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# NEWSLETTER

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## 1. Latest news

- Council of the EU - The European Council has reached a provisional agreement on the implementation of Basel III reforms into the Banking sector

In response to the global financial crisis of 2007-2008, banks implemented a series of measures known as Basel III standards, which are designed to improve prudential regulatory standards, supervision and risk management.

The international agreements known as Basel III are to be fully incorporated into EU law by the EU. The EU and its G20 partners in the Basel Committee on Banking Supervision reached the Basel III agreement to strengthen banks' resilience to potential economic shocks. The European Commission has published its recommendations for the revision of the Capital Requirements Directive and Regulation in October 2021. The Commission's proposals included a number of initiatives related to the supervisory framework, in addition to changes to implement the Basel III requirements.

By finalizing the adoption of the internationally agreed Basel III regulatory reforms, the EU is on track to strengthen the supervision and risk management of banks operating in the Union and increase their resilience. A provisional agreement was reached between the European Parliament negotiators and the President of the Council on changes to the Capital Requirements Directive and Regulation. The revised regulations will strengthen and support resilient banks doing business in the Union. Being a significant improvement that will help ensure that European banks can continue to operate even in the event of shocks, crises or natural disasters from the outside world.

After a lengthy process of updating EU banking regulations in the wake of the financial crisis, the new regulations aim to strengthen the resilience of the banking sector, which will help the European Union mitigate the effects of COVID-19 and the economic consequences of the war in Ukraine. By fostering a robust banking industry that can finance the real economy, households and individuals, regulation will also facilitate green and digital transformations. The temporary agreement outlines the implementation of a "production plan" to limit the fluctuation of capital levels determined by banks using internal models and specifies the necessary transition procedures to allow market players to adapt in due time.

Other provisions of the agreement include improvements in the areas of credit risk, market risk and operational risk, including the inclusion of more proportionality in regulations, especially for small and uncomplicated institutions.

Also, included in the agreement is a standardized "fit and proper" approach to assessing the qualifications of key office holders and members of institutions' governing bodies. Similarly, regulations have been agreed to protect supervisory independence. These regulations, among other things, provided for a minimum reflection period for employees and members of the governing bodies of the competent authorities before taking up their positions in the supervised institutions, as well as a term limit for the members of the governing bodies. In addition, changes have been made to improve banks' management of ESG risks, as well as a transitional prudential framework for cryptocurrency assets. It was decided to harmonize the minimum standards that apply to the branches of banks in third countries and the supervision of their operations in the EU under the terms of the interim agreement. The agreement was reached "ad referendum", so it is only temporary, as Parliament and the Council must approve it before it can be properly approved.

More information at: https://www.consilium.europa.eu/en/press/press-releases/2023/06/27/banking-sector-provisional-agreement-reached-on-the-implementation-of-basel-iii-reforms/

- Council of the EU – The Council has reached an agreement on a minimum level of taxation for largest international corporations

A historic agreement on global tax reform and a comprehensive implementation strategy was agreed by nearly 140 OECD/G20 nations including on Base Erosion and Profit Shifting (BEPS) on 8 October 2021.

Two pillars support the amendment of international corporate tax legislation:

- the new tax structure for the largest multinational corporations is covered by Pillar 1, which assigns tax powers to countries where profits are made. A multilateral convention will be the main component of this pillar along with technical works on the specificities of each country.
- regulations designed to minimize the potential for base erosion and profit shifting are contained in Pillar 2, to ensure that the largest international corporate conglomerates pay a minimum rate of corporate tax. Now, this pillar has been legally established by an EU directive that has been approved by all Member States that voted in favor of it.

The Council agreed on a minimum tax rate for the largest international corporations. The EU will implement globally agreed guidelines for fair and efficient taxation of multinational corporations. The minimum taxation aspect, or Pillar 2, of the OECD reform of international taxation has been conceptually agreed by EU Member States to be implemented at EU level.

The race to corporate tax rates will be narrowed if the directive is implemented effectively. A minimum tax rate of 15% will apply to the profit of large local and multinational groups or enterprises that have a combined annual income of at least €750 million. The largest multinational corporations will be required to pay the globally agreed minimum rate of corporate tax under the new regulations, which will also reduce the danger of profit shifting and tax base erosion.

By the end of 2023, the directive had to be incorporated into the national laws of the Member States. Despite this, the EU will continue to be a leader in the implementation of pillar 2 of the G20/OECD global agreement.

