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'I' ITEM NOTE

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

Subject: Proposal for a Directive of the European Parliament and of the Council on the prudential supervision of investment firms and amending Directives 2013/36/EU and 2014/65/EU
and
Proposal for a Regulation of the European Parliament and of the Council on the prudential requirements of investment firms and amending Regulations (EU) No 575/2013, (EU) No 600/2014 and (EU) No 1093/2010
- Mandate for negotiations with the European Parliament

I. INTRODUCTION

1. On 21 December 2017, the Commission presented proposals for:
 - a Directive on the prudential supervision of investment firms and amending Directives 2013/36/EU and 2014/65/EU; and
 - a Regulation on the prudential requirements of investment firms and amending Regulations (EU) No 575/2013, (EU) No 600/2014 and (EU) No 1093/2010 ¹.

2. The European Economic and Social Committee and the European Central Bank delivered their opinions on 26 April 2018 and 13 September 2018 respectively ².

¹ ST 16011/17 and ST 16017/17.

² ST 8409/18 and ST 12149/18.

3. The European Parliament adopted its negotiating mandate on the two proposals during its 1-4 October 2018 plenary session.
4. The Commission presented its Impact Assessment during the Working Party meeting on 25 January 2018.

II. STATE OF PLAY

5. The proposal was examined by the Working Party on Financial Services in eleven meetings during the Bulgarian and Austrian Presidencies. This examination culminated in an Austrian Presidency compromise proposal that was submitted to a silence procedure on 13 December 2018 and which ended the next day, 14 December 2018. This silence procedure was broken by France and Luxembourg³.
6. France and Luxembourg subsequently drafted a compromise proposal on the issue of equivalence, which was submitted to the Member States in a silence procedure launched on 3 January 2019 and closed on 4 January 2019. The outcome of the silence procedure was successful as no delegation broke it. One delegation, however, raised a parliamentary scrutiny reservation but noted that this should not be construed as breaking the silence procedure.
7. The Romanian Presidency has therefore decided to submit to Coreper the Austrian Presidency's proposal (as amended by the subsequent Franco-Luxembourgish compromise proposal on equivalence) as set out in documents 5021/19 and 5022/19.

³ In addition, Denmark placed a parliamentary scrutiny reservation.

III. CONCLUSION

8. The Permanent Representatives Committee is therefore invited to:

- agree on the negotiating mandate with regard to the proposed Directive and Regulation, as set out in documents 5021/19 and 5022/19; and
 - authorise the Romanian Presidency to enter into negotiations with the European Parliament on the basis of that mandate with a view to reaching an agreement at first reading.
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