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PROPOSAL

From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 29 September 2016

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
the European Union

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Subject: ANNEXES to the Proposal for an Interinstitutional Agreement on a
mandatory Transparency Register

Delegations will find attached document COM(2016) 627 final ANNEXES 1-4.

Encl.: COM(2016) 627 final ANNEXES 1-4



Brussels, 28.9.2016
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ANNEXES 1 to 4

ANNEXES

to the Proposal for an Interinstitutional Agreement

on a mandatory Transparency Register

ANNEX I

CLASSIFICATION OF REGISTRANTS

The Secretariat applies the below classification of registrants, which it may modify.

| Classification sections of registrants | | |
|--|------------|---|
| I. Professional consultancies, law firms, self-employed consultants | | |
| a | Subsection | Professional consultancies |
| b | Subsection | Law firms |
| c | Subsection | Self-employed consultants |
| II. Companies, trade/business associations, trade unions, professional associations | | |
| a | Subsection | Companies |
| b | Subsection | Trade and business associations |
| c | Subsection | Trade unions and professional associations |
| d | Subsection | Event-organising entities |
| III. Non-governmental organisations | | |
| a | Subsection | Non-governmental organisations, platforms, networks, ad-hoc coalitions, temporary structures and other similar organisations. |
| IV. Think tanks, research and academic institutions | | |
| a | Subsection | Think tanks and research institutions |
| b | Subsection | Academic institutions |
| V. Interest representatives not covered by the preceding sections | | |
| a | Subsection | Organisations representing churches and religious communities |
| b | Subsection | Other entities not covered by preceding sections |

ANNEX II

INFORMATION TO BE PROVIDED BY REGISTRANTS

I. GENERAL INFORMATION

- (a) name of the entity; address of head office and EU office, if different from head office; phone number; e-mail address;¹ website;
- (b) name of the person legally responsible for the organisation and person in charge of EU relations; names of the persons with authorisation for access to the European Parliament's premises;²
- (c) an estimate of the full-time equivalents (FTEs) for all persons involved in activities covered by the register according to the following percentages of a full-time activity: 10 %, 25 %, 50 %, 75 % or 100 %;
- (d) goals/remit — fields of interest — activities falling within the scope of the register — level of engagement (global, European, national, regional);
- (e) member organisations of the registrant including geographical coverage and registrant's membership or affiliation to relevant networks and associations falling within the scope of the register.

II. SPECIFIC INFORMATION

A. Activities covered by the register

Details about EU legislative proposals, policies or initiatives subject of the interaction(s).

B. Links with EU institutions

- (a) membership of expert groups and other EU supported forums and platforms;
- (b) membership of, or participation in, European Parliament intergroups and industry forums.

¹ E-mail address provided will not be published.

² Registrants can request authorisation for access to the European Parliament's premises at the end of the registration process. The names of individuals who receive access passes to the European Parliament's premises shall be inserted in the register. Registration shall not confer an automatic entitlement to such an access pass.

C. Financial information related to the activities covered by the register

All amounts indicated are in euros.

Costs

All registrants promoting their own interests vis-à-vis any of the three institutions shall provide an estimate of the annual costs related to activities covered by the register according to the below grid. The estimate of annual costs shall cover a full year of operations and refer to the most recent financial year closed, as of the date of registration or of the annual update of the registration details.

Annual costs for activities covered by the register:

< 10 000

10 000 – 24 999

25 000 – 49 999

50 000 – 99 999

100 000 – 199 999

200 000 – 299 999

300 000 – 399 999

400 000 – 499 999

500 000 – 599 999

600 000 – 699 999

700 000 – 799 999

800 000 – 899 999

900 000 – 999 999

1 000 000 – 1 249 999

1 250 000 – 1 499 999

1 500 000 – 1 749 000

1 750 000 – 1 999 999

2 000 000 – 2 249 999

2 250 000 – 2 499 999

2 500 000 – 2 749 000
2 750 000 – 2 999 999
3 000 000 – 3 499 999
3 500 000 – 3 999 999
4 000 000 – 4 499 999
4 500 000 – 4 999 999
5 000 000 – 5 499 999
5 500 000 – 5 999 999
6 000 000 – 6 499 999
6 500 000 – 6 999 999
7 000 000 – 7 999 999
8 000 000 – 8 999 999
9 000 000 – 9 999 999
> 10 000 000

Clients shall declare all intermediaries carrying out activities covered by the register on their behalf and the cost for each individual intermediary according to the below grid. The estimate of annual costs shall cover a full year of operations and refer to the most recent financial year closed, as of the date of registration or of the annual update of the registration details.

