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"A" ITEM NOTE

From: General Secretariat of the Council
To: Council

Subject: Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on payment services in the internal market and amending Directives 2002/65/EC, 2013/36/EU and 2009/110/EC and repealing Directive 2007/64/EC [First reading]
- General approach

I. INTRODUCTION

1. On 24 July 2013 the Commission transmitted to the Council its proposal for a Directive of the European Parliament and of the Council on payment services in the internal market and amending Directives 2002/65/EC, 2013/36/EU and 2009/110/EC and repealing Directive 2007/64/EC.
2. The Directive aims at further developing the EU-wide market for electronic payments in a technologically neutral manner and at adapting the existing payment framework to emerging and innovative payment services, in particular internet and mobile payments. The Directive facilitates and renders more secure the use of internet payment services by including within its scope new so-called "payment initiation services" and "account information services". It also reinforces consumer protection through revised information and liability rules.

3. The ECON Committee of the European Parliament voted its report on 12 March 2014. The European Economic and Social Committee and the European Central Bank¹ delivered their opinions on 11 December 2013 and 5 February 2014 respectively.
4. The Permanent Representatives Committee of 5 December 2014, agreed the negotiating mandate with regard to the proposed Regulation, as set out in document 16154/14.
5. The LU delegation cannot support the general approach with regard to the proposed Directive and has issued the declaration set out in the ANNEX.

II. CONCLUSION

6. Therefore, the Council is invited to:
 - confirm the general approach with regard to the proposed Regulation, as set out in document 16154/14 EF 328 ECOFIN 1111 CONSOM 260 CODEC 2379; and
 - request the Presidency to conduct negotiations with the European Parliament on the basis of the agreed general approach with a view to reaching an agreement at first reading.

¹ Doc. 8759/14

DECLARATION BY LUXEMBOURG

The first payment services directive (2007/64/EC) provided the legal basis for the creation of an EU-wide single market for payments and put in place a single passport for payment services providers.

The compromise text of the new payment services directive which repeals directive 2007/64/EC, undermines the passporting regime established by directive 2007/64/EC and the principle of home Member State supervision, and thereby reintroduces potential for market fragmentation. Such development in the area of cross-border supervision of payment institutions is in contradiction with the aim of the initial proposal which is to help developing an EU-wide market for electronic payments, and runs counter to the existing achievements in other financial services legislation. Luxembourg considers that it is necessary to adopt a coherent approach on cross-border supervision and the respective balance between the powers of home and host competent authorities in all financial services files.

Luxembourg emphasizes that the elements that undermine the existing passporting regime were neither inherent in the Commission initial proposal, nor are they part of the European Parliament's report as adopted in its plenary session.

In light of the above, Luxembourg cannot support the Council general approach and expects that future negotiations with the European Parliament will address Luxembourg's concerns.
