Jean Monnet Center of Excellence European Financial Resilience and Regulation

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NEWSLETTER

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1. Latest news

- **Council of the EU - BASEL III reforms: new EU rules to increase banks' resilience to economic shocks from 2024 (30/05/2024)**

The 2008 global financial crisis revealed critical weaknesses in the banking sector, leading regulators around the world to undertake sweeping reforms of financial regulations. A key outcome of these efforts was the Basel III framework, developed by the Basel Committee on Banking Supervision, which sought to enhance banks' capital adequacy, liquidity, and risk management practices. In 2024, the European Union introduced new regulations to fully align its banking sector with the final phase of Basel III reforms. These measures aim to bolster the ability of EU banks to withstand economic shocks, foster financial stability, and maintain fair competition within the global banking industry.

The implementation of Basel III will significantly impact EU banks, particularly in areas such as capital requirements, profitability, and business strategies:

- Increased Capital Requirements: The introduction of the output floor and updated standardized approaches will raise capital requirements for many banks, limiting lending activities and reducing profitability in the short term.
- Operational Changes: Banks will need to invest in new systems and processes to meet the updated risk measurement and disclosure standards, leading to higher operational costs and greater complexity in their operations.
- Competitive Landscape: aims to create a level playing field by reducing variability in risk-weighted asset calculations.

- Impact on SMEs and Green Financing: Policymakers have emphasized the importance of ensuring that the reforms do not unduly restrict lending to small and medium-sized enterprises (SMEs) or hinder the transition to a green economy.

Moreover, the reforms align the EU's regulatory framework with global standards, promoting consistency and reducing regulatory arbitrage. This is particularly important in an interconnected global economy, where weaknesses in one jurisdiction can have spillover effects on others. The emphasis on transparency and risk sensitivity also supports the EU's broader goals of fostering trust and accountability in the financial sector. By enhancing the quality and consistency of banks' disclosures, the reforms empower investors, regulators, and other stakeholders to make more informed decisions.

The final Basel III regulations were adopted by the EU in 2024, with the reforms increasing the resilience of EU banks against economic shocks and contribute to a more stable financial system by strengthening capital and liquidity regulations, enhancing risk management procedures, and enhancing transparency. Although the shift presents difficulties, the long-term advantages of a stronger and safer banking industry exceed the immediate expenses. A solid basis for sustainable growth, financial stability, and global competitiveness is established by the Basel III regulations, which help the EU adjust to a fast-changing economic landscape.

More information at: https://www.consilium.europa.eu/en/press/press-releases/2024/05/30/basel-iii-reforms-new-eu-rules-to-increase-banks-resilience-to-economic-shocks/.

• The EU Commission - Enrico Letta's Report on the Future of the Single Market (10/04/2024)

The Letta Report, formally titled "A Stronger Europe in a Challenging World," is a significant contribution to the ongoing debate about the future of the European Union (EU). Authored by Enrico Letta, the former Prime Minister of Italy and a prominent European statesman, the report provides a comprehensive analysis of the challenges facing the EU and offers a series of recommendations aimed at strengthening European integration and enhancing the bloc's global competitiveness. The report is particularly notable for its focus on economic, social, and institutional reforms, as well as its emphasis on the need for greater solidarity among member states. Key themes and recommendations from the report are:

- Economic Integration and Competitiveness: The need for deeper economic integration within the EU will enhance its economic competitiveness to remain relevant in a rapidly changing global economy, emphasizing the importance of completing the Single Market, particularly in areas such as digital services, energy, and capital markets. By removing barriers to trade and investment, the EU can unlock new sources of growth and innovation. Additionally, greater investment in research and development (R&D) and the promotion of green technologies is needed with the creation of a European Innovation Fund, which would provide financial support for cutting-edge research and help the EU transition to a sustainable, low-carbon economy. By fostering innovation and competitiveness, EU can maintain its position as a global economic leader.
- Institutional Reforms and Democratic Accountability: a strong emphasis on the need for institutional adjustments to improve the EU's democratic legitimacy and operational effectiveness with a focus on strengthening the European Parliament's authority and enhancing the democratic supervision of EU institutions, promoting the EU's transformation from a primarily economic union to a more politically cohesive entity.

