditional upon prior registration. of interest representatives:~~

~~In the European Parliament~~

- ~~— Access to Parliament buildings: eligibility for applying for long term access passes to the European Parliament premises of individuals representing, or working for, interest representatives;~~
- ~~— Committee public hearings: possibility for interest representatives to be invited to speak at a committee hearing as a guest, without prejudice to the provisions of Article 3(2)(b);~~
- ~~— Patronage: granting of patronage to events organised by interest representatives;~~
- ~~— Meetings: meetings between interest representatives and Members of the European Parliament, ('MEPs'), the Secretary General, Directors General and Secretaries General of political groups;~~
- ~~— Events: hosting of events organised by interest representatives on the European Parliament's premises;~~
- ~~— Notices: sending of automatic messages about the European Parliament's activities to interest representatives.~~

~~In the Council of the European Union~~

- ~~— Meetings: meetings between interest representatives and the Ambassador of the current or forthcoming Presidency of the Council of the EU, as well as their deputies in the Committee~~

~~of the Permanent Representatives of the Governments of the Member States to the European Union, the Council's Secretary General and Directors General;~~

~~— Notices: sending of automatic messages about the Council's activities to interest representatives.~~

In the European Commission

~~— Meetings: meetings between interest representatives and members of the Commission, their Cabinet members and Directors General;~~

~~— Expert groups: appointment of certain types of expert group members;⁴~~

~~— Public consultations: sending of automatic alerts about the Commission's consultations to interest representatives; the Commission will differentiate between registered and non-registered entities by publishing their contributions separately;~~

~~— Patronage: granting of patronage to events organised by interest representatives;~~

~~— Mailing lists: sending of alerts by means of mailing lists to interest representatives about certain Commission activities.~~

~~2) Each of three institutions shall take the necessary internal measures to give effect to the types of conditionality referred to in paragraph 1.~~

~~3) Each institution may decide to make other types of interaction conditional upon registration, as long as these additional types of conditionality have the aim of further strengthening the current framework.~~

~~4) The types of e Conditionality *and complementary transparency measures adopted by the signatory institutions* referred to in paragraphs 1 and 3 shall be made public on a dedicated *the website* page of the register, *which shall be regularly updated.*~~

⁴ ~~This refers to individuals appointed to represent a common interest shared by stakeholders in a particular policy area, who do not represent an individual stakeholder, but a policy orientation common to different stakeholder organisations ('Type B members') and to organisations in the broad sense of the word, including companies, associations, NGOs, trade unions, universities, research institutes, law firms and consultancies ('Type C members'), as laid down in Commission Decision C(2016) 3301 of 30.5.2016.~~

Article 6

Eligibility and *code of conduct* registration of applicants

- 1) ~~When applying for registration, a~~ Applicants *who submit a complete registration are eligible to join the register when they need to demonstrate their eligibility in terms of carrying out activities covered by this agreement in accordance with the code of conduct set out in Annex III ('code of conduct')*.
- 2) ~~To this effect, a~~ Applicants need to *shall* provide the information detailed *listed* in Annex II, and ~~to agree for that information to be in the public domain.~~
- 3) Applicants may be requested to ~~present supporting documents demonstrating~~ *demonstrate* their eligibility and the accuracy of the information submitted.
- 4) ~~Applicants are entered into the register as registrants~~ *The Secretariat shall activate an applicant's registration* once their eligibility has been established and the registration is considered to satisfy the provisions of Annex II ~~regarding information to be provided.~~ *Consequently, the applicant becomes a registrant.*

Article 7

The Code of Conduct applicable to registrants and its enforcement

- 1) ~~The rules and principles that the registrants need to comply with are laid down in the Code of Conduct annexed to this agreement (Annex III). By registering, registrants agree to abide with these rules and principles.~~
- 5) ~~As provided in the Code of Conduct, a failure to comply with its provisions may be subject to investigations and measures laid down in~~ *The Secretariat shall monitor registrations and evaluate registrants' eligibility and observance of the code of conduct in accordance with* the procedures set out in Annex IV ~~to this agreement.~~
- 6) *The Secretariat may carry out* ~~investigations concerning a registrant's alleged ineligibility or a registrant's alleged non-observance of the code of conduct, either on the basis of a~~ *may be* carried out following complaint s received or *on* at the Secretariat's *its* own initiative.

~~The three institutions shall take the necessary internal measures to apply any measures imposed in accordance with Annex IV.~~

~~7) As provided in the Code of Conduct,~~ *In the context of the Secretariat's monitoring or an investigation,* registrants shall in particular:

- a) present, if requested, ~~the documents and any other~~ supporting materials demonstrating that ~~the information submitted is~~ *they have kept the information relating to their registrations* accurate; *and*
- b) ~~agree to~~ cooperate sincerely and constructively ~~with~~ *under the procedures laid down in Annex IV.* ~~requests for clarification and updates;~~
~~— accept that they may be subject to the investigation procedures and, where applicable, measures laid down in Annex IV.~~

Article 8

Management Board of the register

1) The Management Board of the register shall consist of the Secretaries-General of the ~~three~~ *signatory* institutions, *who shall chair it on a rotating basis for a term of one year.*