Bracket size of representation costs per intermediary:

< 10 000
10 000 – 24 999
25 000 – 49 999
50 000 – 99 999
100 000 – 199 999
200 000 – 299 999
300 000 – 399 999
400 000 – 499 999
500 000 – 599 999

600 000 – 699 999
700 000 – 799 999
800 000 – 899 999
900 000 – 1 000 000
> 1 000 000

Any current intermediaries that are not covered by the most recent financial year closed shall be declared separately by name.

Revenue

Intermediaries shall declare the annual revenue generated attributable to activities covered by the register according to the below grid. The annual revenue generated shall cover a full year of operations and refer to the most recent financial year closed, as of the date of registration or of the annual update of the registration details.

Revenue from individual clients for activities covered by the register shall be listed according to the below grid:

Bracket size of revenue generated per client:

< 10 000
10 000 – 24 999
25 000 – 49 999
50 000 – 99 999
100 000 – 199 999
200 000 – 299 999
300 000 – 399 999
400 000 – 499 999
500 000 – 599 999
600 000 – 699 999
700 000 – 799 999
800 000 – 899 999
900 000 – 999 999

> 1 000 000

Total annual revenue generated for activities covered by the register shall be calculated automatically by the register's system based on the aggregate of the estimated revenue generated per client.

Intermediaries shall declare all clients, on behalf of whom activities covered by the register are carried out.

Any current clients that are not covered by the most recent financial year closed shall be declared separately by name.

Intermediaries acting in their own interest (i.e. not on behalf of their clients) shall declare this in their registration form and shall separately specify the costs for those activities pursuant to the Costs section above.

All registrants, including intermediaries carrying out activities falling within the scope of this agreement, shall declare the amount and source of EU grants contributing to their operating costs.

Specific information obligations

Registrants that are legally registered as 'not-for-profit' entities shall provide:

- a) the total budget of the registrant for the most recent financial year closed;
- b) the main sources of funding by category (for example, public financing, members contributions, grants, donations, etc.);
- c) amount of each contribution exceeding 10 % of the total budget, if the contributions are above 10 000 euros, and the name of the contributor.

Implementation

The Secretariat shall provide an online registration form and guidelines for registrants on the financial modalities to be declared pursuant to this Annex.

ANNEX III

CODE OF CONDUCT

The three institutions consider that the registered interest representatives interacting with them, whether on a single occasion or frequently, should behave in conformity with this Code of Conduct.

The registrants acknowledge the below set of rules and principles, and agree to comply with them. In particular, registrants shall:

- (a) in their relations with any of the three institutions, always identify themselves by name, registration number, the entity or entities they work for or represent; declare the interests and objectives they promote as well as specify the clients or members whom they represent and, where applicable, their registration number;
- (b) not obtain or try to obtain information or decisions dishonestly, by use of undue pressure, or by inappropriate behaviour;
- (c) not misrepresent the effect of registration in such a way as to be likely to mislead or have negative reputational impact on the register, or use the logos of the Union and any of the three institutions without express authorisation;
- (d) ensure that, to the best of their knowledge, information that they provide upon registration, and subsequently administer in the framework of their activities covered by the register, is complete, up-to-date and not misleading: they agree for this information to be in the public domain;
- (e) not distribute documents obtained from the institutions to third parties against payment;
- (f) respect and avoid any obstruction to the implementation and application of all rules, codes and practices pertaining to good governance and transparency established by the three institutions, as made available on the register's website;
- (g) not induce MEPs, members of the Commission or staff of any of the three institutions to contravene the rules and standards of behaviour applicable to them;
- (h) if employing former MEPs, members of the Commission or staff of any of the three institutions, respect the obligations of those individuals to abide by the confidentiality requirements and rules applicable to them after leaving the respective institution;

