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European Union

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2021/0376 (COD)**

'I' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
Subject:	Directive of the European Parliament and of the Council amending Directives 2011/61/EU and 2009/65/EC as regards delegation arrangements, liquidity risk management, supervisory reporting, provision of depositary and custody services and loan origination by alternative investment funds (AIFMD) - Confirmation of the final compromise text with a view to agreement

I. INTRODUCTION

1. On 25 November 2021, the Commission transmitted to the Council the above-mentioned proposal¹ amending Directives 2011/61/EU (Alternative Investment Fund Managers) and 2009/65/EC (UCITS). This targeted review, as part of a legislative package of measures supporting the deepening of the Capital Markets Union, broadly aims at further integrating asset management markets in Europe, whilst furthering the harmonisation and the modernisation of the current regulatory framework.
2. The key amendments to that framework concern in particular: the reporting obligations related to the delegation of certain functions to third parties by fund managers; the upgrading of the rules concerning liquidity management tools; conditions for the provision of cross-border depositary services; and, the rules for loan-originating alternative investment funds.

¹ Doc. 14365/22 + ADD 1 to ADD 3

3. The European Central Bank delivered its opinion on 9 August 2022².
4. On 17 June 2022, the Council (ECOFIN) agreed on a general approach with regard to the proposed Regulation, as set out in doc. 9768/1/22 REV1 + COR1.
5. The European Parliament confirmed its negotiating mandate in the Plenary meeting on 15 February 2023. On that basis, the Swedish and Spanish Presidencies conducted negotiations with the European Parliament and the Commission with a view to a first reading agreement.

II. STATE OF PLAY

6. On 19 July 2023, a provisional agreement was reached, followed by technical work, resulting in the final compromise text as set out in doc. 14932/23.

III. CONCLUSION

7. The Permanent Representatives Committee is therefore invited to:
 - approve the text of the draft Regulation as set out in doc. 14932/23 with a view to reaching an agreement at first reading with the European Parliament; and
 - give to the Chairman of the Permanent Representatives Committee the mandate to inform the Chair of the European Parliament's ECON Committee that, should the European Parliament adopt the text of the proposal in the exact form as set out in doc. 14932/23, the Council would adopt the proposed Regulation thus amended, subject to legal-linguistic revision by both Institutions.

² Doc. 11995/22