2) The Management Board shall:

- a) oversee the overall implementation of this agreement ~~by the Secretariat,~~ *determine the annual priorities as well as the budget estimates and share required for the implementation of those priorities,* and issue general instructions to ~~that effect the Secretariat;~~
- b) *adopt the annual report referred to in Article 13a;*
~~— approve the rules of procedure of the Secretariat;~~
~~— approve the issuance of guidelines as provided for in Article 9(4);~~
- c) examine and decide upon reasoned requests for review, ~~submitted by registrants,~~ of the Secretariat's decisions as ~~laid down in~~ *in accordance with* Annex IV. ~~to this agreement.~~
- d) ~~accept notifications for voluntary involvement under Articles 12 and 13 of the agreement;~~

2a) The Management Board shall meet at least annually at the initiative of its Chair. It can also meet upon request of one of its members.

3) The Management Board shall decide by consensus.

4) ~~The Management Board may adopt rules of procedure governing the exercise of its responsibilities.~~

Article 9

The Secretariat of the register

1) The Secretariat is *shall be* a joint operational structure *set up to manage the functioning of the register. It shall be* made up of *the heads of the unit (or equivalent) responsible for transparency issues of each signatory institution and their respective staff.* ~~a Coordinator and the members of the Secretariat, which reports directly to the Management Board.~~

2) The Secretariat shall operate under the coordination of *one of the heads of unit (or equivalent) referred to in paragraph 1, who is nominated as “Coordinator” by the Management Board for a renewable term of one year.* ~~an official in the Secretariat-General of the European Commission (‘the Coordinator’). The members of the Secretariat shall be staff of the European Parliament, the Council and the European Commission seconded to the Secretariat by their respective institutions.~~

The Coordinator shall *represent* ~~assume the overall responsibility for the work of the Secretariat and oversee its~~ the day-to-day operations *work, in the common interest of the signatory institutions.*

3) ~~The main tasks of the Secretariat shall be:~~

~~— drafting the rules of procedure of the Secretariat, for approval by the Management Board;~~

a) ~~reporting to the Management Board,~~ *prepare its meetings and assist it in its tasks* ~~on the overall implementation of this agreement;~~

b) establish guidelines for registrants, to ensure the consistent application of this agreement;

c) ~~monitoring the content of the register and ensuring that only eligible applicants are registered~~ *decide upon the eligibility of applicants*, with the aim to achieve an optimal level of data quality in the register, ~~with~~ *on* the understanding, ~~however,~~ that registrants are ultimately responsible for the accuracy of the information they have provided;

d) ~~providing~~ helpdesk support to *applicants and* registrants;

e) ~~carrying out investigations, removing registrations and adopting~~ *apply* measures in accordance with Annex IV ~~to this agreement;~~

f) *undertake communication and* ~~organising~~ awareness-raising actions *towards stakeholders;*

- g) ~~producing draft an~~ *the* annual report *referred to in Article 13a* for the preceding calendar year;
- h) ~~ensure-ing~~ the *IT* development and maintenance of the register website and online registration form, as well as other related IT resources;
- i) ~~exchange-ing~~ *best* good-practices and experience ~~in~~ *concerning the* transparency of interest representation with similar bodies;
- j) ~~carry-ing~~ out any other activities necessary for the implementation of the present *this* agreement.

4) The Secretariat ~~shall decide by consensus of the heads of unit (or equivalent)~~ may propose for the approval of the Management Board guidelines for registrants to ensure the consistent application of Articles 2 to 6 (definitions, activities, bodies not covered, interactions conditional upon registration, eligibility and registration of applicants), as well as of the annexes of this agreement.

Article 10

Empowerment Decision

~~The three institutions shall establish the Secretariat and the Management Board by means of a separate Decision, commonly adopted by the three institutions before the entry into force of this Agreement.~~

The Management Board and the Secretariat shall be empowered to carry out the tasks assigned to them pursuant to Article 8 and 9 and, when exercising those responsibilities, to adopt decisions on behalf of the signatory institutions.

Article 11

Resources

1) The three *signatory* institutions shall ensure that the Secretariat has at its disposal the *necessary* human, administrative, *technical* and financial resources ~~required~~ *are made available* for *an effective implementation of this agreement* ~~proper implementation of its tasks,~~ *including adequate staffing for the Secretariat.*

~~2) The three institutions shall provide the necessary human resources to the Secretariat in case of the European Parliament and the Council of the European Union by means of a secondment to the Commission pursuant to Articles 37(a) and 38 of the Staff Regulations of the Officials of the European Communities.~~

~~3) *Without prejudice to point (a) of Article 8(2) and taking into due consideration the different size of the institutions' establishment plans, the signatory institutions shall take the necessary steps to finance the maintenance, development and promotion of the register. The three institutions shall contribute equally to the functioning of the Secretariat and the register. They shall conclude a separate agreement detailing the arrangements regarding their contributions to the administrative and financial resources of the Secretariat.*~~

Article 12

Voluntary involvement of other ~~EU~~ Union institutions, bodies, offices and agencies

