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INFORMATION NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

Subject: Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 1286/2014 of the European Parliament and of the Council on key information documents for packaged retail and insurance-based investment products as regards the date of its application
- Outcome of the European Parliament's first reading
(Brussels, 30 November to 1st December 2016)

I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the joint declaration on practical arrangements for the codecision procedure ¹, a number of informal contacts took place between the Council, the European Parliament and the Commission with a view to securing the adoption of this file at first reading, thereby avoiding the need for a second reading and conciliation.

On 23 November 2016, the Chairman of the Permanent Representatives Committee (part 2) wrote to the Chairman of the Parliament's Committee on Economic and Monetary Affairs to inform him that, following a discussion in the Permanent Representatives Committee earlier that day, the Council did not intend to object to or amend the Commission's proposal, subject to any necessary legal-linguistic revision.

¹ OJ C 145, 30.6.2007, p.5

In this context the Rapporteur, Mrs Pervenche BERÈS (S&D - FR), presented, on behalf of the Committee on Economic and Monetary Affairs, a report which proposed that the Parliament should adopt a position at first reading that would simply take over the Commission's proposal. This approach had been agreed during the informal contacts referred to above.

No amendments were tabled for the plenary.

II. VOTE

When it voted on 1 December 2016, the plenary adopted the Committee's report without amendment and therefore adopted a first-reading position that takes over the Commission's proposal.

The Council should therefore be able to approve the Parliament's position with the result that the act will be adopted in the wording which corresponds to the position of the Parliament.

The text of the Parliament's legislative resolution is set out in the Annex to this document.

Date of application: Key information documents for packaged retail and insurance-based investment products *I**

European Parliament legislative resolution of 1 December 2016 on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 1286/2014 of the European Parliament and of the Council on key information documents for packaged retail and insurance-based investment products as regards the date of its application (COM(2016)0709 – C8-0457/2016 – 2016/0355(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2016)0709),
- having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0457/2016),
- having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
- having regard to its resolution of 14 September 2016 on the Commission Delegated Regulation of 30 June 2016 supplementing Regulation (EU) No 1286/2014 of the European Parliament and of the Council on key information documents for packaged retail and insurance-based investment products by laying down regulatory technical standards with regard to the presentation, content, review and revision of key information documents and the conditions for fulfilling the requirement to provide such documents (C(2016)03999 – 2016/2816(DEA)), and in particular paragraph 4 thereof²,
- after consulting the European Central Bank,

² Texts adopted, P8_TA(2016)0347.

- after consulting the European Economic and Social Committee,– having regard to the undertaking given by the Council representative by letter of 23 November 2016 to approve Parliament’s position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs (A8-0356/2016),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

P8_TC1-COD(2016)0355

Position of the European Parliament adopted at first reading on 1 December 2016 with a view to the adoption of Regulation (EU) 2016/... of the European Parliament and of the Council amending Regulation (EU) No 1286/2014 on key information documents for packaged retail and insurance-based investment products as regards the date of its application

(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 Article 114 thereof,

Having regard to the proposal from the European Commission,

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

After consulting the European Central Bank,

After consulting the European Economic and Social Committee,

Acting in accordance with the ordinary legislative procedure³,

³ *Position of the European Parliament of 1 December 2016.*

Whereas:

- (1) Regulation (EU) No 1286/2014 of the European Parliament and of the Council⁴ introduced a series of measures aimed at enhancing investor protection and rebuilding consumer trust in the financial services industry by increasing transparency in the retail investment market. It requires manufacturers of packaged retail and insurance-based investment products to produce a key information document ('KID').
- (2) Regulation (EU) No 1286/2014 empowers the European Supervisory Authority (European Banking Authority) established by Regulation (EU) No 1093/2010 of the European Parliament and of the Council⁵, the European Supervisory Authority (European Insurance and Occupational Pensions Authority) established by Regulation (EU) No 1094/2010 of the European Parliament and of the Council⁶ and the European Supervisory Authority (European Securities and Markets Authority) established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council⁷ to prepare regulatory technical standards specifying the elements of the KID.

⁴ Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs) (OJ L 352, 9.12.2014, p. 1).

⁵ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

⁶ Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010, p. 48).

⁷ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

- (3) On 30 June 2016, the Commission adopted a delegated regulation supplementing Regulation (EU) No 1286/2014⁸ (the ‘delegated regulation’) which specifies the presentation and the content of the KID and its standardised format, the methodology underpinning the presentation of risk and reward and the calculation of costs, the conditions and the minimum frequency for reviewing the information contained in the KID and the conditions for fulfilling the requirement to provide the KID to retail investors.
- (4) On 14 September 2016, the European Parliament objected to the delegated regulation adopted by the Commission on 30 June 2016 and called, together with a large majority of Member States, for a deferral of the date of application of Regulation (EU) No 1286/2014.

⁸ Commission delegated regulation of 30 June 2016 supplementing Regulation (EU) No 1286/2014 of the European Parliament and of the Council on key information documents for packaged retail and insurance-based investment products (PRIIPs) by laying down regulatory technical standards with regard to the presentation, content, review and revision of key information documents and the conditions for fulfilling the requirement to provide such documents (C(2016)3999).

- (5) A deferral of twelve months will give additional time for those concerned to adhere to the new requirements. In the light of the exceptional circumstances, it is appropriate and justified for Regulation (EU) No 1286/2014 to be amended accordingly.
- (6) Given the very short period of time left before the application of the provisions laid down in Regulation (EU) No 1286/2014, this Regulation should enter into force without delay.
- (7) Therefore, it is also justified to apply in this case the exception for urgent cases provided for in Article 4 of Protocol (No 1) on the role of national Parliaments in the European Union, annexed to the Treaty on European Union, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community,

HAVE ADOPTED THIS REGULATION:

Article 1

In Regulation (EU) No 1286/2014, the second paragraph of Article 34 is replaced by the following:

'It shall apply from 1 January 2018'.

Article 2

This Regulation shall enter into force on the 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 ,

For the European Parliament

The President

For the Council

The President