While the Letta Report has been widely praised for its ambitious vision, it has also faced criticism from various quarters. Some argue that the report's proposals for greater fiscal and political integration are unrealistic, given the divergent interests of member states. Others contend that the report does not adequately address the concerns of smaller or less economically powerful countries, which may feel marginalized in a more centralized EU. Moreover, the report's emphasis on strategic autonomy has raised concerns about the potential for increased tensions with external powers, particularly the United States and China. Critics argue that the EU must strike a delicate balance between asserting its independence and maintaining strong alliances with key partners. More information at: https://single-market-economy.ec.europa.eu/news/enrico-lettas-report-future-single-market-2024-04-10_en

- **The EU Commission - The future of European competitiveness: Report by Mario Draghi (30/05/2024)**

The Draghi Report, formally known as the "Report on the Future of Europe," is a comprehensive document that outlines a vision for the European Union (EU) in the coming decades. Authored by Mario Draghi, the former President of the European Central Bank (ECB) and former Prime Minister of Italy, the report addresses the challenges and opportunities facing the EU, proposing a series of reforms aimed at ensuring the bloc's continued relevance, stability, and prosperity in a rapidly changing global landscape. Key themes and recommendations from the report are:

- Economic Integration and Stability: the need for deeper economic integration within the EU. Draghi argues that the Eurozone, in particular, requires stronger fiscal and monetary coordination to prevent future crises. The creation of a European fiscal capacity would allow for greater financial solidarity among member states, involving the establishment of a common budget for the Eurozone, funded by member states, to provide financial support during economic downturns. Additionally, the importance of completing on the Banking Union and Capital Markets Union aim to create a more integrated and resilient financial system, reducing the risk of bank failures and ensuring that capital flows more freely across borders. By strengthening the economic foundations of the EU, the bloc can better withstand external shocks and promote sustainable growth.
- Political Integration and Democratic Accountability: the need for deeper political integration within the EU with transition from being primarily an economic union to a more politically unified entity. This transformation would require bolstering the authority of the European Parliament and enhancing the democratic legitimacy of EU institutions. A move toward a more federalized structure is required, with well-defined divisions of power between the EU and its member states. Additionally, the importance of increasing transparency and accountability in EU decision-making processes must be underscored issues like corruption and the efficient use of EU funds. By building greater trust in EU institutions, the bloc can effectively counter the rise of Euroscepticism and reinforce its democratic foundations.
- Social Cohesion and Inclusion: the importance of social cohesion and inclusion is acknowledged that economic integration alone is not sufficient to ensure the EU's long-term stability. EU must also address the social and economic inequalities that have fueled populism and discontent in recent years. To this end, the creation of a European Social Union is needed, which would set common standards for social protection and ensure that all citizens benefit from the EU's economic success and measures to combat unemployment, improve access to education and healthcare, and promote gender equality.

- Global Leadership and Strategic Autonomy: emphasizes the need for the EU to assert itself as a global leader. In an increasingly multipolar world, EU must develop its own strategic autonomy, reducing its dependence on external powers, particularly in areas such as defense, energy, and technology. The creation of a European Defense Union is required, which would enhance the EU's ability to respond to security threats and contribute to global peacekeeping efforts. Greater investment in research and innovation, particularly in emerging technologies such as artificial intelligence and renewable energy, is needed. By strengthening its strategic autonomy, EU can play a more influential role on the global stage and protect its interests in an increasingly competitive world.

