



**Joint Transparency
Register Secretariat**



List of measures and elements to take into account in the event of a review of the Transparency Register and result of discussions of the WG

As of 12 December 2013

A. Recommendations from the WG on possible revision:

Reference	Measures (in order of the IIA and its Annexes)	Follow up
<u>A.1</u> IIA	Confirmation that intermediary entities (section I of Annex I) are under obligation to declare all eligible clients under contract.	This obligation was not explicit enough in the original text, which could be interpreted as a loophole in the system.
<u>A.2</u> IIA	Clarity regarding exemption of Member State's government, third country's governments, intergovernmental public organisations and their diplomatic mission from the register.	To be upgraded from the footnote to the text of point 9 IIA, (clarification useful for Council's understanding of TR scope).
<u>A.3</u> IIA	Activities aimed at Member State structures (including toward permanent representations to the EU) are not eligible to the register at EU-level.	Clarification requested by the Council prior to possible adherence to the system. On 10.10.13 the WG underlined the importance of the Council position in this regard (with a view to explicitly state the possible negation of the second part of point 15 IIA).
<u>A.4</u> IIA	Clarify that the JTRS role includes the production of up-to-date guidelines, implementation of monitoring procedures (quality checks, alerts and complaints) within the range of technical possibilities and available resources. The JTRS cannot provide a full guarantee of the data provided in the declaration, which remains the responsibility of the registrant.	On 10.10.13 the WG underlined that it was important that the most efficient and simple working method be put into practice (with regard to human and budgetary resources available), and that the basis or mandate for the JTRS to monitor the system through quality checks should be clarified.
<u>A.5</u> IIA	The TR annual report should be produced at the beginning of the year to cover the	On 10.10.13 the WG underlined that in this regard it was important that the most

	operations of the past year and should provide factual information about the register content and evolution over that period. Public consultations with stakeholders are no longer systematic but are not excluded.	efficient working method be put into practice.
<u>A.6</u> IIA	Review clause: to be adapted in order to foresee a review, upon request of any of the parties to the IIA.	On 13.11.13 the WG concluded that it would be relevant to fix a timeframe for a review of the updated system, more or less two years following the entry into force of the conclusions of the current review.
<u>A.7</u> (Annex I)	Definitions and clarifications of activities and scope covered.	On 3.09.13 the WG suggested to clarify that the place of contact for representation activities carries no significance. A clarification could be added with regard to the Annex and to the IIA pt 8 with the formulation: <i>The scope of the register covers all activities, irrespective of where they were undertaken....</i>
<u>A.8</u> (Annex I)	Wider coverage: a specific category could be introduced to cover events/ communication agencies and organisations acting as facilitators (providing support) for interest representation but not directly representing interests.	On 3.09.13 the WG agreed to add a new section or subsection to Annex I, covering Events & PR agencies.
<u>A.9</u> (Annex I)	Difference between profit and non-profit -making entities.	On 3.09.13 the WG favoured underlining the differentiation between profit and non-profit entities This could be achieved by providing more clarity in the table of Annex I
<u>A.10</u> (Annex I)	Ad-hoc coalitions	On 3.09.13 the WG suggested to add a reference to ad-hoc coalitions in the subsection "Other similar organisations"

