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'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Draft REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulations (EU) No 648/2012, (EU) No 575/2013 and (EU) 2017/1131 as regards measures to mitigate excessive exposures to third-country central counterparties and improve the efficiency of Union clearing markets (first reading) - Adoption of the legislative act = Statement

Statement by Czechia

The Czech Republic has welcomed the initiative to make the EU clearing market more attractive and we are very glad that all co-legislators have agreed to include the exemption from clearing obligation for OTC derivatives resulting from post-trade risk reduction services. This will substantially alleviate the unnecessary liquidity burden for EU clients and clearing members, improve proper risk management of derivative portfolios, and thus make the EU capital market generally more competitive with other non-EU jurisdictions.

On the other hand, as we believe in market-driven solutions, we have been concerned about the active account requirement from the very beginning of the EMIR negotiations. At the same time, despite our concerns, we have been always trying to be as much constructive as possible and willing to accept an operational active account requirement as long as it is not overly burdensome for the smallest market participants. Unfortunately, it seems that the latest compromise might have the most burdensome and costly impact just on those entities.

In our view, smaller financial and non-financial market participants will suffer not only from the requirement to open active account itself, but also from substantial compliance cost. It introduces new types of reporting and calculation of several new thresholds. Moreover, the requirements are hard to interpret and are not fully coherent. We have doubts that this approach will increase OTC derivatives trading and clearing in the EU.
