



Council of the  
European Union

Brussels, 8 March 2016  
(OR. en)

6702/16

EF 39  
ECOFIN 192  
DELECT 31

#### "I/A" ITEM NOTE

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

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No. Cion doc.: C(2015) 8835 final

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Subject: COMMISSION DELEGATED REGULATION (EU) .../... of 14.12.2015  
correcting Delegated Regulation (EU) 2015/63 supplementing Directive  
2014/59/EU of the European Parliament and of the Council with regard to  
ex ante contributions to resolution financing arrangements  
= intention not to raise objections to a delegated act

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1. On 14 December 2015, the Commission submitted the above-mentioned delegated act<sup>1</sup> to the Council in accordance with the procedure set out in Article 290 TFEU and with Article 115(4) of Directive 2014/59 EU<sup>2</sup>.

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<sup>1</sup> Doc. 15556/15 EF 238 ECOFIN 1008 DELACT 180.

<sup>2</sup> Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council; OJ L 173, 12.6.2014, p. 190–348.

2. Following the Attachés' meeting on 25 February 2016, and the final silence procedure within the framework of the Working Party on Financial Services, which expired on 1 March 2016, the AT, DE, ES, and SI delegations indicated that they will oppose to the delegated act. As the requirement for the Council to object to the delegated act is a qualified majority, this means that the Council has no intention to object this delegated act. The aforementioned delegations have also issued declarations, as presented in the Annex.
3. It is therefore 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. This implies that, unless the European Parliament objects to it, the delegated act shall be published and enter into force in accordance with Article 115(4) of Directive 2014/59 EU;
  - enter into its minutes the declarations set out in the Annex.

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**Joint declaration by Germany, Austria, Spain**

We object to the Commission Delegated Regulation (EU) .../... of 14.12.2015 correcting Delegated Regulation (EU) 2015/63 (“Corrigendum”), since the treatment of derivatives foreseen in Article 5(3) of the Delegated Regulation (EU) 2015/63 would be materially changed which goes beyond a mere technical adjustment as outlined by the Commission. We request to postpone the objection timeline in order to elaborate a solution together with the other institutions involved, in particular the Commission.

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**Statement by Slovenia**

Slovenia considers that modifications proposed by the Commission Delegated Regulation of 14.12.2015, correcting Delegated Regulation (EU) 2015/63 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to ex ante contributions to resolution financing arrangements do not bring the required legal certainty in part concerning the amendment of art. 5(3) of the delegated Regulation (EU) 2015/63).

Given the importance of this provision for calculation of the risk-based part of contributions to the Single resolution fund, Slovenia would consider it appropriate to be further examined and/or reviewed in a short time on the basis of impact assessment.

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