More information at: https://www.consilium.europa.eu/en/press/press-releases/2022/12/12/international-taxation-council-reaches-agreement-on-a-minimum-level-of-taxation-for-largest-corporations/

- Council of the EU – The Council approves the EU's 2024 yearly budget

The joint project for the general budget of the EU for 2024 was approved in November by the Council, the negotiations with the European Parliament led to an agreement on the joint text. The total amount committed is EUR 189,385.4 million, while the total amount paid is EUR 142,630.3 million. Under the current multiannual budgetary framework for 2021-2027, €360 million has been set aside under spending ceilings, allowing the EU to respond to unforeseen needs.

The budget agreement has enough budgetary flexibility to deal with unforeseen events and will allow focus on key areas of the EU. Taking into account the current economic and geopolitical environment, the interests of taxpayers and the need to address potential new difficulties in 2024, it also warrants a practical approach.

Next year's budget responds to the challenging geopolitical environment, while also clearly reflecting the EU's main priorities, which include the green and digital transition, economic recovery and all of the above. Commitments to invest funds in projects that take place over several years are legally enforceable commitments. Payments are made for the payment of expenses related to agreements concluded in the previous year or in the present.

The European Parliament will announce the acceptance of the budget after giving its approval to the unified document. From 11 November 2023, both the Council and the Parliament will have fourteen days to give their approval.

The procedure for adopting the EU budget was a laborious one. The Commission revised its initial draft budget for 2024 in a letter of 9 October 2023, after it was first presented on 7 June 2023. Meanwhile, on 5 September 2023, the Council adopted its position on the EU budget for 2024 and on 18 October 2023, the European Parliament recommended changes to the Council's position on the draft budget. The Conciliation Committee met after the Council said it did not agree with Parliament's ideas. On 11 November 2023, the European Parliament and the Council reached an agreement on the EU's annual budget for 2024. The Commission serves as an impartial intermediary in efforts to bring the positions of the two sides of the Budgetary Authority closer, and the Conciliation Committee consists of representatives from 27 member states and 27 members of the European Parliament.

The adopted budget also precedes parts of the multiannual financial framework (MFF) for the period 2021-2027, which is the EU's long-term budget, which is currently in its fourth year of funding. NextGenerationEU, the EU's pandemic recovery plan, includes measures to support the recovery from COVID-19 in addition to the 2024 budget.

More information at: https://www.consilium.europa.eu/en/press/press-releases/2023/11/20/council-gives-go-ahead-to-eu-annual-budget-for-2024/

- The Conciliation Committee: The Commission (as an impartial middleman in efforts to bring the positions of the two parts of the Budgetary Authority) + Council of the EU + European Parliament decided to create one involving cross-border institution—the Insurance Recovery and Resolution Directive (IRRD)

In order for insurers and other relevant EU authorities to respond adequately, quickly and early in a crisis situation – including one involving cross-border operations – the Insurance Recovery and Resolution Directive (IRRD) aims to improve preparedness in cases of difficulties major financial. In addition to protecting policyholders, it will have minimal negative impact on the financial system, the economy and any potential need to use government funds. Insurance companies will be encouraged by the preliminary agreement to contribute to long-term capital projects for the economy in particular by directing financial resources to businesses, especially to the Green Deal. Especially for small and non-complex insurance companies, the agreement states that more direct and balanced regulations

will guarantee flexibility and reduce the administrative burden. As regards the cross-border operations of insurers and reinsurers, the improved framework will help improve coordination between national regulatory bodies.

By strengthening coordination between regulatory bodies, the Council and Parliament wanted to increase consumer protection through the protection afforded to insurance policyholders, especially those purchasing insurance abroad. There will also be more detailed technical knowledge for consumers.

The European Insurance and Occupational Pensions Authority (EIOPA) has been given several new responsibilities by the provisional agreement, not the least of which is the development of various technical standards or secondary legislation, which will establish a more precise and uniform implementation of the directive in the Member States.

A new uniform framework for the amicable settlement of insurance disputes will be implemented at European level through the interim agreement, through the creation of a common European instrument: Insurance recovery and resolution (IRRD) Preventive recovery plans must be created and submitted to national supervisory bodies of to (re)insurance companies and groups, according to the interim agreement. Companies holding at least 60% of the relevant (re)insurance market will be subject to this rule. In addition, undertakings and groups involved in insurance and reinsurance representing at least 40% of their respective markets will have to have a resolution plan drawn up by the resolution authorities. Preventive recovery planning standards will not normally apply to small and simple projects on a case-by-case basis.

The Interim Agreement provides resolution authorities with the means to manage failures, particularly in a cross-border setting, by giving them access to resolution tools and procedures (such as write-down and conversion, solvent outflows and transfer tools).

The use of tools and processes is subject to specific additional requirements added by the temporary agreement. Specifically, some liabilities related to write-downs and conversions will not be included in these instruments to prevent adverse consequences for policyholders.