~~1) Other EU institutions, bodies, offices and agencies are encouraged to use the framework created by this agreement themselves as a reference instrument for their own interactions with interest representatives.~~

~~1) Other ~~EU~~ *Union* institutions, bodies, offices and agencies may notify the Secretariat *Management Board of* that they wish to make certain interactions *measures by which they decide to make certain activities* conditional upon registration in the Transparency Register *or of any complementary transparency measures*. The notification shall contain details of the types of interaction proposed and their conditions.~~

~~2) Where the Management Board considers that *those measures* the types of interaction proposed are consistent with the objectives pursued by *this agreement* the register, *it may agree with the Union* institution, body, office or agency concerned *the conditions under which it may* may make those types of interaction conditional upon registration and shall benefit from the Secretariat's assistance and helpdesk support. ~~;~~ in return for a proportionate contribution to the costs of functioning of the Secretariat and register. *In this case the measures so notified shall be published on the website of the register.*~~

~~4) The acceptance of the notification in the preceding paragraph will not confer the notifying EU institutions, bodies, offices and agencies the status of a party to this interinstitutional agreement.~~

~~5) The types of conditionality accepted under paragraph 3 shall be published on the register website.~~

Voluntary involvement of Member States' permanent representations to the EU

- ~~1) Without prejudice to Article 4(3) of the present agreement, Member States may, on a voluntary basis, notify the Secretariat that they wish to make certain interactions of interest representatives with their permanent representations to the EU conditional upon registration in the Transparency Register. The notification shall contain details of the types of interaction proposed and their conditions.~~
- ~~2) Where the Management Board considers that the types of interaction proposed are consistent with the objectives pursued by the register, the relevant permanent representation may make those types of interaction conditional upon registration and shall benefit from the Secretariat's assistance and helpdesk support, in return for a proportionate contribution to the costs of functioning of the Secretariat and register.~~
- ~~3) The acceptance of the notification in the preceding paragraph will not confer the notifying Member State the status of a party to this interinstitutional agreement.~~
- ~~4) The types of conditionality accepted under paragraph 2 shall be published on the register website.~~

The Member States may notify the Management Board of measures, taken in accordance with their national law, by which they decide to make certain activities of their permanent representations conditional upon registration in the register or of complementary transparency measures. The measures so notified shall be published on the website of the register.

Article 13a (new)

Annual Report

- 1) The Management Board shall adopt an annual report on the operations of the register during the preceding year.*
- 2) The annual report shall include:*
 - a chapter on factual information on the register, its content and evolution;*
 - a chapter on the conditionality and complementary transparency measures referred to in Article 5 in place.*
- 3) The annual report shall be submitted to the signatory institutions and published on the website of the register.*

Article 13b (new)

Review

1) The signatory institutions shall assess the implementation of measures taken pursuant to Article 5 one year after the entry into force of this agreement, and regularly thereafter, with the view, where appropriate, to making recommendations on their improvement and reinforcement.

2) This agreement shall be subject to a review no later than four years after its entry into force.

Article 14

Final and transitional provisions

1) This ~~interinstitutional~~ agreement is *shall be* of a binding nature for the signatory institutions.

1a) (new) For the purposes of Article 10, the signatory institutions commit to each adopt a decision which shall read as follows: “The Management Board and the Secretariat shall be empowered to adopt on behalf of the [institution] individual decisions concerning applicants and registrants in accordance with the Interinstitutional Agreement of [date, reference] on a mandatory transparency register.” Those decisions shall enter into force on the same day as this agreement.

2) This agreement shall replace the agreement between the European Parliament and the European Commission of 16 April 2014 whose effects shall cease to apply on the date of application of this agreement.

3) This agreement shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union. It shall apply from [xx xx xxxx].

4) Interest representatives registered at the date of application of this agreement shall *be entitled to* amend their registration to satisfy the new requirements resulting from this agreement within a period of six months following that date, *in order to remain in the register*.

5) Any investigations following alerts and complaints opened under the agreement between the European Parliament and the European Commission of 16 April 2014 shall be carried out under the procedure of that agreement.

~~6) This agreement shall be subject to a review four years after its entry into force.~~

Done at [place], [date].

ANNEX I

CLASSIFICATION OF REGISTRANTS

The Secretariat applies the below classification of registrants, which it may modify.

	Classification sections of registrants	
I.	Professional consultancies, law firms, self-employed consultants	
A	Subsection	Professional consultancies
B	Subsection	Law firms
C	Subsection	Self-employed consultants
II.	Companies, trade/business associations, trade unions, professional associations	
A	Subsection	Companies
B	Subsection	Trade and business associations
C	Subsection	Trade unions and professional associations
D	Subsection	Event organising entities
III.	Non-governmental organisations	
A	Subsection	Non-governmental organisations, platforms, networks, ad-hoc coalitions, temporary structures and other similar organisations.
IV.	Think tanks, research and academic institutions	
A	Subsection	Think tanks and research institutions
B	Subsection	Academic institutions
V.	Interest representatives not covered by the preceding sections	
A	Subsection	Organisations representing churches and religious communities

B	Subsection	Other entities not covered by preceding sections
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ANNEX II

INFORMATION TO BE ~~PROVIDED BY REGISTRANTS~~ ENTERED INTO THE REGISTER

This annex specifies the information that will be available in the register. That information shall be provided by registrants, except where it is entered automatically.

