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'I' ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee
Subject: Proposal for a Regulation of the European Parliament and of the Council on establishing a Union programme to support specific activities enhancing the involvement of consumers and other financial services end-users in Union policy making in the field of financial services for the period of 2017-2020
- Confirmation of the final compromise text with a view to agreement

I. INTRODUCTION

1. On 15 June 2016, the Commission presented a proposal for a Regulation of the European Parliament and of the Council on establishing a Union programme to support specific activities enhancing the involvement of consumers and other financial services end-users in Union policy making in the field of financial services for the period of 2017-2020¹.
2. The European Economic and Social Committee was invited to deliver its opinion on 11 July 2016 and the Committee delivered its opinion on 19 October 2016².

¹ ST 10509/16 + ADD 1

² ST 13582/16

II. STATE OF PLAY

3. The Council agreed on the negotiating mandate on the above mentioned proposal at the level of Coreper on 4 November 2016¹. The ECON Committee of the European Parliament adopted its report on 25 January 2017. On the basis of the agreed negotiating mandate, the Maltese Presidency has conducted negotiations with the European Parliament and the Commission with a view to a first reading agreement.
4. On 14 February 2017, and following the technical work thereafter, a provisional agreement was reached which resulted in the final compromise text as set out in the Annex.

III. CONCLUSION

5. Against this background, the Permanent Representatives Committee is invited to:
 - (a) approve the final compromise text regarding the Regulation of the European Parliament and of the Council on establishing a Union programme to support specific activities enhancing the involvement of consumers and other financial services end-users in Union policy making in the field of financial services for the period of 2017-2020, as set out in the Annex, and
 - (b) confirm that the Presidency can indicate to the European Parliament that, should the European Parliament adopt its position at first reading as regards the Regulation of the European Parliament and of the Council on establishing a Union programme to support specific activities enhancing the involvement of consumers and other financial services end-users in Union policy making in the field of financial services for the period of 2017-2020, as set out in the Annex, subject, if necessary, to revision of that text by the legal linguists of both institutions, the Council would approve the European Parliament's position and the act shall be adopted in the wording which corresponds to the European Parliament's position.

¹ ST 13749/16

PE-CONS No/YY - 2016/0182 (COD)

REGULATION (EU) 2017/...
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of ...

on establishing a Union programme to support specific activities enhancing the involvement of consumers and other financial services end-users in Union policy making in the *area* of financial services for the period of 2017-2020

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular point (b) of Article 169(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

Acting in accordance with the ordinary legislative procedure²,

¹ OJ C 34, 2.2.2017, p. 117.

² Position of the European Parliament of ... (not yet published in the Official Journal) and decision of the Council of

Whereas:

- (1) The Union contributes to ensuring a high level of consumer protection and to placing consumers at the heart of the single market by supporting and complementing Member States' policies in seeking to ensure that citizens can fully reap the benefits of the internal market and that, in so doing, their legal and economic interests are properly addressed and defended. A well-functioning and trustworthy financial services sector is a key component of the single market *and its cross-border capability*. It requires a solid framework for regulation and supervision, which simultaneously ensures financial stability and focuses on supporting a sustainable economy. At the same time, it should provide a high level of protection to consumers and other financial services end-users, including retail investors, savers, insurance *policyholders*, pension fund *members and beneficiaries*, individual shareholders, borrowers or SMEs.

- (2) Since 2007, the confidence of consumers in particular and of other financial services' end-users has been shaken by the financial and economic crisis. To restore citizens' confidence in the soundness of the financial sector *and contribute to its best practices*, it is therefore important to increase the *active participation and involvement* of consumers and other *financial services* end-users, *including retail investors, savers, insurance policyholders, pension fund members and beneficiaries, individual shareholders, borrowers or SMEs* as well as of stakeholders representing their interests, in the Union, *multilateral and other relevant* decision-making *processes* in the financial sector.

- (3) To achieve *those objectives, and following a cross-party initiative of the European Parliament*, the Commission initiated at the end of 2011 a pilot project aimed at providing grants to support the development of a financial expertise centre to the benefit of consumers, other end-users and stakeholders representing their interests to enhance their capacity to participate in Union policy making in the *area* of financial services *and to foster the development of a resilient banking system*. The main policy objectives were to ensure that Union policy-makers, when initiating new legislation, would be provided with views other than those expressed by the financial sector professionals, *that the interests of consumers and other financial services end-users would be reflected in new legislation*, that the wider public is better informed about issues at stake in financial regulation, *resulting in an enhancement of financial literacy*, and that the *active* participation of consumers *and other financial services end-users* is enhanced in Union policy-making in the area of financial services, resulting in well-balanced legislation.

