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## 'I' ITEM NOTE

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From:	General Secretariat of the Council
To:	Permanent Representatives Committee (Part 2)
No. Cion doc.:	COM(2016) 388 final
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 - Negotiating mandate

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## I. INTRODUCTION

1. On 15 June 2016, the Commission transmitted to the Council its 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.

2. The European Economic and Social Committee adopted its opinion 19 October 2016. The reports of the European Parliament's ECON and IMCO Committees are still pending.

## **II. STATE OF PLAY**

3. The proposal has been examined by the Working Party on Financial Services in two meetings during the Slovak Presidency. Following deliberations in the Working Party on 28 September 2016, and a silence procedure within the framework of the Working Party, which ended on 26 October 2016, the latest Presidency compromise proposal for a negotiating mandate, as set out in Annex, is now supported by all delegations.

## **III. CONCLUSION**

4. Against this background it is recommended that the Permanent Representatives Committee:
  - agrees on the negotiating mandate with regard to the proposed Regulation, as set out in Annex, and
  - invites the Presidency to start, when practicable, negotiations with the European Parliament on the basis of that mandate with a view to reaching an agreement at first reading.

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**

(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 Committee<sup>1</sup>,

Acting in accordance with the ordinary legislative procedure,

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<sup>1</sup> OJ C , , p. .

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. 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 holders, pension fund participants, 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, it is therefore important to increase the involvement of consumers and other end-users, as well as of stakeholders representing their interests, in the Union decision-making process in the financial sector.
- (3) To achieve this objective, 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 and to enhance their capacity to participate in Union policy making in the field of financial services. 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 wider public is better informed about issues at stake in financial regulation and that the participation of consumers, 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. These grants were awarded under a pilot project during two years, 2012 and 2013, and a preparatory action since 2014. Since a preparatory action can be used up to three years<sup>2</sup>, 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. Its mission is to defend the interests of civil society in the financial sector. Thanks to 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 field of financial services.
- (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.
- (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.

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<sup>2</sup> 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).

- (8) Both organisations provided added value both to the sum of activities of their national members and to Union consumers in a way that national consumer advocacy groups were unable to deliver. National organisations dealing with all kinds of consumers' issues lack technical expertise in policy areas related to financial services. In addition, no other similar organisations have been identified at Union level so far. The evaluation also showed that no other applicant responded to the successive yearly calls for proposal since 2012, which tends to show that no other organisation is currently able to carry out similar Union-wide activities.
- (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. Co-funding from the Union is therefore necessary to ensure the resources needed to achieve the desired policy objectives in the coming years, providing financial stability to those organisations 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 ('Programme'), which will supplement similar policies pursued by Member States at national level.
- (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.
- (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 should lay 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 management<sup>3</sup> 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.
- (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 1268/2012<sup>4</sup>.
- (16) 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.

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<sup>3</sup> OJ C 373, 20.12.2013, p. 1.

<sup>4</sup> 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).

- (16a) 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.
- (17) 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 the 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 January 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 policy making in the field of financial services.
2. The Programme shall cover the following activities:
  - (a) research activities, including production of own research and data, and development of expertise;
  - (b) awareness and dissemination activities, including to a wide audience of non-experts;
  - (c) activities reinforcing the interactions between the members of the organisations referred to in Article 3 and advocacy activities fostering the positions of those members at Union level.

## *Article 2*

### *Objectives*

1. The Programme shall have the following objectives:
  - (a) to further enhance the participation of consumers and other financial services end-users, as well as stakeholders representing their interests, in Union 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 objectives set out in paragraph 1 shall be monitored in particular through a yearly description of the actions performed by the beneficiaries of the Programme, an annual activity report which shall include quantitative and qualitative indicators for each activity planned and conducted by the beneficiaries and a financial report.

*Article 3*  
*Beneficiaries*

1. Finance Watch and Better Finance shall be beneficiaries of the Programme ('beneficiaries').
2. In order to benefit from the Programme, these 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 field of financial services. The Commission shall 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 these criteria before awarding the action grants referred to in Article 4.
3. Should 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.
  - 1a. Relevant consumer non-profit organisations of each Member State shall be identified by the beneficiaries in close cooperation with the Commission.

2. Beneficiaries shall within 2 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 about the following information:
  - a) organisation and scope of work;
  - b) the possibility to become 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 January 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 proposal describing the activities referred to in Article 1 planned for the following year ("Proposal").

3. In order to implement the Programme, the Commission shall adopt annual work programmes. Those 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 set out priorities and essential award criteria. The maximum rate of co-financing shall be 60% of 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 ensuring that, when activities financed under this Regulation are implemented, the financial interests of the Union are protected through the application of preventive measures against fraud, corruption and any other illegal activities, through effective checks and, if irregularities are detected, through the recovery of the amounts wrongly paid and, where appropriate, through 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 on-the-spot checks, over all grant beneficiaries, contractors and subcontractors who have, directly or indirectly, received Union funds under the Programme.

3. The European Anti-fraud Office (OLAF) may carry out on-the-spot checks and inspections on economic operators concerned directly or indirectly by such funding in accordance with the procedures laid down in Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council<sup>5</sup> and in Council Regulation (Euratom, EC) No 2185/96<sup>6</sup> 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, directly or indirectly, 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, on-the-spot checks and inspections. Where the implementation of an action is outsourced or subdelegated, in whole or in part, or where it requires the award of a procurement contract or financial support to be given to a third party, the grant agreement or decision shall include the beneficiary's obligation to impose on any third party involved explicit acceptance of those powers of the Commission, the Court of Auditors and OLAF.

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<sup>5</sup> 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).

<sup>6</sup> 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 twelve 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. 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 9a*  
*Transitional provisions*

1. 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 10*  
*Entry into force*

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

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

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*