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"I/A" ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee (Part 2)/Council

No. Cion doc.: C(2015) 9016 final

Subject: COMMISSION DELEGATED REGULATION (EU) .../... of 17.12.2015 supplementing Regulation No (EU) 806/2014 of the European Parliament and the Council with regard to the criteria relating to the calculation of ex-ante contributions, and on the circumstances and conditions under which the payment of extraordinary ex-post contributions may be partially or entirely deferred
= intention not to raise objections to a delegated act

1. On 17 December 2015, the Commission submitted the above-mentioned delegated act¹ to the Council in accordance with the procedure set out in Article 290 TFEU and with Articles 69(5) and 71(3) of Regulation (EU) No 806/2014².
2. During the silence procedure carried out within the framework of the Working Party on Financial Services and expired on 10 February 2016, the Greek, the Italian and the Portuguese delegations raised objections to the above-mentioned delegated act, calling for the reintroduction of the possibility to refer also to national indicators in case of significant imbalances between participating Member States or of an extreme adverse economic situation in one or more participating Member States (Article 3(2) of the text).

¹ Doc. 15516/15 EF 235 ECOFIN 1001 DELACT 179.

² 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 a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010; OJ L 225 of 30 July 2014, p. 1-90.

The Portuguese delegation submitted the statement set out in the Annex, to which also the Greek delegation subscribed.

3. As there is no qualified majority in support of objecting to the above-mentioned delegated act, it is suggested that Coreper recommend that the Council:

- confirm that it has no intention to object to the delegated act and that the Commission and the European Parliament are to be informed thereof, and
- enter into its minutes the statement set out in the Annex to this note.

This implies that, unless the European Parliament objects to it, the delegated act shall be published and enter into force in accordance with Articles 69(5) and 71(3) of Regulation (EU) No 806/2014.

Statement by the Portuguese delegation

on the **COMMISSION DELEGATED REGULATION (EU) .../... of 17.12.2015 supplementing Regulation No (EU) 806/2014 of the European Parliament and the Council with regard to the criteria relating to the calculation of ex-ante contributions, and on the circumstances and conditions under which the payment of extraordinary ex-post contributions may be partially or entirely deferred** (doc. 15516/15 + ADD 1)

Portugal generally welcomes the adoption of the Delegated Regulation with regard to the criteria relating to the calculation of ex-ante contributions, and on the circumstances and conditions under which the payment of extraordinary *ex post* contributions may be partially or entirely deferred.

Nevertheless, Portugal does not agree with the deviation from EBA's recommendation to allow for adjustments also on the basis of adverse economic situations in individual Member States.

First, we consider that important differences between Euro Area Member States persist, in particular on the macroeconomic cycle and financial conditions. Therefore, policy decisions applied at the level of the Euro Area based on the economic and financial situation of Member States and financial institutions should also consider individual specificities, as the average could hide severe crisis in part of the Euro Area which are important to consider in policy decisions. We would therefore be supportive of an exceptional safeguard in the Delegated Regulation for cases of significant imbalances between Member States or of extreme adverse economic situations in individual Member States.

Second, we do not agree with the justification provided by the European Commission in the explanatory memorandum that “Regulation (EU) N° 806/2014 does not provide grounds for this proposal” as the “Delegated Regulation only allows for an approach for entities established in all participating MS”. While we agree with the fact that the “Delegated Regulation only allows for an approach for entities established in all participating MS” we do not consider that EBA’s recommendation would violate such principle. Indeed, we consider it was clear from the discussion at the Expert Group on Banking Payment and Insurance on 24 June 2015 that, according to EBA’s recommendation, the Single Resolution Board decision would always apply in a homogeneous way to all institutions in all participating Member States, keeping the relative contributions unchanged, even when taking into account the conjuncture of individual Member States.

Therefore, Portugal opposes to the Delegated Regulation supplementing Regulation No (EU) 806/2014.