- (4) As a result, the Commission awarded between 2012 and 2015, via an open call for proposals, operating grants to two non-profit entities, Finance Watch and Better Finance. *Those* grants were awarded *in 2012 and 2013* under a pilot project *lasting* two years , and a preparatory action since 2014. Since a preparatory action can be used *for* up to three *consecutive* years¹, a legislative act is necessary to provide a legal basis for funding such actions as of 2017.
- (5) Finance Watch was set up in 2011 as an international non-profit association under Belgian law, *with Union grants*. Its mission is to defend the interests of civil society in the financial sector. *As a result of* Union grants, Finance Watch in a short period of time managed to set up a qualified team of experts, able to conduct studies, policy analysis and communication activities in the *area* of financial services.

¹ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

- (6) Better Finance results from successive re-organisations and rebranding of pre-existing European federations of investors and shareholders since 2009. Thanks to Union grants, the organisation managed to form a financial centre of expertise, focusing mostly on the interests of consumers, individual investors, individual shareholders, savers and other end-users of financial services, in coherence with its membership base *and its resources*.
- (7) The evaluation of the pilot project and the subsequent preparatory action carried out in 2015 concluded that the policy objectives have been generally achieved. Finance Watch and Better Finance have been working on complementary policy areas and targeted different audiences. Together they have covered, through their activities, most of the Union financial political agenda since 2012 *and, as much as their resources have allowed, made efforts to expand their activity in order to have wide geographical coverage within the Union*.

- (8) Both organisations provided added value both to the sum of activities of their national members and to Union consumers . National organisations dealing with *a wide range* of consumers' issues *often* lack technical expertise in policy areas related *specifically* to financial services *and the related Union policy-making process*. In addition, no other similar organisations have been identified at Union level so far. *Although the* evaluation showed that no other applicant responded to the successive yearly calls for proposal since 2012, *the Programme should be open to other potential beneficiaries after the end of the 2017-2020 period if they meet the requirements of the Programme.*

- (9) However, despite regular efforts, both organisations did not manage to attract stable and significant funding from other donors, independent from the financial industry, and, therefore, remain heavily dependent on Union funding *in order to be financially sustainable*. Co-funding from the Union is therefore *currently* necessary to ensure the resources needed to achieve the desired policy objectives in the coming years, providing financial stability to those organisations *and their experts and administrative staff* who have so far managed to start-up their relevant activities in a short period of time. It is therefore necessary to establish a Union programme for the period 2017-2020 to support the activities of Finance Watch and Better Finance, *which will supplement similar policies pursued by Member States at national level. Financial stability is of key importance in preserving expertise, as well as for project planning for both organisations. The organisations which receive support under this Programme should nonetheless aim to increase the proportion of funding that they contribute themselves.*

- (10) Continuing funding of Finance Watch and Better Finance for the period 2017-2020 along the same lines as for the preparatory action would ensure that the positive impacts of the activities of those organisations assessed so far are maintained. The financial envelope for the implementation of the Programme should be based on the average actual costs incurred by each beneficiary between 2012 and 2015. The ***maximum co-financing rate of 60 % EU-funding*** should remain unchanged. ***Should the Programme and corresponding funding be extended to a period beyond the 2017-2020 period and other credible actors emerge, the call for applicants should be open to any other potentially qualifying organisations that fulfil the criteria and contribute to the objectives of this Regulation.***
- (11) Between 2012 and 2015, the two organisations have been co-funded through operating grants. In 2016, it was decided to provide action grants instead, as action grants ensure better control of Union budget spending.

- (12) This Regulation *lays* down a financial envelope for the entire duration of the Programme which is to constitute the prime reference amount, within the meaning of point 17 of the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management¹ for the European Parliament and the Council during the annual budgetary procedure.
- (13) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission in respect of the establishment of the annual work programmes.
- (14) Every year before **30 November**, each beneficiary should submit a description of activities planned for the following year to achieve the policy objectives of the Programme. Those activities should be described in detail, including their objectives, expected results and impact, estimated costs and timeframe as well as relevant indicators to assess them.

¹ OJ C 373, 20.12.2013, p. 1.

