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'I' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee (Part 2)
No. Cion doc.:	9957/20, 9947/20 + ADD1, 9949/20, 9950/20
Subject:	Capital Markets Recovery Package (CMRP) - Mandate for negotiations with the European Parliament

I. INTRODUCTION

1. On 24 July 2020, the European Commission brought forward a Capital Markets Recovery Package (hereafter "CMRP") aimed at facilitating EU's economic recovery from the COVID-19 crisis. The package comprises targeted changes to notably (i) the Markets in Financial Instruments Directive (MiFID II)¹, (ii) the Prospectus Regulation², (iii) the Securitisation Regulation (SecR)³ and (iv) the Capital Requirements Regulation (CRR)⁴. The objective is to alleviate unnecessary administrative burdens in EU legislation so as to facilitate the recapitalisation of EU companies on financial markets, whilst maintaining investor protection.
2. Due to the impossibility to hold physical meeting of Member States' experts in the context of travel restrictions, the CMRP was discussed at technical level through informal videoconference meetings of the Working Party on Financial Services, held on 3, 17 and 28 September 2020.

¹ Doc. 9957/20

² Doc. 9947/20 + ADD 1

³ Doc. 9949/20

⁴ Doc. 9950/20

The Presidency subsequently held an informal videoconference at the level of Financial Services Attachés on 14 October 2020 to finalise agreement on the overall package.

3. In the context of these negotiations, amendments to two legal acts that were not part of the initial Commission's proposal were added to the compromise texts:
 - a) Under the MiFID II amending act: amendments to Directives 2019/878/EU and 2013/36/EU were introduced to fix the six months discrepancy between the application of the amendments to the Investment Funds Directive ("IFD") compared to the application of the simultaneous amendments to the Capital Requirements Directive ("CRD5") agreed in 2019.
 - b) Under the Prospectus Regulation amending act: as Directive 2004/109/EC ("Transparency Directive") currently requires listed companies to prepare all annual financial reports in a European Single Electronic reporting Format ("ESEF") for financial years beginning on or after 1 January 2020, such reporting would start already in 2021. In line with the CMRP objective to alleviate unnecessary administrative burden, amendments to the Transparency Directive were introduced to provide Member States with the option to allow issuers to postpone this requirement by one year.
4. The compromise package tabled by the Presidency at the last above-mentioned informal videoconference was subsequently formally agreed by the required majority of Financial Services Attachés on 15 June 2020, with Denmark entering a parliamentary scrutiny reservation.
5. The objective of the Presidency is to be in a position to adopt the CMRP by the end of the year, considering the urgency of EU's economic recovery.

II. FURTHER STEPS

6. Concerning securitised non-performing exposures, under the securitisation part of the package, it was concluded that the final legal text should, in principle, be aligned with international standards that are still under development by the Basel Committee on Banking Supervision. Since it is expected that the standards will be finalised in November 2020, paragraphs 1, 2 and 3 of Article 269a of CRR have been put between square brackets to allow for further discussions on these provisions, after the international standards will be finalised.

III. CONCLUSION

7. In view of the above, it is suggested that the Committee of Permanent Representatives:

- agree the negotiating mandate with regard to the proposed Capital Markets Recovery Package, as set out in the Addenda 1 to 4 to this note;
- invite the Presidency to start, when practicable, negotiations with the European Parliament on the basis of that mandate with a view to reaching an agreement in the form of a (pre-negotiated) Council position at first reading^[1].

8. Unless objected by Committee of Permanent Representatives, this document and its Addenda will be made public by the General Secretariat of the Council after approval.

^[1] Often referred to as an 'early second-reading agreement'.