The Draghi Report presents a bold and visionary roadmap for the future of the European Union tackling the economic, political, social, and global challenges confronting the EU, offering a detailed plan for transformative reform. Although the path forward is laden with obstacles, the report makes a persuasive argument for why the EU must adapt to maintain its relevance in the 21st century. The realization of the Draghi Report's goals hinges on the readiness of EU member states to embrace change and collaborate toward shared objectives. More than a call to action, the Draghi Report underscores the lasting significance of the European project and the imperative to safeguard and enhance it for generations to come. More information at: https://commission.europa.eu/topics/eu-competitiveness/draghi-report_en

- **Council of the EU - Schengen: Council decides to lift land border controls with Bulgaria and Romania (12/12/2024).**

The Council of the EU has decided to remove land border controls with Romania and Bulgaria starting in 2024. With the lifting of land border restrictions for Bulgaria and Romania in 2025, the Schengen Area—one of the European Union's most significant achievements—is set to expand. For both countries, which have long sought full membership in the Schengen Zone, this crucial decision by the EU Council marks a historic accomplishment. In addition to reaffirming EU unity, the enlargement demonstrates the bloc's commitment to advancing economic growth, free migration, and intergovernmental cooperation.

The Schengen Area was created in 1985 and consists of 27 European nations that have done away with internal border controls, allowing for the easy flow of people, products, and services. It promotes social, cultural, and economic ties between member nations and is a key tenet of European integration. However, because of problems with organised crime, border security, and corruption, Bulgaria and Romania, who joined the EU in 2007, have had a long wait to become full Schengen members. After years of meeting stringent criteria and implementing reforms, both countries have demonstrated their readiness to join the Schengen Area. For Bulgaria and Romania, full Schengen membership is a momentous achievement with far-reaching benefits, facilitating seamless travel and trade, boosting economic activity and tourism. Businesses in both countries will gain easier access to larger markets, fostering cross-border investments and partnerships. Additionally, the elimination of border checks will reduce transportation costs and delays, enhancing the efficiency of supply chains and logistics networks. The decision also carries symbolic significance, affirming Bulgaria and Romania's place at the heart of Europe, reflecting the EU's acknowledgment of their efforts to strengthen governance, combat corruption, and improve border security. For citizens, Schengen membership means greater freedom to travel, work, and study across Europe, reinforcing their sense of belonging to the European community.

The decision to lift land border controls with Bulgaria and Romania has broader implications for the European Union. It reinforces the EU's credibility as a union of equals, where all member states are given the opportunity to fully participate in its policies and initiatives. It also sends a positive signal to other aspiring members, and future EU candidates, demonstrating that progress and reform are rewarded. Furthermore, the expansion of the Schengen Area contributes to the EU's strategic autonomy and resilience. By deepening integration and fostering closer ties among member states, the EU strengthens its ability to address common challenges and pursue shared goals. More information at: https://www.consilium.europa.eu/en/press/press-releases/2024/12/12/schengen-council-decides-to-lift-land-border-controls-with-bulgaria-and-romania/ .

- **Council of the EU - Solvency II and IRRD: Council Signs Off New Rules for the Insurance Sector from 2024 (05/11/2024)**

The European insurance industry is on the brink of major regulatory shifts following the recent adoption of the Solvency II reforms and the implementation of the Insurance Recovery and Resolution Directive (IRRD) in 2024. These regulations are designed to strengthen the sector's resilience, stability, and competitiveness, while also ensuring strong safeguards for consumers. Solvency II is a regulatory framework designed to ensure the financial stability of insurance companies operating in the European Union. It establishes capital requirements, risk management standards, and supervisory mechanisms to protect policyholders and maintain market confidence.

The revised Solvency II framework introduces several key changes. First, it recalibrates the risk margin, reducing the capital burden on insurers while maintaining adequate protection for policyholders, expected to free up capital for long-term investments, particularly in green and sustainable projects, aligning with the EU's Green Deal objectives. Second, the reforms enhance the proportionality principle, allowing smaller insurers to operate under simplified requirements, thereby reducing administrative costs and fostering innovation. Third, the updated framework strengthens supervisory convergence across EU member states, ensuring a level playing field and reducing regulatory fragmentation.

The Insurance Recovery and Resolution Directive (IRRD) establishes a structured process for managing the failure of insurance companies, preventing systemic disruptions and protecting policyholders in the event of an insurer's insolvency. IRRD introduces several critical measures. It mandates the development of recovery and resolution plans for insurers, ensuring preparedness for financial distress. The directive also establishes resolution authorities with the power to intervene early, restructure failing insurers, and facilitate orderly wind-downs. Importantly, IRRD includes a policyholder protection mechanism, guaranteeing that claims are honored even in the event of an insurer's collapse. This provision enhances consumer confidence and reinforces the stability of the insurance market.