I. GENERAL INFORMATION

(a) name of the entity; address of head office and ~~EU~~ **Union** office, if different from head office; phone number; e-mail address;¹ website;

(aa) (new) form of the entity;

(ab) (new) interests represented;

(ac) (new) confirmation that the applicant operates in accordance with the code of conduct set out in Annex III;

(b) name of the person legally responsible for the organisation and person in charge of ~~EU~~ **Union** relations; ~~names of the persons with authorisation for access to the European Parliament's premises;~~²

(c) an **annual** estimate of the full-time equivalents (FTEs) for all persons involved in activities covered ~~by the register~~ according to the following percentages of a full-time activity: 10 %, 25 %, 50 %, 75 % or 100 %;

(d) goals/ **and** remit, — fields of interest **and** — activities falling within the scope of the register — **geographical** level of engagement (~~global, European, national, regional~~);

(e) member organisations of the registrant **and affiliated entities**;

~~(f) including geographical coverage and registrant's membership or affiliation to relevant networks and associations falling within the scope of the register.~~

¹ E-mail address provided will not be published.

² ~~Registrants can request authorisation for access to the European Parliament's premises at the end of the registration process. The names of individuals who receive access passes to the European Parliament's premises shall be inserted in the register. Registration shall not confer an automatic entitlement to such an access pass.~~

II. ~~SPECIFIC INFORMATION LINKS TO UNION INSTITUTIONS~~

A. ~~Activities covered by the register~~

(-a) main Union ~~Details about EU legislative proposals, policies or initiatives~~ ***targeted by activities covered***; ~~subject of the interaction(s).~~

B. ~~Links with EU institutions~~

(a) membership of *European Commission* expert groups³ and other ~~EU~~ *Union* supported forums and platforms;

(b) membership *or support* of, or participation in *events organised or hosted by* European Parliament intergroups and *other European Parliament unofficial groupings* ~~industry forums~~;

*(c) names of the persons with authorisation for access to the European Parliament's premises.*⁴

C. ~~III. FINANCIAL INFORMATION related to the activities covered by the register~~

All registrants, including intermediaries carrying out activities covered, shall declare the amount and source of Union grants contributing to their operating costs. All amounts indicated are in euros.

Costs

(a) All registrants promoting their own interests or those of their collective members vis-à-vis any of the ~~three~~ *signatory* institutions shall provide an *up to date* estimate of the annual costs related to activities covered ~~by the register~~ according to the below grid. The estimate of annual costs shall cover a full year of operations and refer to the most recent financial year closed, as of the date of registration or *its* ~~of the annual update of the registration details.~~

Bracket size of A annual costs ~~for activities covered by the register:~~

³ *Membership of expert groups shall be inserted in the register automatically. Registration shall not confer an automatic entitlement to such membership.*

⁴ Registrants can request authorisation for access to the European Parliament's premises at the end of the registration process. The names of individuals who receive access passes to the European Parliament's premises shall be *automatically* inserted in the register. Registration shall not confer an automatic entitlement to such an access pass.

< 10 000

10 000 – 24 999

25 000 – 49 999

50 000 – 99 999

100 000 – 199 999

200 000 – 299 999

300 000 – 399 999

400 000 – 499 999

500 000 – 599 999

600 000 – 699 999

700 000 – 799 999

800 000 – 899 999

900 000 – 999 999

1 000 000 – 1 249 999

1 250 000 – 1 499 999

1 500 000 – 1 749 000

1 750 000 – 1 999 999

2 000 000 – 2 249 999

2 250 000 – 2 499 999

2 500 000 – 2 749 000

2 750 000 – 2 999 999

3 000 000 – 3 499 999

3 500 000 – 3 999 999

4 000 000 – 4 499 999

4 500 000 – 4 999 999

5 000 000 – 5 499 999

5 500 000 – 5 999 999

6 000 000 – 6 499 999

6 500 000 – 6 999 999

7 000 000 – 7 999 999

8 000 000 – 8 999 999

9 000 000 – 9 999 999

> 10 000 000

Clients shall declare all intermediaries carrying out activities covered ~~by the register~~ on their behalf and the cost for each individual intermediary according to the below grid. The estimate of annual costs shall cover a full year of operations and refer to the most recent financial year closed, as of the date of registration or *its* ~~of the annual update of the registration details~~.

Any current intermediaries that are not covered by the most recent financial year closed shall be declared separately by name.

