Regulatory News Alert

European Commission publishes a new, ambitious Action Plan to boost the European Union's Capital Markets Union (CMU)

29 September 2020

Context and objectives

On 24 September 2020, the European Commission published a new Capital Markets Union (CMU) Action Plan. This Action Plan reflects the European Union’s (EU) priority to ensure that Europe recovers from the economic crisis caused by the COVID-19 pandemic, aiming to create a truly single market for capital across the EU. A fully functioning and integrated market for capital will allow the EU’s economy to grow sustainably and be more competitive.

The CMU Action Plan establishes macro objectives (concepts, general policy objectives) to achieve three long-term goal:

- **Encourage competitiveness and an open strategic autonomy.** The CMU can make Europe’s economy more innovative and competitive so it can face global competition.

- **Address Europe’s social challenges.** The EU must tackle the problems caused by Europe’s aging populations. A strong market-based pension system can potentially supplement public pensions and better cater to the needs of aging populations.

- **Make Europe fit for the digital age.** The CMU can provide funding to help mobilize and channel the required investments to tackle climate and biodiversity emergencies, broader environmental challenges, and the current economic crisis caused by the COVID-19 pandemic. As the latter is currently the EU’s top priority, the CMU has become more urgent.

At a more topical level, the European Commission has committed to 16 actions in areas considered essential to the EU, its economy and its citizens. As this is an action plan, it does not deliver any new regulatory initiatives per se, but the European Commission will soon be introducing new and/or updated regulations to achieve three key objectives:

1. **Support a green, digital, inclusive and resilient economic recovery by making financing more accessible to European companies.**

   - **European Single Access Point:** by Q3 2021, the European Commission will set up a platform to increase the cross-border visibility of companies by providing EU-wide
access to all relevant information publicly disclosed by companies, including financial companies.

- **Listing rules**: by Q4 2021, the European Commission will assess whether the listing rules of public markets can be further simplified.

- **European Long Term Investment Fund (ELTIF) review**: by Q3 2021, the European Commission will adopt a proposal for a review of the ELTIF Regulation.

- **Solvency II review**: by Q3 2021, the European Commission will, as part of the planned Solvency II review, assess whether the legal framework could be amended to further promote long-term equity investments by insurance companies without harming financial stability and policyholder protection.

- **Capital Requirements Regulation (CRR)/Capital Requirements Directive (CRD) review**: by Q1 2021, the European Commission will apply the flexibility embedded in Basel III to ensure the appropriate prudential treatment of long-term small and medium-sized enterprise (SME) equity investments by banks.

- **Referral scheme**: by Q4 2021, the European Commission will analyze the merits and feasibility of a referral scheme requiring banks to direct SMEs whose credit application they have turned down to alternative funding providers.

- **Securitization**: by Q4 2021, the European Commission will review the EU securitization framework for both simple, transparent and standardized (STS) and non-STS securitization.

2. **Make the EU an even safer place for individuals to save and invest long-term.**

- **Financial literacy**: by Q2 2021, the European Commission will conduct a feasibility assessment for the development of a dedicated EU financial competence framework. Then, it will assess whether to propose legislation requiring Member States to promote formal, nonformal and/or informal learning measures supporting consumers’ financial education by 2022.

- **Inducements and disclosure**: by Q1 2022, the European Commission will consider measures to align investor protection standards in the Insurance Distribution Directive (IDD) with those that apply under the Markets in Financial Instruments Directive (MiFID) II.

- **MiFID II’s new investor category**: between Q4 2021 and Q1 2022, the European Commission will amend MiFID II to reduce the administrative burden and information requirements for a subset of retail investors.

- **Improving quality retail investor advice**: between Q4 2021 and Q1 2023, the European Commission will require advisors to obtain certificates proving they have a sufficient level of knowledge and qualifications and that they take part in an adequate level of continuous education.

- **National pension dashboard**: by Q4 2021, the European Commission will seek to identify the relevant data and methodology for developing pension dashboards with indicators.

- **Pension tracking systems for individuals and auto-enrolment**: by Q4 2021, the European Commission aims to help citizens better understand the state of their finances and incentivize measures to address any identified shortcomings early.
3. **Integrate national capital markets into a genuine single market.**

- **Alleviating the tax burden in cross-border investment:** by Q4 2022, the European Commission will introduce a legislative initiative and explore additional ways to introduce a common, standardized, EU-wide system for withholding tax relief at source.

- **Corporate insolvency:** two sub-streams aimed at introducing more insight into the handling of insolvency rules on a cross-border basis with:
  - **Harmonization:** by Q2 2022, the European Commission will bring a legislative or non-legislative initiative for a minimum harmonization or increased convergence in targeted areas of core non-bank insolvency.
  - **Reporting frameworks:** by Q4 2022, the European Commission and the European Banking Authority (EBA) will consider making legal amendments to reporting frameworks to assess the effectiveness of national loan insolvency systems.

- **Shareholder engagement:** by Q4 2021, the European Commission will assess if and how the rules governing the interaction between investors, intermediaries and issuers can be further clarified and harmonized. And by Q3 2023, they will assess the possibility of introducing an EU-wide, harmonized definition of a “shareholder”.

- **Cross-border settlement services:** by Q4 2021, the European Commission will review the rules regarding the cross-border provision of services by central securities depositories (CSDs) based on a CSD passport and the procedures and conditions that authorize CSDs to designate credit institutions or themselves to provide banking-type ancillary services.

- **Consolidated tape:** by Q4 2021, the European Commission will propose the necessary legislative changes to support the establishment of an effective and comprehensive post-trade consolidated tape for equity and equity-like financial instruments.

- **Investment protection and facilitation:** by Q2 2021, the European Commission will look at enhancing the rules protecting intra-EU investment, enhancing dispute resolution mechanisms at a national and/or EU level, and consolidating information on investor rights and opportunities in a single access point and stakeholder engagement mechanisms to prevent problems and resolve disputes amicably.

- **Supervision:** by Q4 2021, the European Commission will work towards an enhanced single rulebook for capital markets by assessing the need for further harmonization of EU rules and monitoring progress towards supervisory convergence.

The measures announced in this Action Plan will further transform the EU financial system and help address the political and economic challenges ahead.

**Next steps**

As the legislative texts have not yet been published, the regulatory agenda will not be completed for another three to four years. However, we draw your attention to the fact that this Action Plan follows the latest initiatives taken by the European Commission in 2020; in particular, its Action Plan on money laundering and terrorism financing, its environmental, social and governance strategy and, simultaneously with the CMU Action Plan, its new digital finance package.
What is in it for my institution?

At this stage, the essential takeaway is that EU institutions plan to massively overhaul the regulatory landscape to further integrate and respond to challenges linked to the digitalization of the economy, sustainability, and Brexit, which may impact the functioning of capital markets. The action points will have implications for EU firms across multiple areas, including banking, capital markets, investment management and insurance. Most of the measures relate to financial regulation and supervision.

The CMU Action Plan also covers tax and insolvency, particularly regarding EU retail investment distribution (such as potential revisions to inducement and disclosure rules) as well as the possible introduction of a new MiFID II qualified investor category (i.e., semi-professional).

How can Deloitte help?

Deloitte, as a sponsor of the CMU-supporting-initiative Markets for Europe (M4E), is well placed and ready to help industry players and regulators achieve the CMU project’s objectives.

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