



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 20 March 2012

**Interinstitutional File:
2010/0250 (COD)**

**7509/1/12
REV 1
ADD 2**

**EF 58
ECOFIN 239
CODEC 630**

ADDENDUM TO “I” ITEM NOTE

From: General Secretariat of the Council
To: Committee of Permanent Representatives (Part I)

No. Cion prop.: 13917/10 EF 117 ECOFIN 543 CODEC 879

Subject: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF
THE COUNCIL on OTC derivative transactions, central counterparties and trade
repositories (EMIR)
- Approval of the final compromise text

Please find enclosed a Commission declaration on the Proposal in subject.

Declaration by the Commission concerning the proposal for a Regulation of the European Parliament and the Council on OTC derivative transactions, central counterparties and trade repositories (EMIR)

The Commission welcomes the political agreement reached on EMIR, but notes for the minutes that it has legal objections against one provision in the text.

The Commission considers that Article 67a (3) should be deleted.

The Commission is of the view that Article 290 is to be interpreted as meaning that it is autonomous in the preparation and adoption of delegated acts. The standard recital on expert advice contained in the Common Understanding agreed between the three institutions is a reflection of this interpretation. It is therefore not acceptable and is contrary to Article 290 to go beyond the recital as agreed in the Common Understanding and to include an obligation to consult experts in the substantive provisions.