Bracket size of representation costs per intermediary:

< 10 000

10 000 – 24 999

25 000 – 49 999

50 000 – 99 999

100 000 – 199 999

200 000 – 299 999

300 000 – 399 999

400 000 – 499 999

500 000 – 599 999

600 000 – 699 999

700 000 – 799 999

800 000 – 899 999

900 000 – 1 000 000

> 1 000 000

~~Any current intermediaries that are not covered by the most recent financial year closed shall be declared separately by name.~~

Revenue

(b) Intermediaries shall declare the *estimated total* annual revenue generated attributable to activities covered ~~by the register~~ according to the below grid. The *estimated total* annual revenue generated shall cover a full year of operations and refer to the most recent financial year closed, as of the date of registration or *its* ~~of the annual update of the registration details.~~

Revenue from individual clients for activities covered ~~by the register~~ shall *also* be listed according to the below grid, *accompanied by an indication of the legislative proposals, policies or initiatives concerned*:

Bracket size of revenue generated per client:

< 10 000

10 000 – 24 999

25 000 – 49 999

50 000 – 99 999

100 000 – 199 999

200 000 – 299 999

300 000 – 399 999

400 000 – 499 999

500 000 – 599 999

600 000 – 699 999

700 000 – 799 999

800 000 – 899 999

900 000 – 999 999

> 1 000 000

The estimated total annual revenue generated for activities covered ~~by the register~~ shall be calculated automatically by the register's system based on the aggregate of the estimated revenue generated per client.

Intermediaries shall declare all clients, on behalf of whom activities covered ~~by the register~~ are carried out.

Any current clients that are not covered by the most recent financial year closed shall be declared separately by name.

~~Intermediaries acting in their own interest (i.e. not on behalf of their clients) shall declare this in their registration form and shall separately specify the costs for those activities pursuant to the Costs section above.~~

~~All registrants, including intermediaries carrying out activities falling within the scope of this agreement, shall declare the amount and source of EU grants contributing to their operating costs.~~

Specific information obligations

(c) Registrants that *do not represent commercial interests* ~~are legally registered as 'not for profit' entities~~ shall provide *the following financial information*:

- i)* the total budget of the registrant for the most recent financial year closed;
- ii)* the main sources of funding by category: ~~(for example~~ *Union funding*, public financing, members contributions, grants, donations, etc.);
- iii)* amount of each contribution exceeding 10 % of the total budget, if the contributions are above 10 000 euros, and the name of the contributor.

Implementation

~~The Secretariat shall provide an online registration form and guidelines for registrants on the financial modalities to be declared pursuant to this Annex.~~

ANNEX III

CODE OF CONDUCT

~~The three institutions consider that the registered interest representatives interacting with them, whether on a single occasion or frequently, should behave in conformity with this Code of Conduct.~~

The ~~r~~ Registrants acknowledge **shall operate in line with** the below set of rules and principles, ~~and agree to comply with them.~~ In particular, registrants shall:

(a) in their relations with any of the ~~three~~ **Union** institutions **bodies, offices or agencies ('Union institutions')**, always identify themselves by name, registration number, the entity or entities they work for or represent; ~~declare the interests and objectives they promote as well as specify the clients or members whom they represent and, where applicable, their registration number;~~

(aa) (new) declare the interests and objectives they promote as well as specify the clients or members whom they represent and, where applicable, their registration number;

(b) not obtain or try to obtain information or decisions dishonestly, by use of undue pressure, ~~or by inappropriate~~ **improper behaviour or offensive language;**

(c) not **abuse their registration for commercial gain or distort or** misrepresent the effect of registration ~~in such a way as to be likely to mislead or have negative reputational impact on the register, or use the logos of the Union and any of the three institutions without express authorisation;~~

(ca) (new) not cause prejudice to the reputation of the register or to any of the Union institutions, or use their logos without express authorisation;

(d) ensure that, ~~to the best of their knowledge,~~ information that they provide upon registration, and subsequently administer in the framework of their activities covered ~~by the register,~~ is complete, up-to-date, **accurate** and not misleading; **and** they agree for this information to be in the public domain;

~~(e) not distribute documents obtained from the institutions to third parties against payment;~~

(f) respect and avoid any obstruction to the implementation and application of all **relevant publicly available** rules, codes and **guidelines** ~~practices pertaining to good governance and~~

transparency established by the ~~three~~ **Union** institutions, ~~as made available on the register's website;~~

(g) not induce **Members of the European Parliament** EPs, members of the Commission or staff of any of the ~~three~~ **Union** institutions to contravene the rules and standards of behaviour applicable to them;

(h) if employing former **Members of the European Parliament** EPs, members of the Commission or staff of any of the ~~three~~ **Union** institutions, ~~respect the obligations of those individuals to abide by~~ **take duly into account** the confidentiality requirements and rules applicable to **those individuals** ~~them~~ after leaving the respective institution, **with a view to preventing conflicts of interest**;

(i) ~~insofar where~~ engaged in a client-intermediary relationship: (i) ensure that all parties in such relationship are registered in the register, and (ii) as clients or intermediaries, allow for the relevant publication of the information concerning the relationship on the register pursuant to Annex II ~~of this interinstitutional agreement~~;

(ia) (new) when, for the purpose of carrying out activities covered, they outsource certain tasks to third parties that are not themselves registered, ensure that such entities adhere to ethical standards that are at least equivalent to those that apply to them;