		in Annex I
<u>A.11</u> (Annex I/ IIA)	<p>Scope: Clarification on eligibility of sub-national public entities to the TR:</p> <ul style="list-style-type: none"> - Regions : Not expected to register but registration remains open for those who wish to do so voluntarily - All other sub-national entities (cities etc), & any mixed entities are expected to register. 	On 10.10.13 the WG seemed to agree to a mixed approach: exempt all regional entities from registering, and expect all other sub-national entities (like cities) to register. Retain the current separate EP accreditation system for the former.
<u>A.12</u> (Annex II)	<p>EP accredited individuals (access facility badge holders) should be included in the calculation of estimates for persons covered by the TR scope. A choice of four options could be given: 25%; 50%; 75% or 100%.</p>	Staff with access authorisation to EP would no longer be calculated systematically as 100% active under the scope and more precision should be given on timeshare of persons active.
<u>A.13</u> (Annex II)	Where relevant, registrants should declare in which EU institution-related entity they are active or participate, for example consultative committees, platforms, expert groups, EP intergroups etc.	On 10.10.13 the WG agreed that such a measure would be welcome.
<u>A.14</u> (Annex II)	<p>Financial declaration: introduction of a lower bracket size for expenditure on TR activities of 10 000 €, where turnover is under 100 000 €</p>	On 3.09.13 the WG agreed to suggest amending Annex II in this regard.
<u>A.15</u> (Annex II)	<p>All registrants to provide total estimated cost for activities falling under the scope of the register.</p>	Application of this to all sections of the register as listed in Annex I, to provide a level playing field and improve comparability and readability of data, across sections.
<u>A.16</u> (Annex III)	The code of conduct should make a reference within a general formula that registrants commit themselves to respect all applicable codes and rules established by the	On 30.09.13 the WG agreed on a certain level of clarification of the wording, referring to "general provisions and applicable laws and codes" in Annex III rather

	European institutions.	than specific rules - this would cover any future changes to applicable texts. In this light, clauses j)-l) of the code could be updated.
<u>A.17</u> (Annex III)	Registrants should mention TR number in their contacts with EU institutions.	On 30.09.13 the WG considered that in their correspondence/ meetings with Members and officials, registrants should be encouraged to mention their TR number.
<u>A.18</u> (Annex III)	A clearer definition of inappropriate behaviour.	On 30.09.13 the WG considered that examples clearly illustrating what is meant by this term could be outlined in guidance documents.
<u>A.19</u> (Annex III)	Co-operation with JTRS	On 30.09.13 the WG agreed that non co-operation with the JTRS could be considered a breach of the Code.
<u>A.20</u> (Annex IV)	Under the complaints procedure , any registrant should be permitted to request assistance from and/or be represented by their professional body or organisation (including bar associations) in their exchange with the EU institutions in the framework of a complaint.	On 30.09.13 the WG recognised the importance of such a feature, which could be referred to in Annex IV.
<u>A.21</u> (Annex IV)	Alert process: Codification of the "alert" process as a secondary level of monitoring, introduced by the JTRS as a prior step to the "Complaints" process, regarding point d) of the Code (information declared in the register).	On 30.09.13 the WG seemed to recommend that a simple alert mechanism be introduced, which could be referred to in Annex IV as an additional procedure.

<u>A. 22</u>	Make the registration legally binding	On 6.11.13 legal analysis was provided by experts/ academics and by legal services of the EC and EP in the same direction, demonstrating that the current legal basis (Art 352) was the only one available for setting up a mandatory system. The path towards such a system would necessitate much time and preparation and the goal was technically difficult to achieve. Therefore this question could be assigned to AFCO in the meantime, awaiting the next foreseen review in 2017.
<u>A.23</u>	Decide whether to maintain the reference under point 2 of the text of the IIA to the objectives expressed in the EP resolution of 8 May 2008 . i.e. a mandatory register	On 13.11.13, the WG agreed to keep this reference in the text and add a reference to the 2011 resolution.
<u>A.24 (IIA)</u>	Each institution, party to the agreement, could recommend incentives to encourage registration, within its own powers of organisation, such as internal rules or administrative codes.	Following the conclusions on point A.22 and with a view to making the register quasi-mandatory, or at the very least “unavoidable”, the WG on 13.11.13 strongly recommended that the institutions give further consideration to incentives available to regulate the institutions' relations with interest groups. Examples were identified, such as linking registration to rules on patronage, speaking at committee hearings etc.
<u>A.25 (IIA/ Annex I)</u>	Clarification on the triggering factor for eligibility to registration in the TR.	On 13.11.13 the WG agreed that it was important to ensure as far as possible that practices of advertising or non-relevant activities are not present in the register.
<u>A.26 (Annex II)</u>	Financial year and updates - is this the same procedure regarding all information provided by registrants?	On 13.11.13 the WG recommended that information on present and ongoing client lists and activities should be declared in the TR regardless of whether the

