

CMU Policy Update

October – November

HIGHLIGHTS

- European Commission publishes new CMU Communication to emphasise need for progress
- European Commission publishes prospectus Delegated Regulation
- European Parliament adopts its position on crowdfunding, prepares to decide on SME listings

European Commission

Commission publishes Work Programme for 2019, including CMU priorities – 23 October

The European Commission has published its [Work Programme 2019](#). It sets out in detail the Commission's main legislative priorities for the next 12 months to come, and consists of new initiatives as well as prioritisation of initiatives that are currently on the table.

As the current Commission enters its final year, the Programme focuses on delivery with only a limited number of actual new priorities. On CMU, the Commission announces its objective to conclude, notably, the files on PEPP, insolvency, ESAs reform, crowdfunding, and the SME listings proposals.

The Commission's new CMU Communication, published later in November, provides even more detail on the CMU priorities (see article below).

Commission publishes new CMU Communication to accelerate progress – 28 November

The European Commission has published a new CMU [Communication](#) accompanied by an [Annex](#). They provide a comprehensive list of all CMU legislative proposals and their current state of play.

The main message? Commission says that its job is done, having already launched most of the promised 30+ CMU actions. It argues that it is now up to the European Parliament and the Council to deliver, speed up their work and finalise the files.

The Communication is especially useful in demonstrating which CMU files the Commission sees as particularly problematic. It contains no new initiatives, but instead includes a list and description of pending CMU files on which the Commission calls for swift progress. Each of these are divided into files that the Commission is optimistic to conclude and those where it is less optimistic and where stronger “political commitment” is needed:

- Less problematic files: PEPP, crowdfunding, preventive re-structuring, crowdfunding
- More problematic files: SME listings proposals, ESAs reform, sustainable finance taxonomy & low carbon benchmarks

The Association for Financial Markets in Europe (AFME) already [published](#) its own list of priority initiatives, in reaction to the Commission Communication. AFME would like to see progress for example on PEPP, insolvency, ESAs reform and sustainable finance.

European Commission publishes prospectus delegated regulation - 28 November

The European Commission has published its [draft delegated regulation](#) and [annex](#) on simplified prospectus disclosures.

It contains detailed provisions, notably, for the disclosure requirements of the EU Growth Prospectus (EUGP) as well as the main prospectus. As a next step, stakeholders have four weeks – until 26 December – to submit their feedback. In parallel, the European Parliament and the Council have two months to raise any objections; otherwise, the act enters into force automatically.

From Accountancy Europe’s perspective, it appears that the draft delegated act and its annex introduce a number of improvements to ESMA’s original [draft advice](#). However, at least in terms of stronger and more explicitly encouragement for using incorporation by reference the draft delegated act appears unambitious.

European Parliament

Amendments tabled for ECON draft report on ESAs reform, first exchange of views held - 1 October

A total of 1183 amendments have been tabled for the European Parliament’s [draft position](#) on the proposal to reform the European Supervisory Authorities (ESAs). The draft report has been prepared by the MEP **Othmar Karas (EPP/AUT)**. The amendments are available from these links: [set 1](#), [set 2](#), [set 3](#), [set 4](#), [set 5](#) and [set 6](#).

ECON Committee met on 1 October to discuss the amendments, in a bid to map out the different political Groups’ positions.

During the ECON hearing, both Mr. Karas as well as the co-rapporteur **Pervenche Beres (S&D/FRA)** recognised significant disagreements on the amendments between political Groups, but nonetheless called for a swift conclusion of the file so that it can be finalised by the end of the current Parliament’s term next spring.

The S&D and Green Groups want to strengthen the consumer protection dimension. For example, Ms. Beres proposes for the ESAs to establish a permanent internal committee made up of national competent authorities (NCAs), and tasked with enforcing the application of consumer protection rules. The liberal **Wolf Klinz (ALDE/GER)** appeared to resonate with this, stating that ESAs should have the powers to withdraw from circulation financial products that are deemed to be too dangerous. It is unclear yet to what degree the Right-wing EPP and ECR Groups would be willing to support the inclusion of the consumer protection angle.

In terms of next steps, the ECON Committee vote that was initially scheduled for 5 November was postponed, with no new date formally announced yet. After ECON adopts its position, the Parliament can enter into negotiations with the Council, and only a compromise between the two institutions will enable the provisions to become EU law. However, work in the Council is currently stalling with a number of member states criticising what they see as too ambitious proposals from the Commission's side, and preferring to keep supervision with NCAs. Thus the timing and, indeed, very fate of the file remain in doubt.

European Parliament adopts its position on crowdfunding – 5 November

The ECON Committee has adopted its position on the Commission's proposed crowdfunding Regulation, with the adoption of the draft report prepared by the MEP **Ashley Fox (ECR/UK)**.

The draft report passed the Committee vote with 35 votes in favour, five against and no abstentions. The ECON MEPs also voted in favour of entering into negotiations with the Council, with 38 votes in favour, four votes against and two abstentions. The Council will now have to adopt its position, after which it can enter into trilogue negotiations with the Council in order to find a mutually agreeable solution.

In particular, the MEPs watered down some of the pan-European elements of the proposal, by granting the role for the authorisation and supervision of crowdfunding service providers to national competent authorities (NCAs) instead of ESMA, as initially proposed by the Commission. Instead, ESMA would only play a mediating role in case of disagreements between several NCAs.