(j) ~~agree~~ **acknowledge that in order to allow for the effective monitoring of the register, they shall:** (i) ~~to~~ present, if requested, to the Secretariat ~~the documents and any other~~ supporting materials demonstrating their eligibility and ~~that the~~ **accuracy of the** information submitted ~~is accurate,~~ and (ii) ~~to~~ cooperate sincerely and constructively with the Secretariat;

(k) ~~agree~~ **acknowledge** that they may be subject to the investigation procedures and, where applicable, measures **provided for** ~~laid down~~ in Annex IV;

(l) take appropriate steps to ensure that their employees engaged in activities covered ~~by the~~ register are informed about ~~their registrant's~~ commitment **to observe** ~~s under this~~ **code of** **conduct**;

(m) inform whomever they represent in the framework of activities covered ~~by the~~ ~~interinstitutional~~ **this** agreement of their **commitment to observe** ~~this~~ obligations ~~towards the~~ **EU institutions** ~~flowing from the~~ **code of** **conduct**;

(n) agree to respect, and avoid any obstruction to, the specific access and security rules and arrangements, established by the signatory institutions.

ANNEX IV

MONITORING, INVESTIGATIONS AND MEASURES

1. General principles

~~1.1.~~ Where the Secretariat learns about *of a registrant's possible alleged ineligibility or a registrant's alleged non-observance of the code of conduct ('non-observance')* failure to comply with the provisions of the Code of Conduct, it may open an investigation,-

~~The investigation may be opened either on the basis of a received complaint or at on the Secretariat's its own initiative.~~

1.2. ~~The An~~ investigation is an administrative procedure involving the Secretariat and the registrants concerned, as well as the third party that lodged the complaint ('complainant').

1.3 (new) When an investigation has been initiated, the Secretariat may suspend the registration concerned as a precaution. The Secretariat shall immediately inform the registrant concerned, providing a reasoned explanation of its decision.

~~1.3.~~ The provisions concerning investigations shall apply both to investigations opened following complaints received as well as to own initiative investigations.

2. Admissibility of **€** complaints and opening of investigations

2.1. Any natural or legal person may submit **lodge** a complaint **with the Secretariat concerning a registrant's alleged non-observance** to the Secretariat. Complaints shall be submitted in writing. In order to be admissible, the complaint shall:

- a) identify the registrant concerned and clearly set out the content of the complaint;
- b) provide the name and contact details of the complainant;
- c) be lodged within one year as of the alleged ~~violation~~ **non-observance**;
- d) be adequately supported by evidence demonstrating a reasonable probability of **a non-observance** failure to comply with the provisions of the Code of Conduct.

~~2.2.~~ The Secretariat shall inform the complainant whether the complaint is admissible. For inadmissible complaints **Where a complaint is inadmissible**, the Secretariat shall, where possible, inform **notify** the complainant, **providing a reasoned explanation of its decision** how to submit an admissible complaint.

~~2.3.~~ Without prejudice to the preceding paragraphs, where the Secretariat considers that an inadmissible complaint indicates the possibility of a sufficiently serious with the provisions of the Code of Conduct, it may open an investigation at its own initiative.

3. Complaints procedure ~~Requests for clarification~~

3.1 (new) After receipt of an admissible complaint, the Secretariat shall open an investigation and notify the complainant and the registrants concerned.

3.2 (new) The registrant concerned shall receive a copy of the complaint, including any annexes, and be asked to provide a reasoned opinion within 20 working days.

3.3 (new) After receipt of the reasoned opinion, the Secretariat shall gather any relevant information and draft a report containing its findings.

3.4 (new) Where the report finds that the registrant concerned has not observed the code of conduct, the Secretariat shall notify the registrants accordingly. That notification may also contain:

- instructions to remedy the non-observance within 20 working days; and**
- a formal warning that measures may be imposed if the non-observance is not remedied or recurs.**

3.5 (new) The Secretariat shall declare the registrants concerned eligible to remain on the register and close the investigation, where:

- the alleged non-observance primarily concerns point (d) of the code of conduct and is remedied within 20 working days after the registrant has been notified under point 3.1;**
- the report finds that the registrant has observed the code of conduct;**
- the registrant remedies the the non-observance after being notified under point 3.4; or**
- a formal warning under point 3.4 is deemed sufficient.**

3.6 (new) The Secretariat shall declare the registrant concerned ineligible and close the investigation, where the report finds that the registrant has not observed the code of conduct and:

- the registrant has not remedied the the non-observance after being notified under point 3.4; or

- a formal warning under point 3.4 is deemed insufficient.

