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**"A" ITEM NOTE**

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From:	General Secretariat of the Council
To:	Council
No. prev. doc.:	10507/15
Subject:	Regulation EU No 806/2014 of the European Parliament and of the Council establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 - Single Resolution Mechanism Procedure: Council Decision

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1. On 15 July 2014 the Council adopted the Single Resolution Mechanism regulation (the Regulation), a key element of the European banking union, which will be fully applicable as from 1 January 2016.
2. Article 18 of the Regulation sets out the resolution procedure empowering the Single Resolution Board (SRB) to adopt a resolution scheme in case an entity is failing or is likely to fail without a reasonable prospect for alternative measures to prevent the failure within a reasonable timeframe.
3. The Council may only be involved in the resolution procedure in case the Commission presents a proposal to the Council to either object to the resolution scheme, on the grounds that it does not fulfil the criterion of public interest, or approve or object to a material modification of the amount of the resolution fund provided for in the resolution scheme.

4. The urgency of the procedure requires the shortest and quickest possible preparatory decision-making process of the Council decision, involving Member States' representatives who have the competence and the authority to prepare decisions on the bank resolution case in question.
5. On 9 July 2015, COREPER approved the "I" item note establishing the High Level Working Party which will prepare the work of the Council as set out in document 10508/15.
6. Setting up an efficient process to allow the Council to decide on a proposal from the Commission, between 12 and 24 hours after the SRB decision, also requires, a clarification as to how the Council's rules of procedure should apply to face the challenges of the 12/24 hours procedure, namely allowing for the use of written procedures and a simplified language regime.
7. The Council is therefore invited to adopt, as an "A" item, the Decision on the resolution procedure set out in the Annex.

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**COUNCIL DECISION****of ...****on the resolution procedure**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Council Decision of 1 December 2009 adopting the Council's rules of procedure and, in particular, Articles 12(1) and 14(1) thereof,

Whereas:

- (1) Article 18(7) of Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of the Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 establishes a resolution procedure whereby the Council may be called to decide on the adoption of resolution schemes.
- (2) From 1 January 2016, the Council acting by simple majority, on the basis of a Commission proposal, may object to a resolution scheme, or approve or object to a material modification of the amount of the Fund provided for in a resolution scheme adopted by the Single Resolution Board within 24 hours from the adoption of the resolution scheme.
- (3) The act of the Council should be adopted by a written vote given the tight deadline as provided for by Article 18(7) of the Regulation. The procedure for objecting to a resolution scheme, or approve or object to a material modification of the amount of the Fund provided thereof is, by nature, urgent.
- (4) Based on the grounds of urgency, the Council may deliberate and take its decision on the basis of documents and drafts drawn up in one of the languages specified in the rules in force governing languages as provided for in Article 14(1) of the Council's Rules of procedure. This should not put into question the obligation to adopt and publish the decision in all languages specified in the rules in force governing languages at a later stage.

HAS ADOPTED THIS DECISION:

Article 1

- (1) Where the Council has to take a decision on the basis of a Commission proposal in the framework of Article 18(7) of Regulation (EU) No 806/2014<sup>1</sup> of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of the Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010, the act of the Council shall be adopted by a written vote.
- (2) When adopting its decision, the Council may deliberate and take decisions on the basis of documents and drafts drawn up in English only.

Article 2

This Decision shall enter into force on the day of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2016.

Done at

For the Council

The President

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<sup>1</sup> OJ L 225 of 30 July 2014.