- (i) insofar engaged in a client-intermediary relationship: (i) ensure that all parties in such relationship are registered in the register, and (ii) as clients or intermediaries, allow for the relevant publication of the information concerning the relationship on the register pursuant to Annex II of this interinstitutional agreement;
- (j) agree: (i) to present, if requested, to the Secretariat the documents and any other supporting materials demonstrating their eligibility and that the information submitted is accurate, and (ii) to cooperate sincerely and constructively with the Secretariat;
- (k) agree that they may be subject to the investigation procedures and, where applicable, measures laid down in Annex IV;
- (l) take appropriate steps to ensure that their employees engaged in activities covered by the register are informed about the registrant's commitments under this Code of Conduct;
- (m) inform whomever they represent in the framework of activities covered by the interinstitutional agreement of their obligations towards the EU institutions flowing from the Code of Conduct;
- (n) agree to respect, and avoid any obstruction to, the specific access and security rules and arrangements established by the signatory institutions.

ANNEX IV

INVESTIGATIONS AND MEASURES

1. General

- 1.1. Where the Secretariat learns about a possible failure to comply with the provisions of the Code of Conduct, it may open an investigation.
- 1.2. The investigation may be opened either on the basis of a received complaint or at the Secretariat's own initiative.
- 1.3. The investigation is an administrative procedure involving the Secretariat and the registrant.
- 1.4. The provisions concerning investigations shall apply both to investigations opened following complaints received as well as to own-initiative investigations.

2. Complaints and opening of investigations

- 2.1. Any natural or legal person may submit a complaint to the Secretariat. Complaints shall be submitted in writing. In order to be admissible, the complaint shall:
 - a) identify the registrant concerned and clearly set out the content of the complaint;
 - b) provide the name and contact details of the complainant;
 - c) be lodged within one year as of the alleged violation;
 - d) be adequately supported by evidence demonstrating a reasonable probability of a failure to comply with the provisions of the Code of Conduct.
- 2.2. The Secretariat shall inform the complainant whether the complaint is admissible. For inadmissible complaints, the Secretariat shall, where possible, inform the complainant how to submit an admissible complaint.
- 2.3. Without prejudice to the preceding paragraphs, where the Secretariat considers that an inadmissible complaint indicates the possibility of a sufficiently serious failure to comply with the provisions of the Code of Conduct, it may open an investigation at its own initiative.

3. Requests for clarification

- 3.1. If the Secretariat learns of a possible failure to comply with the provisions of the Code of Conduct that could lead to an investigation, it may, where it deems appropriate and effective, contact the registrant concerned with a request to clarify and remedy the possible failure.
- 3.2. The Secretariat shall set the registrant a reasonable deadline to comply with the request in view of the factual circumstances of the possible failure.
- 3.3. If the registrant's reaction is satisfactory and the Secretariat considers the matter settled, it may close the request and, if applicable, inform the complainant accordingly.
- 3.4. Where the registrant's reply is not satisfactory the Secretariat opens an investigation, as outlined in section 5 of this Annex.

4. Investigative powers

- 4.1. The registrant shall fully cooperate with any request for information and documents in the investigation.
- 4.2. The registrant shall, upon request, make available to the Secretariat documents of relevance to the investigation. The Secretariat may decide to inspect and/or take copies of such documents in the registrant's possession.
- 4.3. Where the Secretariat inspects documents, it shall draft a report containing the information on facts relevant to the investigation. A copy of the report shall be provided to the registrant.
- 4.4. The Secretariat may decide to hear the registrant concerned and/or the complainant.
- 4.5. The registrant and complainant may indicate which document (or parts of it) and/or information provided by them on the basis of sections 4.2 – 4.4 above should be considered confidential by reference to the exceptions in Article 4 of Regulation 1049/2001.

5. Investigations

- 5.1. When opening an investigation, the Secretariat informs the registrant of the suspected failure to comply with specific provisions of the Code of Conduct, the reasoning underpinning it and any relevant supporting evidence.

In exceptional and duly justified cases, the Secretariat may, awaiting the decision foreseen in section 9, remove a registration from the public website of the register to prevent reputational damage to the European Union institutions, the register or third parties. In these cases, the Secretariat informs the registrant at the same time of the reasons for this removal and any relevant supporting evidence.

