



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 20 June 2013

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**Interinstitutional File:
2012/0029 (COD)**

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"I" ITEM NOTE

from: Presidency
to: Permanent Representatives Committee (part 2)
Subject: Proposal for a Regulation of the European Parliament and of the Council on improving securities settlement in the European Union and on central securities depositories (CSDs) and amending directive 98/26/EC
- Progress Report

I. INTRODUCTION

1. On 14 March 2012 the Commission transmitted to the Council its proposal for a Regulation of the European Parliament and of the Council on improving securities settlement in the European Union and on central securities depositories (CSDs) and amending directive 98/26/EC (hereinafter the "CSDR").
2. The proposal has been examined by the Working Party on Financial Services at three meetings during the Danish Presidency, three meetings during the Cyprus Presidency and three meetings during the Irish Presidency (26th April and 27th May, and 11th June 2013).
3. During the discussions in the Working Party on Financial Services the Presidency has tabled three overall compromise proposals (docs. 8669/13, 9695/13 and 10618/13) in order to make progress on the file.

II. STATE OF PLAY

4. In general, Member States welcome the aim of the Commission's proposal to introduce further harmonisation and have acknowledged the work of the Presidency in making significant progress on this file. While there is a large measure of agreement on the proposal and we took this file close to maturity for a council general approach, a number of provisions are still subject to some reservations. After the latest meeting of the Working Party on 11th June 2012, the outstanding key issues can be summarized as follows:

a) Settlement Discipline (Article 7)

There is a need for further discussion of this article in order to find the appropriate balance between mandatory buy-in regimes and allowing flexibility for some securities. The main outstanding issue is the flexibility allowed in the extension period for failed buy-ins.

b) Third Country Regimes (Article 23)

A few Member States oppose the need to include a third country regime in the CSDR as they would prefer this to be an area of national competence.

c) Authorisation and Definition of CSD Links (Articles 2 and 17)

There is a need for further discussion around the definitions for CSD links and consequently which CSD links require prior authorisation and which require notification. Further discussion is required on what level of risk would require a link to be pre-authorised.

d) Authorisation of banking CSDs (Article 53)

The main outstanding issue is the process by which a CSD is approved to provide banking services. Some delegations oppose the authorisation requirements being placed on CSDs which provide banking services. There is also opposition from a number of delegations regarding final authorisation resting with ESMA.

e) Conflict of laws (Article 46)

A few Member States would have preferred the deletion of Article 46 on the conflict of laws from the text not to have taken place.

5. After the meeting of 11th June 2013 it appeared that further technical debate is necessary before seeking guidance at political level as to the options to be followed.

III. CONCLUSION

6. Against this background the Presidency proposes to the Permanent Representatives Committee to:
- take note of the progress achieved with regard to the proposal;
 - take note of the Presidency compromise proposal discussed during the meeting of 11th June 2013, as set out in Doc. 10618/13 EF 119 ECOFIN 495 CODEC 1354;
 - invite the incoming Lithuanian Presidency to continue work on the basis of this compromise proposal in order to reach an agreement on a general approach in the near future.
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