The combined impact of Solvency II reforms and IRRD is expected to be transformative for the European insurance sector. By reducing capital requirements and administrative burdens, the reforms will enable insurers to allocate more resources toward innovation and growth. This is particularly significant in the context of digital transformation and the increasing demand for tailored insurance products. IRRD, on the other hand, addresses the systemic risks associated with insurer failures. By establishing a robust resolution framework, the directive mitigates the potential for contagion and ensures that policyholders remain protected. This is particularly relevant in an era of increasing interconnectedness and complexity within financial markets. Furthermore, the enhanced consumer protection measures under IRRD bolster public trust in the insurance sector, fostering greater participation in insurance markets. This, in turn, promotes financial inclusion and resilience among households and businesses.

More information at: https://www.consilium.europa.eu/en/press/press-releases/2024/11/05/solvency-ii-and-irrd-council-signs-off-new-rules-for-the-insurance-sector/ .

- **Council of the EU - Taxation: Council adopts new rules for withholding tax procedures (FASTER) (10/12/2024)**

The European Union has taken a significant step toward modernizing its tax framework with the adoption of the FASTER (Fast and Secure Taxpayer Experience and Relief) directive, set to take effect in 2024. This new set of rules aims to streamline withholding tax procedures, reduce administrative burdens, and combat tax fraud, while enhancing the efficiency and transparency of cross-border investments within the EU. The FASTER initiative represents an EU's efforts to create a more integrated and competitive single market. Withholding tax is a mechanism used by governments to collect taxes on income, such as dividends and interest, at the source. The current withholding tax procedures in the EU are often complex, fragmented, and prone to abuse. Cross-border investors frequently face lengthy refund processes, double taxation, and inconsistent rules across member states. These challenges not only create administrative inefficiencies but also hinder the free movement of capital within the single market. Moreover, the lack of harmonization in withholding tax procedures has made the system vulnerable to tax fraud and evasion. Unscrupulous actors have exploited loopholes to claim undue refunds, resulting in significant revenue losses for member states. The FASTER directive addresses these issues by introducing a standardized and secure framework for withholding tax procedures.

The FASTER directive introduces several innovative measures to simplify and secure withholding tax processes across the EU. These include:

- Digital Tax Residence Certificates (eTRCs): FASTER mandates the use of digital tax residence certificates to verify the eligibility of taxpayers for reduced withholding tax rates.
- Common EU Withholding Tax Portal: a centralized online portal for taxpayers to submit refund claims and access information on withholding tax rates and procedures with a one-stop shop, simplifying interactions between taxpayers and tax authorities.
- Relief at Source Mechanism: FASTER introduces a standardized relief at source system, allowing taxpayers to benefit from reduced withholding tax rates at the time of payment, eliminating delays and improve cash flow for investors.
- Enhanced Cooperation and Data Sharing: The directive promotes greater cooperation among member states by enabling the exchange of information on

tax residency and withholding tax claims. This will help prevent fraud and ensure compliance with tax rules.

- Anti-Abuse Measures: robust safeguards to prevent tax abuse, such as stricter verification requirements and the use of advanced technologies to detect fraudulent activities.

The FASTER directive is expected to bring significant benefits to both taxpayers and member states. For taxpayers, particularly cross-border investors, the new rules will simplify procedures, reduce costs, and provide greater certainty regarding their tax obligations. The relief at source mechanism and digital processes will eliminate unnecessary delays, making it easier for investors to access reduced withholding tax rates. For member states, FASTER will enhance tax compliance and reduce revenue losses caused by fraud and evasion. The standardized procedures and improved cooperation will strengthen the integrity of the tax system, while the digitalization of processes will increase efficiency and reduce administrative burdens for tax authorities.

