



Brussels, 16 December 2021
(OR. en)

14992/21

LIMITE

EF 387
ECOFIN 1237
CODEC 1641

**Interinstitutional File:
2020/0267 (COD)**

'I' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee (Part 2)
No. Cion doc.:	11055/20 + ADD 1-2
Subject:	Proposal for a Regulation of the European Parliament and of the Council on a pilot regime for market infrastructures based on distributed ledger technology - Confirmation of the final compromise text with a view to agreement

I. INTRODUCTION

1. On 24 September 2020 the Commission presented its "Digital Finance Package". The Digital Finance Package consists of a digital finance strategy¹, a renewed strategy for modern and safe retail payments² as well as four legislative proposals: a proposal for a regulation on markets in crypto-assets (MiCA)³; a proposal for a regulation on digital operational resilience (DORA)⁴; a proposal for a regulation on a pilot regime for market infrastructures based on distributed ledger technology (DLT pilot regime)⁵; and a complementing proposal for a Directive amending several directives⁶ (Amending Directive).

¹ ST 11048 2020

² ST 11050 2020

³ ST 11053 2020 ADD1 ADD2 ADD3

⁴ ST 11051 2020 ADD1 ADD2

⁵ ST 11055 2020 ADD1 ADD2

⁶ ST 10052 2020 ADD1 ADD2

2. The Package aims at ensuring a competitive, innovative and digitally-resilient financial market while at the same time preserving consumer protection and financial stability. An innovative, yet robust financial sector is vital to support the EU's ambition for a recovery that embraces digitisation and help to turn Europe into a global digital player.
3. The DLT pilot regime proposal aims to test the development of the pan-European DLT-based securities trading, clearing and settlement infrastructures. The proposal is based on Article 114 of the Treaty on the Functioning of the European Union and is subject to the ordinary legislative procedure.
4. The European Economic and Social Committee adopted its opinion⁷ on this proposal on 2 March 2021 and the European Central Bank delivered its opinion⁸ on 28 April 2021. The European Data Protection Supervisor also adopted an opinion⁹ on 23 April 2021.
5. Following the adoption by the European Parliament of its position on the DLT pilot regime proposal on 15 September 2021, the Slovene Presidency was in position to start discussions with the Parliament on the basis of the mandate from 28 June 2021.
6. On 24 November 2021, co-legislators reached a provisional agreement, which resulted in the final compromise text, as set out in the document 14993/21.
7. The Amending Directive supplements the other proposals of the Digital Finance Package, by including various amendments to several Directives. In the particular case of the DLT pilot regime, it proposed to amend the Directive 2014/65/EU¹⁰ on markets in financial instruments (MiFID2), in order to clarify the definition of financial instruments (first paragraph of Article 6) and to temporarily exempt DLT market infrastructures from certain provisions (fourth paragraph of Article 6). As a result of the tripartite discussions, these elements were included directly in the DLT pilot regime Regulation, and will, consequently, be removed from the Amending directive.

⁷ ST 6627 2021

⁸ ST 8281 2021

⁹ ST 8199 2021

¹⁰ Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).

II. CONCLUSION

8. Against this background, the Permanent Representatives Committee is invited to:
- (i) confirm the compromise concerning the text of the Proposal, as set out in the document 14993/21, with a view to reaching an agreement at first reading with the European Parliament; and
 - (ii) authorise the Presidency to send a letter to the Chair of the European Parliament's Committee on Economic and Monetary Affairs confirming that, should the European Parliament adopt its position at first reading, in accordance with Article 294, paragraph 3, of the Treaty, in the exact form set out in the compromise text contained in document 14993/2021, subject to legal-linguistic revision by both institutions, the Council would, in accordance with Article 294, paragraph 4, of the Treaty, approve the European Parliament's position and the act shall be adopted in the wording which corresponds to the European Parliament's position.
-