3.7 (new) *Where the Secretariat has drafted a report, it shall provide the registrants concerned with a copy of that report upon request.*

~~3.1. If the Secretariat learns of a possible failure to comply with the provisions of the Code of Conduct that could lead to an investigation, it may, where it deems appropriate and effective, contact the registrant concerned with a request to clarify and remedy the possible failure.~~

~~3.2. The Secretariat shall set the registrant a reasonable deadline to comply with the request in view of the factual circumstances of the possible failure.~~

~~3.3. If the registrant's reaction is satisfactory and the Secretariat considers the matter settled, it may close the request and, if applicable, inform the complainant accordingly.~~

~~3.4. Where the registrant's reply is not satisfactory the Secretariat opens an investigation, as outlined in section 5 of this Annex.~~

4. Investigative powers

~~4.1. The registrant shall fully cooperate with any request for information and documents in the investigation.~~

~~4.2. The registrant shall, upon request, make available to the Secretariat documents of relevance to the investigation. The Secretariat may decide to inspect and/or take copies of such documents in the registrant's possession.~~

~~4.3. Where the Secretariat inspects documents, it shall draft a report containing the information on facts relevant to the investigation. A copy of the report shall be provided to the registrant.~~

~~4.4. The Secretariat may decide to hear the registrant concerned and/or the complainant.~~

~~4.5. The registrant and complainant may indicate which document (or parts of it) and/or information provided by them on the basis of sections 4.2—4.4 above should be considered confidential by reference to the exceptions in Article 4 of Regulation 1049/2001.~~

5. Monitoring and own-initiative ~~I~~ investigations

5.1 (new) *The Secretariat may request that registrants amend their registrations where it has reason to believe that those registrations do not accurately provide the information detailed in Annex II.*

5.2 (new) When a request under point 5.1 has been made, the Secretariat may suspend the registration concerned as a precaution.

5.3 (new) The Secretariat may remove from the register a registration that is subject to a request under point 5.1 where the registrant concerned does not cooperate sincerely and constructively.

5.4 (new) The Secretariat may open an own-initiative investigation where it has reason to believe that a registrant may be ineligible or may not have observed the code of conduct.

5.5 (new) Where the Secretariat opens an own-initiative investigation, it shall notify the registrant concerned and ask him to provide a reasoned statement within 20 working days.

5.6 (new) After receipt of the reasoned statement, the Secretariat shall gather any relevant information and draft an assessment containing its findings.

5.7 (new) Where the assessment finds that the registrant concerned is ineligible or has not observed the code of conduct, the Secretariat shall notify the registrant accordingly. That notification may also contain:

- instructions to remedy the ineligibility or non-observance within 20 working days; and*
- a formal warning that measures may be imposed if the ineligibility or non-observance is not remedied or recurs.*

5.8 (new) The Secretariat shall declare the registrant concerned eligible and close the investigation, where:

- the investigation primarily concerned a suspected lack of activities covered and the registrants concerned demonstrate that they carry out activities covered within 20 working days of being notified under point 5.5;*
- the assessment finds that the registrant is eligible or has observed the code of conduct;*
- the registrant remedies the ineligibility or the non-observance after being notified under point 5.7; or*

- a formal warning under point 5.7 is deemed sufficient.

5.9 (new) The Secretariat shall declare the registrant concerned ineligible and close the investigation where the investigation primarily concerned a suspected lack of activities covered and the registrant concerned does not demonstrate that he carries out activities covered within 20 working days of being notified under point 5.5.

5.10 (new) The Secretariat shall declare the registrant concerned ineligible and close the investigation where the assessment finds that the registrant is ineligible or has not observed the code of conduct and:

- the registrant does not remedy the ineligibility or the non-observance after being notified under point 5.7; or

- a formal warning under point 5.7 is deemed insufficient.

5.11 (new) Where the Secretariat has drafted an assessment, it shall provide the registrants concerned with a copy of that assessment upon request.

~~5.1. When opening an investigation, the Secretariat informs the registrants of the suspected failure to comply with specific provisions of the Code of Conduct, the reasoning underpinning it and any relevant supporting evidence. In exceptional and duly justified cases, the Secretariat may, awaiting the decision foreseen in section 9, remove a registration from the public website of the register to prevent reputational damage to the European Union institutions, the register or third parties. In these cases, the Secretariat informs the registrant at the same time of the reasons for this removal and any relevant supporting evidence.~~

~~5.2. The registrant shall submit a response within 20 working days.~~

~~5.3. The Secretariat may decide to grant a longer period of time to submit the response if justified by the objective characteristics of the specific investigation.~~

~~5.4. If a registrant fails to observe the deadline for submitting a response, the Secretariat may, if not yet done so, remove the relevant registration from the public website of the register. The Secretariat may decide to reintroduce the registration once the registrant provides its response.~~

~~5.5. If the Secretariat requires further information or clarifications, it may request them from the registrant in accordance with sections 5.1 – 5.3 above.~~

~~5.6. The complainant shall be informed of the opening of the investigation.~~

6. Seeking solutions

- ~~6.1. If, upon having examined all relevant elements in the investigation, the Secretariat forms the view that the registrant failed to comply with the Code of Conduct, it may seek any solution it deems appropriate to remedy that failure and/or mitigate its future effects.~~
- ~~6.2. Where the registrant concerned cooperates to give effect to that solution, the investigation shall be closed. The Secretariat may decide to apply to cooperative registrants a more lenient measure or to close the investigation without applying any measure.~~
- ~~6.3. Where the registrant does not give satisfactory effect to the solution, the Secretariat may close the investigation and issue a decision on the basis of the information at its disposal.~~

7. Failure to cooperate *Cooperation with the Secretariat during investigations sincerely and constructively*

7.1. (new) The Secretariat shall, as necessary, request the parties concerned to provide information relevant to an investigation within 20 working days. The parties concerned may indicate which information provided by them should be considered sensitive.