- (15) Financial support should be granted in accordance with the conditions laid down in Regulation (EU, Euratom) No 966/2012 and Commission Delegated Regulation (EU) No 1268/2012¹.
- (16) *An evaluation report on the results obtained under this Programme should be submitted by the Commission to the European Parliament and to the Council no later than 12 months before the end of the Programme. The evaluation should assess whether or not the Programme is to be pursued after the period 2017-2020. Any prolongation, modification or renewal of the Programme after the 2017-2020 period should be subject to an open call procedure in order to select the beneficiaries.*
- (17) The financial interests of the Union should be protected through proportionate measures throughout the expenditure cycle, including the prevention, detection and investigation of irregularities, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, administrative and financial penalties.

¹ Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ L 362, 31.12.2012, p. 1).

- (18) *Beneficiaries should make every effort to make their activities visible and evident in all Member States. In order to achieve this objective, beneficiaries should endeavour to establish contacts with relevant consumer non-profit organisations across Union, translate, when it is possible, information related to their organisation, membership and activities and display this information on their websites.*
- (19) *To ensure the continuity of the actions supported by Union funding that are carried out by the beneficiaries, this Regulation should enter into force on the day following that of its publication and should apply as of 1 May 2017.*
- (20) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States, but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives,

HAVE ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

1. A Union programme (the ‘Programme’) is hereby established for the period from ***1 May 2017*** to 31 December 2020 to support the activities of the organisations referred to in Article 3, who contribute to the achievement of the policy objectives of the Union in relation to enhancing the involvement of consumers and other financial services end-users, as well as stakeholders representing their interests in Union ***and relevant multilateral*** policy making in the ***area*** of financial services.
2. ***In order to achieve its objectives, the following activities shall be co-financed by the Programme:***

- (a) research activities, including production of own research and data, *and development of* expertise;
- (b) *engaging with consumers and other financial services end-users by liaising with existing consumer networks and helplines in the Member States and, in the area of financial services, in order to identify issues relevant for Union policy-making for the protection of the interests of consumers in the area of financial services;*
- (c) *raising* awareness, dissemination, *financial education and training, directly or through their national members,* including to a wide audience of *consumers, other financial services end-users in the area of financial services, and* non-experts;
- (d) activities reinforcing the interactions between the members of the organisations referred to in Article 3 *as well as* advocacy *and policy advice* activities fostering the positions of those members at Union level *and fostering the public and general interest in financial and EU regulation.*

Article 2

Objectives

1. The Programme shall have the following objectives:
 - (a) to further enhance the *active* participation *and involvement* of consumers and other financial services end-users, as well as stakeholders representing *the* interests *of consumers and other financial services' end-users*, in Union *and relevant multilateral* policy-making in the area of financial services;
 - (b) to contribute to the information of consumers and other financial services end-users, as well as stakeholders representing their interests, about issues at stake in the regulation of the financial sector.

2. ***The Commission shall ensure that the Programme is regularly monitored against the objectives set out in paragraph 1 in particular through the provision of the following by the beneficiaries:***

- (a) a yearly description of the actions performed by the beneficiaries *under* the Programme;
- (b) an annual activity report which shall include quantitative and qualitative indicators for each activity planned and conducted by the beneficiaries;
- (c) *a financial report.*

Monitoring shall include the drawing up of the report referred to in Article 9(1).

Article 3
Beneficiaries

1. Finance Watch and Better Finance shall be beneficiaries of the Programme ('beneficiaries').
2. In order to benefit from the Programme, **the** beneficiaries shall remain non-governmental, non-profit-making legal entities, independent of industry, commerce or business. They shall have no other conflicting interests and represent through their members the interests of Union consumers and other end-users in the **area** of financial services. ***In order to cover the interests of consumers and other financial services end-users in as many Member States as possible, the beneficiaries shall seek to expand their network of active members within the Member States, and thus strive to ensuring comprehensive geographical coverage. The Commission shall assist the beneficiaries in identifying potential members in Member States.*** The Commission shall **also** ensure continued compliance with these criteria for the duration of the Programme by including them in the annual work programmes referred to in Article 7 and by assessing annually whether the beneficiaries meet **those** criteria before awarding the action grants referred to in Article 4.

3. ***In the event that*** the two beneficiaries referred to in paragraph 1 merge, the resulting legal entity shall become the beneficiary of the Programme.

Article 4

Award of grants

Financing under the Programme shall be provided in the form of action grants awarded on an annual basis and shall be based on the proposals submitted by the beneficiaries in accordance with Article 7.