The adoption of FASTER represents a major step forward in the EU's efforts to modernize its tax framework and deepen the single market. By harmonizing withholding tax procedures, the directive removes barriers to cross-border investments and fosters a more competitive and integrated economic environment. It also aligns with the EU's broader goals of digital transformation and anti-fraud measures, contributing to a fairer and more transparent tax system. More information at: https://www.consilium.europa.eu/en/press/press-releases/2024/12/10/taxation-council-adopts-new-rules-for-withholding-tax-procedures-faster/.

2. News for practitioners

➢ Court of Justice of the European Union – Qualcomm Inc. v. European Commission (2024) Judgment of the General Court (First Chamber, Extended Composition) of 18 September 2024

The 2024 decision in Qualcomm, Inc. v. European Commission represents a significant ruling in the realm of European Union (EU) competition law. This case, which centered on allegations of anti-competitive practices by Qualcomm, a global leader in semiconductor and telecommunications technology, has far-reaching implications for the regulation of dominant market players, the enforcement of antitrust laws, and the balance between innovation and competition in the tech industry. The European Court of Justice's (ECJ) ruling in this case reaffirmed the EU's commitment to maintaining a competitive market while addressing the complexities of modern technology markets.

Qualcomm, a leading force in advancing wireless communication technologies, has faced ongoing scrutiny from global competition regulators. The European Commission, the EU's executive body tasked with upholding competition laws, launched an investigation into Qualcomm's business practices after receiving grievances from both competitors and clients. The Commission accused Qualcomm of exploiting its dominant market position in two critical sectors:

- Exclusive Dealing Agreements: offering significant financial incentives to major smartphone manufacturers, such as Apple, to exclusively use its chipsets
- Predatory Pricing: selling its chipsets below cost to eliminate competitors, particularly in the market for 4G LTE chipsets

In 2018, the European Commission fined Qualcomm €997 million for violating EU antitrust rules. Qualcomm appealed the decision, arguing that its practices were pro-competitive and necessary to recoup investments in R&D. The case eventually made its way to the European Court of Justice, culminating in the 2024 ruling.

The Qualcomm case raised several critical legal questions. In its 2024 decision, the ECJ largely upheld the European Commission's findings, ruling that Qualcomm had abused its dominant position in violation of EU competition law. The Qualcomm decision has significant implications for EU competition law and the tech industry:

- Strengthening Antitrust Enforcement: The ruling reaffirms the EU's commitment to robust antitrust enforcement, particularly in markets dominated by a few powerful players.
- Clarifying Legal Standards: important guidance on the application of Article 102 TFEU, particularly in cases involving exclusive dealing agreements and predatory pricing that dominant firms must carefully assess the competitive effects of their practices and ensure that they do not harm competition or consumers.
- Balancing Competition and Innovation: The ruling highlights the delicate balance between promoting competition and encouraging innovation, acknowledging the importance of R&D investments, it emphasized that such investments cannot justify anti-competitive practices.

- Global Impact: As a global leader in antitrust enforcement, the EU's decision in Qualcomm is likely to influence competition authorities in other jurisdictions.

The 2024 decision in Qualcomm, Inc. v. European Commission is a landmark ruling that reinforces the EU's commitment to maintaining competitive markets and protecting consumers. By addressing complex issues related to dominance, abuse, and innovation, the ECJ has provided clarity and guidance for future cases involving dominant firms in the tech industry. The decision serves as a reminder that even in fast-moving and innovation-driven markets, competition law remains a vital tool for ensuring fair and open markets. More information at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:62019TJ0671 .

➢ Court of Justice of the European Union – SC Bitulpetrolium Serv SRL v Administraţia Judeţeană a Finanţelor Publice Prahova – Direcţia Generală Regională a Finanţelor Publice Ploieşti Judgment of the Court (Eighth Chamber) of 25 April 2024. Case C-657/22.