7.2. (new) The Secretariat may decide to hear the parties to an investigation.

7.3. (new) The Secretariat may decide to extend the deadlines set in accordance with this Annex, where requested by registrants and justified by reasonable grounds. That decision may also suspend the registration concerned for the duration of the investigation.

*7.4. (new) If the Secretariat considers that the registrant concerned does not cooperate sincerely and constructively in the **an** investigation stages laid down in section 5 above, the Secretariat **it** may, after having given the registrant the possibility to make known ~~its own~~ **his** views in writing, close the investigation **due to a lack of sincere and constructive cooperation with the Secretariat and remove the registration concerned from the register** ~~by including a finding of violation of point (j) of the Code of Conduct and applying measures in section 10 below based on the information at its disposal.~~*

8. Right to be heard

The registrant shall have the possibility to make known its own views in writing before any decision **establishing a non-observance** ~~concluding in a failure to comply with the Code of Conduct~~ is taken.

9. Decision

9.1. The Secretariat **shall** close an investigation with a reasoned decision, **of which it notifies the parties concerned in writing**. That decision shall specify whether **an ineligibility or a non-observance** failure to comply with the Code of Conduct was established, **the relevant remedies**, and, if applicable, what measure was applied.

9.2 (new) **Where the Secretariat declares a registrant ineligible in accordance with point 9.1., it shall remove the registration concerned from the register**

9.3 (new) **The Secretariat may consider a request to reopen an investigation up to 20 working days after the parties concerned have been informed of its decision.**

9.4 (new) **An investigation may only be reopened on the basis of information that was available before the Secretariat made its decision and that was, through no fault or oversight of the party making a request under point 9.3., not considered by the Secretariat when it made its decision.**

~~9.2. Registrants shall be informed of their right to lodge a request for review or of the remedies open to them.~~

~~9.3. The complainant shall be informed on the outcome of the complaint.~~

10. Measures

~~10.1. Where the Secretariat establishes a violation of the Code of Conduct, it may impose the following measures:~~

- ~~a) formal warning to the registrant, with an indication of the infringed provision of the Code of Conduct;~~
- ~~b) suspension of individual or multiple types of interaction available to the registrant listed under Article 5 of this interinstitutional agreement for a period between 15 days and 1 year;~~
- ~~e) removal of the registration from the register for a period between 15 days and 2 years.~~

Where the Secretariat decides to remove a registration under point 9.2 it may also, as appropriate in light of the seriousness of the non-observance:

- a) prohibit the interest representative concerned from registering again for a period between 20 working days and 2 years, and**
- b) publish any measures taken on the website of the register.**

10.2 When deciding on the severity of the measure, the Secretariat shall duly take into account all relevant circumstances of an **investigation in the light of the** individual case with the objectives pursued by the interinstitutional ~~this~~ agreement.

~~10.3 Registrants with individual or multiple types of interaction suspended may not enjoy said types of interaction until their period of suspension has expired and they have satisfactorily remedied the grounds that led to the suspension, whichever period of the two is longer.~~

~~10.4. Registrations removed from the register may not be re-entered~~ ***Interest representatives subject to measures under point (a) of point 10.1 may not register again*** until the period of removal has expired and the registrant has satisfactorily remedied the grounds that led to the removal.

~~10.5. The complainant shall be informed on the final outcome of the complaint and, where applicable, which of the measures under section 10.1 was applied to the registrant.~~

11. Review

~~11.1. Registrants that were subject to measures in section~~ ***under point 10.1*** may lodge a reasoned request for review of the decision by the ***Management Board*** Secretariat. ~~The exhaustion of the review procedure shall entitle the registrants to use the remedies foreseen in section 12 of this Annex.~~

~~11.2. The request for review shall be sent to the~~ ***Secretariat Management Board*** within ~~15~~ ***20*** working days as of receipt of the notification of the measure.

~~11.3. The Requests for review~~ ***submitted in accordance with points 11.1 and 11.2*** shall be ***forwarded to the Chair of*** ~~re-examined by the Management Board,~~ ***who may refer the case to the full Management Board, where appropriate or where requested by one of the other members of the Management Board.***

~~11.4. A request for review shall not suspend the measure, unless the Management Board decides otherwise on the basis of the reasoned request for review.~~

~~11.5. The~~ ***Chair of the*** Management Board shall ~~inform~~ ***notify*** the registrants ***concerned of its decision*** on the outcome of the review procedure within ~~2~~ ***40*** working days. ~~A failure to reply within that period shall be understood as being an implicit rejection of the request for review.~~

~~11.6. Registrants that are not satisfied with the outcome of the review procedure may make use of the remedies in section 12.~~

12. Remedies

Registrants that are not satisfied with the decision by the Management Board may submit an application to the Court of Justice ***in accordance with Article 263 TFEU*** or a complaint to the European Ombudsman in accordance with ~~Articles 263 and 228~~ TFEU.