Article 5

Transparency

1. Any communication or publication related to an action made by a beneficiary and funded under the Programme shall indicate that the beneficiary has received funding from the budget of the Union.

2. *Beneficiaries shall within two months after the adoption of annual work programmes by the Commission make publicly available and at the same time inform relevant consumer non-profit organisations of the following information:*
- (a) *organisation, and scope, of work;*
 - (b) *the possibility of becoming a member, the conditions of membership and the structure of the particular beneficiary;*
 - (c) *activities referred to in Article 1(2).*

Article 6

Financial provisions

1. The financial envelope for the implementation of the Programme for the period from *1 May 2017* to 31 December 2020 shall be maximum EUR 6 000 000 in current prices.

2. The annual appropriations shall be authorised by the European Parliament and the Council within the limits of the multiannual financial framework.

Article 7

Implementation of the Programme

1. The Commission shall implement the Programme in accordance with Regulation (EU, Euratom) No 966/2012.
2. In order to benefit from the Programme, the beneficiaries shall submit every year before **30 November** to the Commission a ***description of*** activities referred to in Article 1 planned for the following year ***aimed to achieve the policy objectives of the Programme ('Proposal'). Those activities shall be described in detail, including their objectives, expected results and impact, estimated costs and timeframe, as well as relevant indicators in order to assess them.***

3. ***The Commission shall*** implement the Programme ***by means of*** annual work programmes ***in accordance with Regulation (EU, Euratom) No 966/2012***. The annual work programmes shall set out the objectives to be pursued, the expected results of the actions performed by the beneficiaries, the method of implementation of those actions and the total amount required to perform those actions. They shall also contain a description of the actions to be financed, an indication of the amount allocated to each action and an indicative implementation timetable. For the action grants, the annual work programmes shall ***include*** priorities and ***the*** essential award criteria ***and maximum rate of co-financing***. The maximum rate of ***direct*** co-financing shall be 60 % of eligible costs. ***In the event that a beneficiary receives funding from members who are themselves recipients of funding under Union financing programmes, the Commission shall limit its annual contribution to ensure that total direct and indirect Union funding for actions under this Programme to that beneficiary does not exceed 70 % of total eligible costs.***
4. The Commission shall adopt the annual work programmes by means of ***a financing decision***.

Article 8

Protection of the financial interests of the Union

1. The Commission shall take appropriate measures **to ensure** that, when **actions** financed under this Regulation are implemented, the financial interests of the Union are protected **by** the application of preventive measures against fraud, corruption and any other illegal activities, **by** effective checks and, if irregularities are detected, **by** the recovery of the amounts wrongly paid and, where appropriate, **by** effective, proportionate and dissuasive administrative and financial penalties.
2. The Commission or its representatives and the Court of Auditors shall have the power of audit, on the basis of documents and of on-the-spot **inspections**, over all grant beneficiaries, contractors and subcontractors who have received Union funds under the Programme.

3. The European Anti-fraud Office (OLAF) may carry out *investigations, including* on-the-spot checks and inspections in accordance with the procedures laid down in Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council¹ and in Council Regulation (Euratom, EC) No 2185/96² with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant agreement or grant decision or a contract funded under this Programme.
4. Without prejudice to paragraphs 1, 2 and 3, cooperation agreements with third countries and international organisations and grant agreements and grant decisions and contracts resulting from the implementation of this Regulation shall expressly empower the Commission, the Court of Auditors and OLAF to conduct such audits *and investigations, in accordance with their respective competences.*

¹ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

² Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

Article 9

Evaluation

1. No later than **12** months before the end of the Programme, the Commission shall submit to the European Parliament and the Council an evaluation report on the achievement of the Programme's objectives ***and shall provide them upon request with the information used for the evaluation work and available to the Commission, while respecting applicable data protection rules and confidentiality obligations.***

That report shall appraise the overall relevance and added value of the Programme, the effectiveness and efficiency of its execution and the overall and individual effectiveness of the beneficiaries' performance in terms of achievements of the objectives set out in Article 2.

2. The report shall be forwarded to the European Economic and Social Committee for information.

Article 10

Transitional provision

Beneficiaries shall submit to the Commission the Proposal for the first year of the Programme by 15 days after the date of entry into force of this Regulation.

Article 11

Entry into force

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union. It shall apply from 1 May 2017 until 31 December 2020.*

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at ...,

For the European Parliament

The President

For the Council

The President