A review clause relating to insurance guarantee schemes and special provisions on financing arrangements are also included.

The agreement states that the framework is reasonable and adapted to the insurance industry. In order to guarantee sufficient protection for policyholders and beneficiaries, the EU's 2009 adoption of Solvency II sets out rules for insurance and reinsurance undertakings operating within its borders. By using quantitative and qualitative metrics, Solvency II's risk-based methodology makes it possible to assess the "global solvency" of insurance and reinsurance contracts. Three structural pillars underpin the Solvency II regulatory framework:

- Pillar I sets the quantitative standards, such as capital requirements and valuation of assets and liabilities.
- In addition to the own risk and solvency assessment (ORSA), pillar II sets the qualitative requirements for the governance and risk management of operations.
- Public disclosure and supervisory reporting are set out in Pillar III.

The ability to manage and understand risks across the sector is made possible by the three pillars. Key features of the Solvency II regulatory framework include:

- According to the market: the value of assets and liabilities should be determined by how much they can be traded, transferred or settled in the market. Risk-based: Higher capital will be required to cover unforeseen losses due to increased risks.
- proportionate: the application of regulatory requirements must be proportionate to the type, scope and complexity of the risks that are inherent in the operations of the group of insurance and reinsurance undertakings. supervision: to strengthen cross-border supervision of insurance and reinsurance firms, supervisors from supervisory colleges need to coordinate more and share information.

Since it came into force in 2016, the current legislative framework has largely worked as intended, but the Commission found some areas for improvement during an assessment of Solvency

II. On the other hand, policyholders, beneficiaries, injured parties or affected businesses may suffer major consequences due to the chaotic failure of insurers. The real economy as a whole may be affected, financial instability may develop or worsen, or extraordinary use of public funds may be required. There are currently no standardized processes in place in Europe for the resolution of insurers, and significant variations between Member States result in unequal levels of protection for policyholders and beneficiaries.

A proposal for an Insurance Recovery and Resolution Directive (IRRD) and a proposal to amend the Solvency II directive were sent by the Commission to the Council on 22 September 2021 as part of a comprehensive package of revisions to the Solvency II laws. Unlike banks, the insurance industry is not expected to have minimum reserve requirements or adequate liabilities to absorb potential IRRD losses, nor is there expected to be a single industry-funded resolution fund applicable across the EU.

More information at: https://www.consilium.europa.eu/en/press/press-releases/2023/12/14/solvency-ii-and-irrd-council-and-parliament-agree-on-new-rules-for-the-insurance-sector/

- The EU Commission – The Data Act

The Data Act entered into force on January 11. This means that individuals and businesses will have better access to data in the EU market. Thus, individuals will benefit from cheaper repair services for smart devices, they could receive customised services and have better access to data collected or produced by a device. Also, the new rules will better protect small business from unfair contractual terms in data sharing contracts, giving them a stronger voice on the data market. The Data Act will be enforced in 20 months, starting with September 11, 2025.

More information at: https://digital-strategy.ec.europa.eu/en/news/european-data-act-enters-force-putting-place-new-rules-fair-and-innovative-data-economy

- The European Securities and Markets Authority (ESMA)

ESMA has release its first risk monitoring report of 2004. The report points out the current key risk drivers that the EU financial markets are facing and the impact they will have in the future. These risks drivers are geopolitical and macro-financial uncertainty, false and misleading information spread by social media, increased interest rates and, also greenwashing.

More information at: https://www.esma.europa.eu/sites/default/files/2024-01/ESMA50-524821-3107_TRV_1-24_risk_monitor.pdf

## 2. News for practitioners

- Court of Justice of the European Union – The Court released its judgment in Case C-54/22 P | Romania v Commission

In this particular case, the General Court decided that to register partially the European Citizens' Initiative (ECI) 'Cohesion policy for the equality of the regions and sustainability of the regional cultures' is upheld following the dismissal of Romania's appeal.

A partial registration of an ECI may be allowed by the Commission in an effort to promote public involvement in EU democracy. On 18 June 2013, the European Commission received a proposal for a European Citizens' Initiative (ECI) entitled "Cohesion policy for the equality of regions and the sustainability of regional cultures". Through the cohesion strategy of the European Union, this idea sought to guarantee that areas with distinct ethnic, cultural, religious or linguistic features would

receive special attention compared to neighboring regions. The claim made was that those areas should have equal access to various EU funding, among others.