Delivered by the Eighth Chamber on April 25, 2024, the Court of Justice of the European Union (CJEU) in Case C-657/22 tackles the interpretation and implementation of EU law in the context of tax disputes. SC Bitulpetrolium Serv SRL, a Romanian business, and the Regional Public Finance Directorate of Ploieşti (Administraţia Judeţeană a Finanţelor Publice Prahova - Direcţia Generală Regională a Finanţelor Publice Ploieşti), a Romanian tax authority, are parties to the lawsuit. According to Articles 110 and 113 of the Treaty on the Functioning of the European Union (TFEU), the principles of fiscal neutrality and the free movement of products are at the heart of the argument, which concerns whether national tax policies are consistent with EU law.

SC Bitulpetrolium Serv SRL, a bitumen manufacturing and sales company, contested a tax assessment made by the Romanian tax authorities. The corporation contended that the tax assessment was in violation of EU legislation, particularly the fiscal neutrality principle, which forbids Member States from levying higher internal taxes on comparable local items than they do on goods imported from other Member States. The company argued that imported bitumen was disproportionately affected by the tax assessment, which hampered the free flow of commodities throughout the EU and distorted competition. However, the Romanian tax authorities insisted that the tax assessment was lawful under their country and did not violate EU legislation. In order to maintain the smooth operation of the national tax system, that tax was imposed consistently on all bitumen products, regardless of where they came from.

The fiscal neutrality principle under Article 110 TFEU was the main legal question before the CJEU. It is forbidden by Article 110 for Member States to levy internal taxes on goods from other Member States that are higher than those charged on comparable local goods. Under Article 113 TFEU, the Court also had to decide if the tax assessment amounted to a limitation on the free circulation of commodities. In its ruling, the CJEU reiterated how crucial the fiscal neutrality concept is to maintain the stable operation of the internal market. The Court underlined that the purpose of Article 110 TFEU is to make it illegal for Member States to use internal taxes to safeguard their own goods at the expense of goods from other Countries. The Romanian tax assessment's structure and character were analyzed by the Court, which concluded that it did, in fact, result in a difference in the tax treatment of domestic and imported bitumen. In comparison to domestic bitumen, the Court determined that the tax assessment put imported bitumen at a competitive disadvantage by imposing a larger effective tax burden. Article 110 TFEU was violated by this discrepancy.

The Court also ruled that the tax assessment could not be justified by claiming that it was necessary to maintain the normal operation of the national tax system. While there is some degree of autonomy for Member States in creating their tax systems, the Court pointed out that this autonomy must be used in a way that complies with EU legislation. Fiscal neutrality and the execution of EU tax legislation are significantly impacted by the ruling in Case C-657/22. The Court of Justice of the European Union has made it abundantly evident that Member States must make sure that their taxation policies do not discriminate against goods from other Member States by determining that the Romanian tax assessment violated Article 110 TFEU. More information at: https://eur-lex.europa.eu/legal-content/RO/TXT/?uri=CELEX:62022CJ0657 .

3. News for academia and students

➢Vote for Science: Five Proclamations for 2024 European Parliament Candidates.

Under the hashtag #Vote4Science, Science Europe has launched its 'Vote for Science' Campaign in the lead-up to the European Parliament Elections on June 6–9, 2024. This campaign aims to promote political support for science research by promoting informed policy-making in the creation of the EU legislative agenda for the ensuing five years. Science Europe urged candidates for the 2024–2029 European Commission and European Parliament Elections to make five promises to protect European research and innovation.

As part of the Research Matters campaign, Science Europe has joined other research and higher education organizations in calling for more and more funding for research and innovation at the national and European levels as well as for the protection of R&I budgets:

- Increasing R&I investment in Europe to more than 3% of GDP both within the European Union and among European nations
- The funding for the EU's upcoming research and innovation program (FP10) will be doubled to 200 billion euros
- Ring-fencing the budget to protect the latter

This investment is essential to addressing the continent's most urgent issues, maintaining competitiveness, and advancing the ecological, social, and economic transformations. Leading organizations in research and innovation have joined forces to promote more funding for these fields in Europe through the #ResearchMatters campaign. The campaign highlights the value of knowledge generation and innovation driven by research in tackling the continent's most urgent issues and ensuring a successful future for all Europeans.

More information at: https://www.scienceeurope.org/our-resources/vote-for-science-5-pledges-for-candidates-of-the-european-parliament-elections-2024/ .