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COVER NOTE

From: Mr Mario DRAGHI, President of the European Central Bank
date of receipt: 29 April 2016
To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

Subject: Opinion of the European Central Bank of 29 April 2016 on
Proposal for a Directive of the European Parliament and of the Council amending Directive 2014/65/EU on markets in financial instruments as regards certain dates
Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 600/2014 on markets in financial instruments, Regulation (EU) No 596/2014 on market abuse and Regulation (EU) No 909/2014 on improving securities settlement in the European Union and on central securities depositories as regards certain dates

Delegations will find attached the above-mentioned Opinion.



Mario DRAGHI
President

Frankfurt/Main, 29 April 2016

Mr Jeppe Tranholm-Mikkelsen
Secretary General
Council of the European Union
Rue de la Loi 175
1048 Bruxelles

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Opinion of the European Central Bank on a proposal for a regulation amending Regulation (EU) No 600/2014 on markets in financial instruments, Regulation (EU) No 596/2014 on market abuse and Regulation (EU) No 909/2014 on improving securities settlement in the European union and on central securities depositories as regards certain dates, and a proposal for a directive amending Directive 2014/65/EU on markets in financial instruments as regards certain dates (CON/2016/27)

Dear Mr Tranholm-Mikkelsen,

Please find attached, for your information, the Opinion of the European Central Bank on a proposal for a regulation amending Regulation (EU) No 600/2014 on markets in financial instruments, Regulation (EU) No 596/2014 on market abuse and Regulation (EU) No 909/2014 on improving securities settlement in the European union and on central securities depositories as regards certain dates, and a proposal for a directive amending Directive 2014/65/EU on markets in financial instruments as regards certain dates (CON/2016/27).

Yours sincerely,

Encl.



OPINION OF THE EUROPEAN CENTRAL BANK

of 29 April 2016

on a proposal for a regulation amending Regulation (EU) No 600/2014 on markets in financial instruments, Regulation (EU) No 596/2014 on market abuse and Regulation (EU) No 909/2014 on improving securities settlement in the European union and on central securities depositories as regards certain dates, and a proposal for a directive amending Directive 2014/65/EU on markets in financial instruments as regards certain dates
(CON/2016/27)

Introduction and legal basis

On 25 February 2016 the European Central Bank (ECB) received two requests from the Council of the European Union, followed by two requests from the European Parliament received on 18 March 2016, for an opinion on a proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 600/2014 on markets in financial instruments, Regulation (EU) No 596/2014 on market abuse and Regulation (EU) No 909/2014 on improving securities settlement in the European Union and on central securities depositories as regards certain dates¹ (hereinafter the 'proposed regulation'), and on a proposal for a Directive of the European Parliament and of the Council amending Directive 2014/65/EU on markets in financial instruments as regards certain dates² (hereinafter the 'proposed directive').

The ECB's competence to deliver an opinion is based on Articles 127(4) and 282(5) of the Treaty on the Functioning of the European Union, since the proposed regulation and directive contain provisions affecting the European System of Central Banks' task to contribute to the smooth conduct of policies pursued by the competent authorities relating to the stability of the financial system, as referred to in Article 127(5) of the Treaty. In accordance with the first sentence of Article 17.5 of the Rules of Procedure of the European Central Bank, the Governing Council has adopted this opinion.

Observations

The explanatory memoranda of both the proposed regulation and directive contain a request to defer the application date by one year. Deferring the application date will give the competent authorities, as well as market participants, a reasonable amount of time to introduce the required technical infrastructure for their implementation. The ECB recognises that deferring this date will not have an impact on the timeline for adoption of 'Level 2' measures under the proposed regulation and directive.

For reasons of consistency, the ECB proposes deferring the deadline for Member States to transpose Directive 2014/65/EU of the European Parliament and of the Council,³ and also to notify the European

¹ COM(2016) 57 final.

² COM(2016) 56 final.

³ 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).

Commission and ESMA as regards their transposition, by one year, in addition to the one-year extension of the application deadline.

The ECB has no further comments on the proposed regulation and the proposed directive.

Where the ECB recommends that the proposed directive is amended, a specific drafting proposal is set out in a separate technical working document accompanied by an explanatory text to this effect. The technical working document is available in English on the ECB's website.

Done at Frankfurt am Main, 29 April 2016.



The President of the ECB

Mario DRAGHI

Technical working document
produced in connection with ECB Opinion CON/2016/27¹

Drafting proposals

| Text proposed by the European Commission | Amendments proposed by the ECB² |
|---|--|
| Amendment to the proposal for a Directive of the European Parliament and of the Council amending Directive 2014/65/EU on markets in financial instruments as regards certain dates ³ Article 1 | |
| <i>Article 1</i> | <i>Article 1</i> |
| Directive 2014/65/EU is amended as follows: (1) Article 90 is amended as follows: (a) in the first paragraph, “3 March 2019” is replaced by “3 March 2020”; (b) the second paragraph is amended as follows: (i) “3 September 2018” is replaced by “3 September 2019”; (ii) “3 September 2020” by “3 September 2021”; (c) in the fourth paragraph, “1 January 2018” is replaced by “1 January 2019”; (2) In the second subparagraph of Article 93(1), “3 January 2017” is replaced by “3 January 2018” and “3 September 2018” by “3 September 2019”; (3) In Article 94, “3 January 2017” is replaced by “3 January 2018”; (4) In Article 95(1), “3 July 2020” is replaced by “3 January 2021” and “3 January 2017” is replaced by “3 January 2018”. | Directive 2014/65/EU is amended as follows: (1) In the second subparagraph of Article 69(2), “3 July 2016” is replaced by “3 July 2017”; (2) In the second subparagraph of Article 70(1), “3 July 2016” is replaced by “3 July 2017”; (1) (3) Article 90 is amended as follows: (a) in the first paragraph, “3 March 2019” is replaced by “3 March 2020”; (b) the second paragraph is amended as follows: (i) “3 September 2018” is replaced by “3 September 2019”; (ii) “3 September 2020” by “3 September 2021”; (c) in the fourth paragraph, “1 January 2018” is replaced by “1 January 2019”; (2) (4) In the second subparagraph of Article 93(1), “3 July 2016” is replaced by “3 July 2017”, “3 January 2017” is replaced by “3 January 2018” and “3 September 2018” by “3 September 2019”; (3) (5) In Article 94, “3 January 2017” is replaced by “3 January 2018”; (4) (6) In Article 95(1), “3 July 2020” is replaced by |

¹ This technical working document is produced in English only and communicated to the consulting Union institution(s) after adoption of the opinion. It is also published in the Legal framework section of the ECB’s website alongside the opinion itself.

² Bold in the body of the text indicates where the ECB proposes inserting new text. Strikethrough in the body of the text indicates where the ECB proposes deleting text.

³ COM(2016) 56 final.

| Text proposed by the European Commission | Amendments proposed by the ECB ² |
|--|--|
| | "3 January 2021" and "3 January 2017" is replaced by "3 January 2018". |
| <p style="text-align: center;"><u>Explanation</u></p> <p><i>For reasons of consistency, the ECB proposes deferring the deadline for Member States to transpose Directive 2014/65/EU of the European Parliament and of the Council and to notify as regards their transposition by one year, in addition to the one-year extension of the application deadline.</i></p> | |