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Sustainable Architecture for Finance in Europe (<https://safe-frankfurt.de/>)

SAFE Finance Blog

The SAFE Regulatory Radar in July

07/31/2019

A special report on climate policy by the German Council of Economic Experts, property tax reform in Germany and a new EU regulatory framework for crowdfunding: a selection of financial regulatory developments from this month

SAFE Regulatory Radar July 2019



At the end of each month, the SAFE Regulatory Radar highlights a selection of important news and developments on financial regulation at national and EU level.

Special report 2019: Uniform price on CO₂ emissions as a central climate-policy instrument

The German Council of Economic Experts (<https://www.sachverstaendigenrat-wirtschaft.de/en.html>) delivered the special report “Setting out for a new climate policy (<https://www.sachverstaendigenrat-wirtschaft.de/en/special-report-2019.html>)” (German: “Aufbruch zu einer neuen Klimapolitik (<https://www.sachverstaendigenrat-wirtschaft.de/sondergutachten-2019.html>)”) on 12 July 2019. It weighs the pros and cons of different proposals to reform climate policy.

According to the report, the realignment of climate policy should be built on carbon pricing as a central climate-policy instrument. Furthermore, extending the existing EU emissions trading scheme (https://ec.europa.eu/clima/policies/ets_en) (EU-ETS) to all sectors, including transportation, housing, and agriculture, in all member states should be a top priority on the EU agenda. The coverage of the current framework is restricted to the energy and industrial sectors. Consequently, sector-specific emissions reduction targets would no longer be required on the European level.

Extending the EU-ETS may result in lengthy political and legal procedures, the authors warn. Pricing carbon in the Non-EU-ETS-sectors separately as an interim solution is essential to meet the German targets for cutting emissions in these sectors quickly and at relatively low cost. According to the Council, policymakers should either establish a parallel emissions trading scheme or levy a carbon tax. Both options immediately implement a uniform price on carbon.

According to the report, both approaches have their pros and cons: A strong argument for a separate market is, for instance, that the quantitative target is directly achieved. In contrast, a carbon tax must be adjusted regularly. This brings up the question of whether such a tax policy is credible with respect to its reliability, the report stresses. Prices determined by emissions trading, however, reflect the scarcity of fixed emission allowances over time. Considering both administrative and political feasibility, a carbon tax could be implemented immediately at low administrative cost. Another market for emission allowances might be more easily integrated into the current EU-ETS framework. Additionally, the price of carbon would endogenously react to business cycle fluctuations, the authors argue.

The primary objective of pricing carbon should be to efficiently reduce emissions but not to raise additional tax revenues, the authors highlight explicitly. To gain public acceptance of carbon pricing, the resulting revenues should be redistributed to the taxpayers, the report suggests.

The federal government will decide on the introduction of carbon pricing in autumn 2019.

Property tax reform in Germany: changes to the Basic Law and new calculation methods

Property tax reform is underway. The tax is especially significant for cities and municipalities from a financial perspective. In April 2018, the German Federal Constitutional Court had ruled that property tax calculation is unconstitutional as it based upon obsolete unit values for buildings and land. Accordingly, the property tax regulation has to be revised by the end of 2019 (<https://www.bundesverfassungsgericht.de/SharedDocs/Pressemitteilungen/DE/2018/bvg18-021.html>). On Thursday, 27 June 2019, the German Bundestag handed over the reform project of the grand coalition (SPD and CDU/CSU) which consists of three draft laws (19/11084, 19/11085, 19/11086) to the responsible committees under the overall control of the Finance Committee.

At the end of June, the grand coalition presented a draft law (19/11086 (<http://dip21.bundestag.de/dip21/btd/19/110/1911086.pdf>)) amending the German tax law for mobilization of property ready for development. The draft will allow cities and municipalities to charge an increased,

uniform assessment rate on land that is ready for construction. This change aims to enable municipalities to set tax incentives for faster development of land.

The second draft law (19/11085 (<http://dip21.bundestag.de/dip21/btd/19/110/1911085.pdf>)) of the coalition fractions concerns the reform of property tax assessment. Under the proposal, property tax will be based not only on land value but also on income, such as rental income.