		financial estimates are given for the past financial year.
<u>A.27</u> (Annex II)	EU funding: referring to the amount supplied directly by the European Financial Transparency System ¹	On 13.11.13 the WG considered that this current practice should be confirmed.
<u>A.28</u> (Annex III)	The code should include the notion that the general principles apply to all interest groups, registered or not , which should act in conformity with the code in their relations with the EU institutions.	On 13.11.13 the WG considered that the Code and its prescriptions are indeed general principles to be respected by all interest groups in their dealings with the EU institutions.
<u>A.29</u> (Annex IV)	Possibility for registrants to request re-examination of a decision at administrative level within a certain timeframe after the JTRS decision related to a complaint (by registrant concerned).	On 12.12.13 the WG considered that the nature and specifics for such a mechanism should be referred to in Annex IV of the IIA as a feature of the complaints procedure. Such a procedure would implicate that the any registrant concerned by a decision on long-term disbarment from the register could ask to refer the decision to the Secretary Generals of the institutions for confirmation, within 20 working days.
<u>A.30</u> IIA	Entry into force of new measures	On 13.11.13 the WG considered that a timeframe should be taken into account allowing any new functionalities to be introduced in the database and necessary IT work to be carried out. A revised register could therefore enter into force no later than 1 January 2015. Upon entry into force, new rules could apply from day one, but that an additional period of adaptation should be foreseen, of three months after notification, for the adaptation of existing registrations.

¹ http://ec.europa.eu/budget/fts/index_en.htm

B. Technical adjustments suggested by the Secretariat for the text of the agreement in the event of a revision:

<u>B.1</u>	Update of the text: Change tense of all verbs from future to present tense.	On 13.11.13 the WG underlined that the agreement no longer covers a future project to set up and implement a scheme, but a scheme already in operation.
<u>B.2</u>	Removing obsolete clauses: for example (point 29) relating to the former transition from the former EP and COM registers to the common register.	On 13.11.13 the WG agreed to this general practicality and recommended an update.
<u>B.3</u> (Annex II)	Declarations on what information is to be provided with regard to formal relationships with other organisations or entities and membership of an organisation.	On 03.09.13 the WG seemed to agree that further clarity could be provided for registrants with regard to what should be declared, in guidance documents and update to Annex II.
<u>B.4</u> (Annex IV)	Bring clarification to the complaint mechanism , notably	On 13.11.13 the WG recommended that clarifications be brought to Annex IV recalling for example that the code does not regulate relations between third parties or between registrants rather it should refer specifically to relations between interest groups and the EU institutions. Specific situations could be referred to such as lack of cooperation by registrants, consultation of third parties by JTRS etc.

C. Measures for which there is consensus from the WG on no need for revision:

<u>C.1</u> (Annex	Changing the structure of the TR from a register of organisations to a register	The register currently includes the names of: - the legal person in charge of an
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I)	of individuals.	<p>organisation;</p> <ul style="list-style-type: none"> - self-employed individuals; - the European affairs contact and - individual names of accredited individuals with EP access authorisation. <p>The WG confirmed the character of the TR and did not recommend any change.</p>
C.2 (Annex II)	Change the frequency of TR registration update from once a year to twice a year, or introduce the same date for <u>all</u> registration updates.	The WG did not recommend any change to the current situation.
C.3 (Annex II)	Sections III-VI of Annex I should be asked to provide funding sources as well as amounts.	The WG did not recommend any change to the current situation, but suggested that in guidance documents registrants could be encouraged to provide as much detailed information as possible, or at the very least a link to such information on their websites.
C.4 (Annex III)	Develop the level of detail of the code of conduct to include issues related to staff obligations and duties.	This would instead be covered by a new general reference in the code to all applicable codes and rules set up by the EU institutions (see A.16)
C.5 (IIA)	Possibility for section I registrants (intermediaries ²) to solicit an " exception of confidentiality decision " in exceptional cases where they wish to claim, and can justify, the existence of concrete and non - hypothetical risks linked to public divulgation of a specific client identity.	The WG recognised that such a clause could cause confusion within a non mandatory system, and that more targeted solutions for law firms could be sought, without encouraging the practice of confidentiality where not applicable.

² Organisation acting as a mediator or agent between persons or organisations.