- 5.2. The registrant shall submit a response within 20 working days.
- 5.3. The Secretariat may decide to grant a longer period of time to submit the response if justified by the objective characteristics of the specific investigation.
- 5.4. If a registrant fails to observe the deadline for submitting a response, the Secretariat may, if not yet done so, remove the relevant registration from the public website of the register. The Secretariat may decide to reintroduce the registration once the registrant provides its response.
- 5.5. If the Secretariat requires further information or clarifications, it may request them from the registrant in accordance with sections 5.1 – 5.3 above.
- 5.6. The complainant shall be informed of the opening of the investigation.

6. Seeking solutions

- 6.1. If, upon having examined all relevant elements in the investigation, the Secretariat forms the view that the registrant failed to comply with the Code of Conduct, it may seek any solution it deems appropriate to remedy that failure and/or mitigate its future effects.
- 6.2. Where the registrant concerned cooperates to give effect to that solution, the investigation shall be closed. The Secretariat may decide to apply to cooperative registrants a more lenient measure or to close the investigation without applying any measure.
- 6.3. Where the registrant does not give satisfactory effect to the solution, the Secretariat may close the investigation and issue a decision on the basis of the information at its disposal.

7. Failure to cooperate with the Secretariat sincerely and constructively

If the Secretariat considers that the registrant concerned does not cooperate sincerely and constructively in the investigation stages laid down in section 5 above, the Secretariat may, after having given the registrant the possibility to make known its own views in writing, close the investigation by including a finding of violation of point (j) of the Code of Conduct and applying measures in section 10 below based on the information at its disposal.

8. Right to be heard

The registrant shall have the possibility to make known its own views in writing before any decision concluding in a failure to comply with the Code of Conduct is taken.

9. Decision

- 9.1. The Secretariat closes an investigation with a reasoned decision. The decision shall specify whether a failure to comply with the Code of Conduct was established and, if applicable, what measure was applied.
- 9.2. Registrants shall be informed of their right to lodge a request for review or of the remedies open to them.
- 9.3. The complainant shall be informed on the outcome of the complaint.

10. Measures

- 10.1. Where the Secretariat establishes a violation of the Code of Conduct, it may impose the following measures:
 - a) formal warning to the registrant, with an indication of the infringed provision of the Code of Conduct;
 - b) suspension of individual or multiple types of interaction available to the registrant listed under Article 5 of this interinstitutional agreement for a period between 15 days and 1 year;
 - c) removal of the registration from the register for a period between 15 days and 2 years.
- 10.2. When deciding on the severity of the measure, the Secretariat shall duly take into account all relevant circumstances of an individual case with the objectives pursued by the interinstitutional agreement.
- 10.3. Registrants with individual or multiple types of interaction suspended may not enjoy said types of interaction until their period of suspension has expired and they have satisfactorily remedied the grounds that led to the suspension, whichever period of the two is longer.

- 10.4. Registrations removed from the register may not be re-entered until the period of removal has expired and the registrant has satisfactorily remedied the grounds that led to the removal.
- 10.5. The complainant shall be informed on the final outcome of the complaint and, where applicable, which of the measures under section 10.1 was applied to the registrant.

11. Review

- 11.1. Registrants that were subject to measures in section 10.1 may lodge a reasoned request for review of the decision by the Secretariat. The exhaustion of the review procedure shall entitle the registrants to use the remedies foreseen in section 12 of this Annex.
- 11.2. The request for review shall be sent to the Management Board within 15 working days as of receipt of the notification of the measure.
- 11.3. The requests for review shall be re-examined by the Management Board.
- 11.4. A request for review shall not suspend the measure, unless the Management Board decides otherwise on the basis of the reasoned request for review.
- 11.5. The Management Board shall inform the registrant on the outcome of the review procedure within 20 working days. A failure to reply within that period shall be understood as being an implicit rejection of the request for review.
- 11.6. Registrants that are not satisfied with the outcome of the review procedure may make use of the remedies in section 12.

12. Remedies

Registrants that are not satisfied with the decision by the Management Board may submit an application to the Court of Justice or a complaint to the European Ombudsman in accordance with Articles 263 and 228 TFEU.