Obviously, the proposed ECI was not within the competence of the Commission to present a proposal for a legal act of the Union, therefore the Commission refused to register it by the decision of 25 July 2013. The organizers of the respective action to annul the ECI failed in their case in before the Court. Following an appeal, the Court of Justice overturned the Tribunal's decision and the Commission's recommendation. A new partial registration decision 5 of the proposed ECI was adopted by the Commission on April 30, 2019. In a decision delivered in 2021, the Tribunal rejected Romania's appeal against the decision.

Romania is currently asking the Court of Justice to annul this decision, claiming that the Commission's discretion in registering the proposed ECI was misinterpreted by the Tribunal. Romania's appeal was rejected by the court, which maintains the partial registration of the proposed ECI. Romania claimed that the Tribunal ordered the Commission to investigate whether the proposed ECI is supported by any treaty provisions, even those that the organizers did not expressly mention. However, the Tribunal did not order this inquiry on the basis that the Commission based its decision to register the proposal on the terms described in that proposal. The Court determined that, although the ECI regulation in the version in force at the time of the proposed ECI registration in question did not expressly provide that the Commission may proceed with such partial registration of the proposed ECI, which is intended to promote the citizen, participation in the democratic life of of the European Union and increasing accessibility to the EU. As such, the Commission must ensure that ECIs are easily accessible to European citizens. Accordingly, the Commission may proceed, as it did in this case, with a partial registration of a planned ECI.

More information at: https://curia.europa.eu/jcms/jcms/Jo2_7052/en/

- Court of Justice of the European Union – The Court released its judgment in Case C-491/21 | Direcţia pentru Evidenţa Persoanelor şi Administrarea Bazelor de Date Citizenship

In this particular case, the General Court decided that it is against EU law for a Member State to refuse to provide one of its citizens with an identity card that can be used as a travel document in addition to a passport, based only on the fact that the person is domiciled in another Member State.

The plaintiff argued that it is against EU law for a Member State to refuse to provide one of its citizens with an identity card that can be used as a travel document in addition to a passport, solely on the basis that the person is domiciled in another Member State. By limiting free movement within the European Union, this refusal creates a disparity in treatment between citizens living in that member state and those living outside it. This is the argument of a Romanian lawyer has been living and practicing in France since 2014, but still maintains his professional presence in Romania.

In 2017, he applied to the Government of Romania to obtain an identity card - electronic or simple - that would serve as a travel permit that would allow him to enter France. Because he was domiciled abroad, that request was rejected. After analyzing this matter, the High Court of Cassation and Justice sent an inquiry to the Court of Justice requesting an early decision. The Court of Justice decided that, in the case of Romanian nationals residing in another member state, the refusal of an identity card based solely on the fact that the applicant does not reside in Romania restricts their freedom to travel and live anywhere in the European Union. A different treatment is given to Romanian residents who are domiciled abroad and those who are domiciled in Romania according to Romanian legislation. The latter can hold both a passport and an identity card, while the former only have a passport as a travel document.

According to EU law, Member States are not obliged to provide their citizens with two identity documents that can be used as travel documents. However, the law prohibits Member States from treating citizens who have exercised their freedom to migrate and reside anywhere in the European

Union in a less favorable manner, unless they can show objective reasons serving the public interest. The effectiveness of the identification process and the verification of the address of residence by the competent national body do not support such a law, nor does the requirement to give probative value to the identity card address.

More information at: https://curia.europa.eu/jcms/jcms/Jo2_7052/en/

## 3. News for academia and students

- Research project named COALESCE, (April 2023-March 2027) - establishing an European Competence Centre for Science Communication

The EU encourages science communication to support democracy in difficult times. Pandemics, artificial intelligence, and climate change are just a few of the major issues facing humanity today that have their roots in science and technology. Science communication facilitates fact-based debate and fosters trust by bridging the knowledge gap between the general public and scientific complexities.

The EU "Pact for Research and Innovation in Europe" emphasizes the need for effective science communication, which is the ability to translate scientific methods and findings in ways that engage audiences and align with social values. This is why effective science communication is more important than ever. In short, it is essential to use common language and storytelling to make science understood by a wide audience.

In recent years, the EU has launched several research initiatives focused on science communication. Through a research project called COALESCE, which started in April 2023 and is expected to end in March 2027, it is now establishing a "European Competence Center for Science Communication".

In order to promote scientific communication in a variety of research fields, the objective is to bring together a spectrum of expertise in this field. In an attempt to increase public confidence in the work of scientists and its impact, experts will share some of their personal stories as part of the effort.

Fundamental to the argument is the idea that individuals can be empowered in their everyday lives through excellent science communication. It is believed that the public can make better judgments that are in line with its values and interests when it has knowledge of scientific concerns.

More information at: https://projects.research-and-innovation.ec.europa.eu/en/horizon-magazine/eu-promotes-science-communication-help-democracies-navigate-tough-times