

1/2 FEBRUARY BI-WEEKLY UPDATE (13/02/2023)

1. Ongoing calls for feedback and calls for evidence by the EU Commission

The EU Commission's call for feedback on, corporate insolvency and company listing has been prolonged.

[Insolvency laws: increasing convergence of national laws to encourage cross-border investment - deadline for feedback is 17th of March 2023.](#) Although EFB will not comment on this initiative, we invite you to explore whether your members may be interested in it.

[Listing Act – making public capital markets more attractive for EU companies and facilitating access to capital for SMEs – deadline for feedback is 28th of March 2023.](#)

[Late payments – update of EU rules - deadline for evidence is 17th of March 2023.](#)

EFB will continue reviewing these initiatives and will present ideas on a contribution to the Listing Act consultation in the near future for approval of the management committee and the board.

2. Green Deal Industrial Plan for Net-Zero Age

In a speech released on the 1st of February 2023, President Ursula von der Leyen noted the next steps for the EU within regards to the Green deal industrial plan which includes 4 pillars.

Pillar one: conducive regulatory environment for the net-zero industries;

Pillar two: national and EU funding;

Pillar three: ensuring proper skills for the green transition;

Pillar four: an ambitious trade agenda.

The link to the full speech can be found here:

https://ec.europa.eu/commission/presscorner/detail/en/STATEMENT_23_521

Next steps:

The Commission will obtain input that will shape the legal proposals by mid-March, early enough to discuss that then during the regular European Council on 23rd March 2023.

3. Corporate Sustainability Due Diligence Directive (CSDDD) – Important Dates

The **JURI Committee** (who is the leading committee on the CSDDD) will vote on the **13th of March 2023 on the CSDDD amendments.**

The plenary mandate is set for the **8th of May 2023.**

EFB will continue to follow these issues and keep you notified of any developments and dates as they emerge.

4. EU Council summit - 9th of February

Although several important topics were discussed during the EU Council summit which took place on the 9th of February. Here are some of the discussions below:

Economic situation in the EU

In the face of the new geopolitical reality, leaders discussed how to ensure the EU's **long-term competitiveness, prosperity and role on the global stage** .

Green industrial plan

To respond to the challenges confronting European industry, EU leaders discussed a set of measures that could help boost EU competitiveness.

Building on the Commission's communication on **a green deal industrial plan for the net-zero age**, presented at the beginning of February, and in light of its upcoming thorough analysis, EU leaders called for work to urgently be taken forward on:

- state aid policy, including making procedures simpler, faster and more predictable and allow for targeted, temporary and proportionate support
- increasing the flexibility of EU funds, to ensure fair access to financial means
- ensuring access to relevant critical raw materials and simplifying the regulatory environment to help foster greener industry
- boosting skills to meet the challenges of labour shortages and the transformation of jobs
- closing investment gaps through private and public investment

The European Council invited the **Commission to regularly report** to the Council on the **impact of state aid policy** and noted that the **upcoming reform of the electricity market design** should support a transition to a decarbonised and efficient energy system at the lowest possible cost, ensure security of supply and strengthen the EU's competitiveness.

Capital markets union

The capital markets union is crucial for Europe to remain a continent of production and innovation. In this context, EU leaders called on the Council of the EU and the European Parliament to **speed up the implementation of the capital markets union action plan** by advancing and finalising work on the legal proposals in this area.

A robust trade agenda

Pursuing an **ambitious and robust trade agenda** while also **supporting the WTO** and a multilateral rules-based system will be key to strengthening Europe's prosperity and sovereignty.

To that end, EU leaders stressed the importance of **fair and transparent free trade and investment agreements**, as they can help the EU:

- ensure a true level playing field
- develop resilient and reliable supply chains
- access new markets

They also called for further efforts to diversify supply chains, in particular for critical raw materials, and stated that the EU must safeguard its interests when facing unfair practices, making use of trade defence instruments.

For the full conclusions visit: [European Council conclusions, 9 February 2023](#)

5. Single Market Emergency Instrument Discussion

On the 9th of February Luxembourg Parliament released an opinion on the SMEI.

Below are the main points:

The Grand Duchy of Luxembourg, the Chambre des Députés has examined the SMEI proposal for a regulation.

- They **support the European Commission's approach and efforts** to avoid such situations in the future by proposing an instrument to ensure the proper functioning of the internal market, including in times of crisis.
- BUT, the content of the proposed mechanism, the Chambre des Députés can only express its disappointment by noting a **significant gap between the stated objective of a better functioning internal market and the provisions at hand.**
- Instead of proposing effective and practical measures to stop Member States from introducing restrictions in times of crisis, the **Regulation provides for a bureaucratic structure that is far from reality.**
- **The instrument as proposed could become a real obstacle to the rapid and pragmatic management of emergency situations.**
- **Particular concern is the fact that the proposal appears to allow, Member States to introduce restrictions to the internal market in times of crisis - even though such barriers are prohibited by the Treaty on the Functioning of the European Union (TFEU) and secondary legislation.**

- They believe that the **proposed provisions would jeopardise the free movement of goods, services and persons - freedoms enshrined in the TFEU.**
- The **mechanism as currently proposed by the European does not contribute to the proper functioning of the internal market as required by the extensive case law of the European Court of Justice on Article 114 of the TFEU.**
- The **rationale that Treaty freedoms can be ignored in times of crisis is problematic and the EU should be cautious before enshrining it in horizontal secondary legislation.**
- They call for a **pragmatic and effective approach, insisting in particular on the proportionality of new measures and their compatibility with the Treaties.**
- They invite the European Commission to propose measures that **facilitate the effective exercise of the fundamental freedoms of the Treaty** on the Functioning of the European Union **and bring real added value to the integration of the internal market.**

For the full document visit: <https://data.consilium.europa.eu/doc/document/ST-6256-2023-INIT/x/pdf>

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2. Debt-Equity Bias Reduction Allowance (DEBRA)

The following is the indicative timeline for the DEBRA discussions according to Dod's latest legislative tracker:

- On the 1st of March there is to be a consideration of the amendments made to the proposal.
- On the 28st of March there are to be votes in the ECON Committee.
- On the 17th of April there is likely to be a vote in the plenary.

We will continue to follow the developments pertaining to DEBRA and the suggested forementioned dates.

3. Corporate Sustainability Corporate Due Diligence (CSDDD)

- Although CSDDD discussions are still on-going, the JURI Committee (who is the leading committee on the (CSDDD) will vote on the 13th of March 2023 on the CSDDD amendments.
- There is also a plenary mandate set for the 8th of May 2023.

4. Multiple-vote share structures (part of the Listing Act and Capital Markets Union action plan)

On the 28th of February there is going to be a meeting by the Working Party on Company Law on the Proposal for a Directive of the European Parliament and of the Council on multiple-vote share structures in companies that seek the admission to trading of their shares on an SME growth market.

- There will be the examination of the Presidency text.
- Since this file is part of the ongoing work at the Council of the EU level, the visibility into the discussion is small. However, we will keep following the topic closely in case of developments.

For more information about the meeting visit the meeting agenda [pdf \(europa.eu\)](#) link.