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'I' ITEM NOTE

From: General Secretariat of the Council

To: Permanent Representatives Committee (Part 2)

Subject: Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directives 2009/65/EU, 2013/36/EU and (EU) 2019/2034 as regards the treatment of concentration risk towards central counterparties and the counterparty risk on centrally cleared derivative transactions

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulations (EU) No 648/2012, (EU) No 575/2013 and (EU) 2017/1131 as regards measures to mitigate excessive exposures to third-country central counterparties and improve the efficiency of Union clearing markets

- Confirmation of the final compromise text with a view to agreement

I. INTRODUCTION

1. On 7 December 2022, the European Commission submitted the following proposals to the Council and the European Parliament: a Directive amending Directives 2009/65/EU, 2013/36/EU and (EU) 2019/2034 as regards the treatment of concentration risk towards central counterparties and the counterparty risk on centrally cleared derivative transactions¹; and, a Regulation amending Regulations (EU) No 648/2012, (EU) No 575/2013 and (EU) 2017/1131 as regards measures to mitigate excessive exposures to third-country central counterparties and improve the efficiency of Union clearing markets². These proposals aim to encourage clearing in the EU, improve the attractiveness and resilience of EU central counterparties (CCPs), draw lessons from recent developments in energy markets and strengthen EU open strategic autonomy as well as safeguard financial stability.
2. Both proposals are based on Article 114 of the Treaty on the Functioning of the European Union (TFEU) and are hence subject to the ordinary legislative procedure.
3. The European Central Bank delivered its opinion on 26 April 2023³. The opinion of the European Economic and Social Committee was adopted in plenary session on 22 March 2023.

II. STATE OF PLAY

4. At its meeting on 6 December 2023, the Permanent Representatives Committee granted the Presidency a mandate to enter into negotiations with the European Parliament⁴.
5. In its November 2023 II plenary session, the European Parliament confirmed its decision to enter into interinstitutional negotiations on the basis of the ECON Committee's report.

¹ Doc. 15874/22 + ADD 1 to ADD 3.

² Doc. 15888/22 + ADD 1 to ADD 3.

³ Doc. 8823/23.

⁴ Doc. 16194/23 and 16195/23.

6. The co-legislators held three trilogues on the Proposal. At the final trilogue on 6 February, a provisional agreement was reached. On 12 February, the Presidency launched a silence procedure at working party level on the final compromise draft legal texts for both proposals. The silence procedure closed on 13 February and confirmed that both texts are supported by the necessary voting majority. The final compromise legal texts are set out in documents 6344/24 and 6346/24 accompanying this note.

III. CONCLUSION

7. In the light of the above, the Permanent Representatives Committee is invited to:
- approve the text of the draft Regulation and the draft Directive, as set out in documents ST 6344/24 and ST 6346/24, 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 Committees that, should the European Parliament adopt the text of the proposal in the exact form as set out in documents ST 6344/24 and ST 6346/24, the Council would adopt the proposed Regulation thus amended, subject to legal-linguistic revision by both Institutions.
8. In accordance with the approach to legislative transparency endorsed by Coreper on 14 July 2020⁵, and in full consistency with Regulation (EC) 1049/2001 and the Council's Rules of Procedure, the text of the mandate thus agreed will be made public unless the Permanent Representatives Committee objects.

⁵ Doc. 9493/20.