



Council of the  
European Union

Brussels, 13 November 2020  
(OR. en)

12654/20

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#### 'I' ITEM NOTE

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From: General Secretariat of the Council

To: Permanent Representatives Committee

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No. Cion doc.: 12362/20 + ADD 1

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Subject: COMMISSION REGULATION (EU) .../... of XXX amending Regulation (EC) N° 1126/2008 adopting certain international accounting standards in accordance with Regulation (EC) N° 1606/2002 of the European Parliament and of the Council as regards International Accounting Standard 39 and International Financial Reporting Standards 4, 7, 9 and 16

- Intention not to oppose the draft Commission Regulation
- Decision to use the written procedure

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1. Article 3 of Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards<sup>1</sup>, provides that the Commission shall decide on the applicability within the Union of international accounting standards. Those measures shall be adopted in accordance with the regulatory procedure with scrutiny pursuant to Article 6(2) of the Regulation, which notably refers to Article 5a(1) to (4) of Council Decision 1999/468/EC<sup>2</sup>.

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<sup>1</sup> OJ L 243, 11.09.2002, p.1.

<sup>2</sup> Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (OJ L 184, 17.7.1999, p.23), as amended by Decision 2006/512/EC (JO L 200, 22.7.2006, p.11).

2. Therefore, in accordance with Article 5a(2) of Council Decision 1999/468/EC, the accounting regulatory committee established under Regulation (EC) No 1606/2002 was consulted on 19 October 2020 regarding the above-mentioned draft Commission Regulation<sup>3</sup> and voted unanimously in its favour.
3. Consequently, in accordance with Article 5a(3)(a) of Council Decision 1999/468/EC, pursuant to the regulatory procedure with scrutiny if the measures envisaged by the Commission are in accordance with the opinion of the accounting regulatory committee, the Commission submitted on 28 October 2020 the above-mentioned draft Commission Regulation to the Council.
4. The Council may oppose the above-mentioned draft Commission Regulation until 28 January 2021. However, since the draft Commission Regulation provides that the amendments are applicable from 1 January 2021 onward with earlier application permitted, a timely decision by the Council not to oppose the draft Regulation should be encouraged.
5. In accordance with Article 5a(3)(b) of Council Decision 1999/468/EC, the Council, acting by qualified majority, may oppose the Commission's adoption of the draft Commission Regulation on the grounds that the draft measures presented by the Commission:
  - exceed the implementing powers provided for in the basic instrument, or
  - are not compatible with the aim or the contents of the basic instrument, or
  - do not respect the principles of subsidiarity or proportionality.
6. The delegations were asked on 29 October 2020, via a written consultation, to indicate their possible opposition to the above-mentioned draft Commission Regulation before 13 November 2020. No delegation raised any of the above-mentioned grounds for opposition.

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<sup>3</sup> doc 12362/20 + ADD 1

7. The Permanent Representatives Committee is therefore invited to:

- recommend that the Council confirms that it has no intention to oppose the above-mentioned draft Commission Regulation and that the Commission and the European Parliament are to be informed thereof. This implies that, unless the European Parliament opposes to it within three months from its date of referral, the above-mentioned draft Commission Regulation shall be adopted by the Commission and enter into force on the day following its publication in the Official Journal of the European Union;
- decide, in accordance with the first subparagraph of Article 12(1) of the Council's Rules of Procedure and Article 1 of Council Decision 2020/430, that the Council uses the written procedure for the approval of the wording of the letter to be sent to the European Parliament and the Commission expressing the Council's intention not to oppose the above-mentioned draft Commission Regulation, as set out in document 12681/20.

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