In other deviations from the initial Commission proposal, the MEPs also agreed to increase the limit for crowdfunding offers to EUR 8 million, in contrast to the Commission who had proposed a limit of EUR 1 million. The MEPs also included intermediated crowdfunding services in the scope of application of the regulation, and would allow crowdfunding service providers themselves to own a financial stake in a crowdfunding offer on their platforms, as long as this is clearly disclosed.

For further information on the draft report, please see Accountancy Europe's [CMU Policy Update](#) from August. For the Commission proposal, please see [CMU Policy Update](#) from March.

ECON discusses SME listings proposal – 19 November

ECON Committee has held an exchange of views on its draft report to the Commission's SME listings package. The draft report has been prepared by the MEP **Anne Sander (EPP/FRA)**. During the hearing, Ms. Sander provided an update on the progress of negotiations between the political Groups. She explained that some progress has been made on liquidity proposals and review clauses.

One key issue that remains is the provision of privileged information lists to authorities and on the reporting of privileged information. Whilst some MEPs maintain that companies should keep such information at hand and provide it to the competent authorities whenever requested, others believe that the information should be sent to the authorities regularly. Ms. Sander noted that she prefers the former as the latter would ensure stricter rules for SME growth markets than currently exist for other markets. On the thresholds, there is also a debate to be held, she highlighted.

Neena Gill (S&D/UK), for her part, highlighted that whilst she appreciates the need to increase the threshold under MiFID, increasing the threshold to EUR 750 million is in her view a step too far. Ms. Gill argues that this would cover the vast bulk of companies in the EU.

A vote in ECON Committee is currently scheduled for 3 December, after which the Parliament can enter into trilogue negotiations with the Council. However, for now it appears that so far progress in the Council has been meagre, with the Austrian Presidency devoting little time for it until now.

For further details on the draft report, please see Accountancy Europe's [CMU Policy Update](#) from September.

ECON hearing with Valdis Dombrovskis – 29 November

ECON Committee has held a hearing with Commission's Vice-President **Valdis Dombrovskis**, as part of the Commission's structured dialogue with the European Parliament. This time, the hearing focused notably on CMU broadly, and specifically FinTech, payments and sustainable finance.

Despite recognising the great progress achieved on CMU, the Vice-President lamented that out of the 13 legislative proposals that the Commission had presented to build the CMU, 10 are still on the desks of the two co-legislators. He called for a strong spirit of compromise to prevail, in order to have the building blocks of the CMU in place by the end of the current term. The Vice-President mentioned, in particular, PEPP, ESAs reform, SME listings and crowdfunding proposals as provisions that can vastly improve the integration and development of capital markets in Europe.

Likewise, progress on the sustainable finance proposals remains pivotal, and the Vice-President applauded the progress reached by the Parliament until now. On FinTech, the Vice-President mentioned that the Commission is expecting advice from ESAs on a number of areas, including cryptoassets. Based on this advice and work done at the international level, the Commission will subsequently assess whether regulatory action is required.

ECB & ESAs

ESMA SEES 1.9% INCREASE IN PROSPECTUS APPROVALS ACROSS THE EEA – 15 October

ESMA has found in its [annual report](#) on prospectus activity that in 2017 the number of prospectus approvals across the European Economic Area (EEA) increased by around 1.9% compared to 2016 (from 3499 to 3567). The growth in prospectus approvals puts an end to a decade-long decline observed since the start of the financial crisis, ESMA observes.

ESMA publishes responses received to consultation on prospectus risk factors – 30 October

ESMA has [published](#) all the responses received to its Consultations on prospectuses, including the disclosure regime for the EU Growth Prospectus (EUGP). A total of 23 responses were submitted by stakeholders, including by Accountancy Europe.

ESMA has now submitted its technical advice to the Commission, and the Commission has published the appropriate follow-up legislation (see article earlier in this CMU Policy Update).

Other News

Invest Europe publishes investor survey results – November

Invest Europe has published the [results](#) of its latest investor survey. It is based on input from investors from the US, China, Germany, France and the UK.

The survey demonstrates, notably, that Europe is considered to have multiple strengths compared to the US and China. From 2017's inaugural survey, Europe maintains its leadership in areas such as a highly skilled workforce, transport infrastructure and the regulatory climate. In 2018, it has moved ahead of the US with respect to innovation and entrepreneurship, taxation levels and access to global markets, and China on labour flexibility.

Yet according to the survey, this year's respondents did not rate Europe's leadership in sustainability and the environment as highly as in 2017, while the perceived political and social stability of Europe has also decreased.

OECD publishes report on regulatory frameworks for crowdfunding – 16 November

The OECD has published a [study](#) with an overview of existing lending-based crowdfunding platforms in 17 OECD countries.

The OECD observes that in a growing number of OECD countries policymakers are designing specific regulations for lending-based crowdfunding platforms. In March 2018, as a part of its Fintech action plan, the European Commission also presented its proposal for the EU-wide passporting regime. The study aims to evaluate these new regimes, and proposes a theoretical framework to reflect about different regulatory regimes.

Events

- 04/12/2018, *Where do we stand now with the Capital Markets Union?* Financial Future, Brussels. [Source](#)
- 04-05/12/2018, *Capital markets forum*, European Issuers, Brussels. [Source](#)
- 05/12/2018, *EU Capital Markets 2024*, FESE and Better Finance, Brussels. [Source](#)