



Presidency note

29 November 2022

Dear colleagues,

We would like to invite you to attend the meeting of the Working Party on Consumer Protection and Information, which will be dedicated to the proposal on financial services contracts concluded at a distance and repealing Directive 2002/65/EC (DMFS). The meeting will take place on 29 November 2022 in a physical format.

The Presidency will be presenting the 3rd re-draft of the Proposal (document 14631/1/22 REV 1), which reflects the Member States' answers to the written procedure as initiated by the latest Note, as well as contains modified Recitals that were absent from the previous drafts. Furthermore, the proposals for the Withdrawal Button (Art. 16b(5)) and the Adequate Explanations (Art. 16d) will also be presented. The latter, Adequate explanations, has already been incorporated into the text, as there were few comments on the matter, whereas the Withdrawal Button is being kept separate, as there has been a wider call to put this facility into the CRD as a whole. This too will be addressed at the working party.

The Presidency has made several changes to the 2nd re-draft. Firstly, as the vast majority of Member States agreed to insert Article 8(6) and Article 27 of the **CRD provisions** into the list of articles to be applied to financial services, the list (Article 1) has been extended accordingly. Article 29 of the CRD has also been added to deal the monitoring of the choices done under the Article 16a(5a) in a cleaner way. As regards the right of withdrawal on ancillary contracts, option 2 with some minor changes from MSs' comments has been chosen. Further, the text based on the "first operation" has received wide support and it has remained untouched but has been further elaborated upon in Recitals.

Disclosures set in Article 16a(1) have been shortened by points n) and o). Upon both further reflection and the replies arrived from delegations, the Presidency considers both points to be unclear and vague, raising more questions than providing answers, thus they were deleted. Naturally, with Article 16a(5a) in the text, the Member States will be allowed to keep or adopt more stringent provisions on information requirements within their national rules, therefore include similar provisions as contained in points o) and n) into their own legislation if they choose to.



The question about providing information after the conclusion of the contract has been resolved by incorporating option 2 into the text. The text has been modified to make it clear that it is a possibility for a trader to give the information on a durable medium after the conclusion of the contract only when he cannot provide a durable medium in advance. The provision of information in accordance with paragraphs 3 to 4a of Article 16a will then always apply even in the case of telephone communication.

Regarding the time when the right of withdrawal expires, the text has been modified to be in line with the General Approach for the CCD2 file. For the sake of legal certainty the original reference to the whole 16a has been returned so it is clear that it is also needed to comply with the form of providing the information, as well as to make clear that the rules shall apply also in cases when pre-contractual information is provided in applying the sectorial legislation (16a(6)). A Recital has also been added for further clarity.

Lastly, the proposed deletion of **additional protection regarding online interfaces** (Article 16e) has been kept as the majority of replies pointed to being uncertain to its contents. Furthermore, the horizontal legislation already applies in the form of Digital Services Act or UCPD.

The Presidency is looking forward to a fruitful discussion on the Working party and would like to give delegations many thanks for all their valuable comments and insights to the working documents that have been distributed so far.

All the best to those countries competing in Qatar these days!

Best regards,

Czech Presidency team



Council of the European Union
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Brussels, 23 November 2022

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NOTE

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To:	Working Party on Consumer Protection and Information (Consumer Credits) Working Party on Consumer Protection and Information (Attachés) Working Party on Consumer Protection and Information
Subject:	Presidency note