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NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee

Subject: Daisy Chain Regulation - Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 575/2013 and Directive 2014/59/EU as regards the prudential treatment of global systemically important institution groups with a multiple point of entry resolution strategy and a methodology for the indirect subscription of instruments eligible for meeting the minimum requirement for own funds and eligible liabilities
- Preparation of the trilogue

I. Introduction

1. On 28 October 2021, the Commission presented a Regulation Proposal that is commonly named “Daisy Chain Proposal”¹, within the framework of its “Basel III finalisation package”. This Regulation proposal aims to introduce targeted adjustments to the Regulation on prudential requirements for credit institutions and investment firms (Capital Requirements Regulation – “CRR”) and to the Directive establishing a framework for the recovery and resolution of credit institutions and investment firms (Banking Recovery and Resolution Directive – “BRRD”), specifically as regards managing the banking resolution framework.

¹ Doc. 13247/21

2. The Council adopted its negotiating mandate on 21 December 2021², whereas the Parliament adopted its negotiating position in mid-February 2022³.
3. A first political trilogue took place on 31 March 2022 and notably provided a confirmation of the two core issues (below) to be solved with a view to reaching a political agreement, in accordance with the approach endorsed by Coreper on 30 March 2022⁴.

II. Preparation of the second political trilogue

4. The second political trilogue, to be held on 28 April in the European Parliament's premises, will potentially aim to find agreement on compromise solutions for the whole text and thereby to reach a political agreement where possible.
5. At this trilogue, there will therefore be a need to settle the two main points of divergence between Parliament and Council:
 - The first point concerns the deduction regime for own funds and eligible liabilities meeting the requirements for loss-absorption in resolution ("MREL") that are channelled through an intermediate entity in the context of their upstreaming within complex resolution groups, commonly nicknamed "daisy chains";
 - The second point concerns the treatment of groups with a multiple-point-of-entry resolution strategy ("MPE" groups), as opposed to a single-point-of-entry ("SPE") resolution strategy, especially as regards aligning such treatment on the regime foreseen under so-called "TLAC" international standards and taking into account third-country entities within such groups. The issue arises especially in cases where the resolution regime of a third-country is not equivalent to the regime in force in the Union.

² Doc. 15061/1/21 REV 1

³ See three-column table - doc. 7677/22.

⁴ Doc. 7547/22

6. Moreover, the second trilogue will aim to solve the remaining controversial issues, among others the review clause and the application deadline for this Regulation.
7. The Presidency submitted compromise proposals to the Member States on both of the aforementioned core issues, in the form of two options. These options would lead either to accept a transitional regime until 2024 for “MPE” groups, or to amend the deduction regime within “daisy chains”.
8. The Presidency collected the views of the Member States at an Attachés’ meeting on 26 April 2022. On that occasion, a majority of delegations expressed a preference for limiting the scope of a possible flexibility to a transitional regime for “MPE” groups that was proposed by Parliament, without amending the deduction regime within “daisy chains”, whilst working on a framed review clause on the latter topic in the preparations for BRRD3.

III. Question:

9. In light of the above considerations, the Committee of Permanent Representatives is invited to endorse the above-delineated principles as the negotiating mandate for the Presidency, with a view to the second political trilogue.