According to the third draft law (19/11084 (<http://dip21.bundestag.de/dip21/btd/19/110/1911084.pdf>)), the Basic Law has to be amended (Articles 72 (https://www.bundestag.de/parlament/aufgaben/rechtsgrundlagen/grundgesetz/gg_07-245138), 105 (https://www.bundestag.de/parlament/aufgaben/rechtsgrundlagen/grundgesetz/gg_10-245148) and 125b (https://www.bundestag.de/parlament/aufgaben/rechtsgrundlagen/grundgesetz/gg_11-245152)). Therefore, the federal government is to receive concurrent legislative power regarding property tax regulation. At the same time, supplementation of Article 72 (3) (https://www.gesetze-im-internet.de/gg/art_72.html) of the Basic Law will grant the federal states a broad differing regulatory competence. This will allow the federal states to act differently from the currently agreed rules for the property tax calculation.

On 11 September 2019, two public hearings will take place in the Finance Committee. Both the reform of the land tax itself and the introduction of the flexibility clause for the federal states are put on the agenda. The new valuation rules are intended to apply at the earliest from 1 January 2022, onwards.

Capital markets union: European Council sets its position on easier access to crowdfunding

On 26 June 2019, the European Council has finally concluded its deliberations on the Proposal for a Regulation of the European Parliament and the Council on European Crowdfunding Service Providers (https://ec.europa.eu/info/publications/180308-proposal-crowdfunding_en) (ECSP) for Business as published by the European Commission in March 2018. It is part of the Commission's Fintech action plan (https://ec.europa.eu/info/publications/180308-action-plan-fintech_en). In doing so, it responds to the harmonization proposal of the European Commission and enables the final discussions with the European Parliament to set out a new regulatory framework for the operation of crowdfunding platforms across the European Union.

The goal of the new rules is to make it easier for crowdfunding platforms to provide their services across the EU. They strive for harmonization of the minimum requirements on these platforms when operating in their home market and other EU countries.

According to the Council's position (<https://data.consilium.europa.eu/doc/document/ST-10557-2019-INIT/en/pdf>), the new framework will remove barriers for crowdfunding platforms operating cross-border. Further, it aims at providing tailored rules for EU investment and lending based crowdfunding businesses. Additionally, it will provide a common set of prudential, information and transparency requirements to ensure a high level of investor protection and to define common authorization and supervision rules for national competent authorities.

The European Parliament adopted its first reading position on 27 March 2019. Both co-legislators are now in a position to start trilogue negotiations (<http://www.europarl.europa.eu/ordinary-legislative-procedure/en/interinstitutional-negotiations.html>). Trilogues are informal tripartite meetings on legislative proposals between representatives of the European Parliament, the European Council and the European Commission to reach a provisional agreement on a text acceptable to both the Council and the Parliament.

Once adopted at the EU level, the new regulation will allow platforms to apply for an EU passport based on a single set of rules.

Current calls for feedback

- **Call for feedback** (<https://ec.europa.eu/eusurvey/runner/teg-report-climate-benchmarks-and-disc-surveylanguage=en>.) on the **draft technical advice on minimum requirements for the EU climate-benchmarks and the EU Paris-aligned benchmarks and benchmarks' ESG disclosures** (https://ec.europa.eu/info/sites/info/files/business_economy_euro/banking_and_finance/docume-sustainable-finance-teg-report-climate-benchmarks-and-disclosures_en.pdf). The deadline is Friday 13 September 2019 cob.
- **Call for feedback** (<https://ec.europa.eu/eusurvey/runner/teg-report-taxonomy?surveylanguage=en>) **report on EU Taxonomy** (https://ec.europa.eu/info/sites/info/files/business_economy_euro/banking_and_finance/docume-sustainable-finance-teg-report-taxonomy_en.pdf). The deadline is Friday 13 September 2019 cob.

Both calls for feedback are part of Directorate-General for Financial Stability, Financial Services and Capital Markets Union (**DG FISMA** (https://ec.europa.eu/info/departments/financial-stability-financial-services-and-capital-markets-union_en)), Directorate-General for Environment (**DG ENVI** (https://ec.europa.eu/info/departments/environment_en)), Directorate-General for Climate Action (**DG CL** (https://ec.europa.eu/info/departments/climate-action_en)) and Directorate-General for Energy (**DG ENEI** (https://ec.europa.eu/info/departments/energy_en)) ongoing work on sustainable finance, for which the European Commission has set up a **dedicated technical expert group (TEG)** (https://ec.europa.eu/info/publications/sustainable-finance-technical-expert-group_en).

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