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

SAFE Finance Blog

The SAFE Regulatory Radar in August

08/30/2019

Legislative acts on targeted longer-term refinancing operations, cross-border distribution of investment funds, and the position of the German government on the financial transaction tax: a selection of financial regulatory developments from this month

SAFE Regulatory Radar August 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.

Monetary policy: ECB issues legal acts on targeted longer-term refinancing operations

On 29 July 2019, the European Central Bank (ECB) published a legal act related to the third series of targeted longer-term refinancing operations (TLTROs III), an indicative calendar (<https://www.ecb.europa.eu/mopo/implement/omo/pdf/TLTRO3-calendar-2019.en.pdf>) and reporting templates.

TLTRO III aims at preserving favorable bank lending conditions. Further, it supports the accommodative stance of monetary policy, as inflation rates, both, realized and projected, have been persistently below levels that are in line with the ECB's aim of below, but close to 2 percent. The operations will start in September 2019 and end in March 2021, and have a maturity of two years each.

Decision ECB/2019/21 (https://www.ecb.europa.eu/ecb/legal/pdf/en_ecb_2019_21_f_sign.pdf) of 22 July 2019 defines the conditions for participation in TLTRO III and key parameters, including the interest rates that will be charged. In TLTRO III, similar to TLTRO II, the interest rate to be applied is linked to the lending patterns of participating banks. The more loans participating banks issue to non-financial corporations and households (except loans to households for house purchases), the more attractive the interest rate becomes.

The ECB also published Decision ECB/2019/22 (https://www.ecb.europa.eu/ecb/legal/pdf/en_ecb_2019_22_f_sign.pdf) on 22 July 2019 amending Decision ECB/2016/10 on a second series of targeted longer-term refinancing operations (TLTROs II). It changes the notification period of voluntary early repayments for TLTRO II in order to facilitate the calculation of the bid limits for TLTRO III. Both decisions entered into force on 3 August 2019.

The targeted longer-term refinancing operations (TLTROs (<https://www.ecb.europa.eu/mopo/implement/omo/tltro/html/index.en.html>)) of the Eurosystem provide financing to credit institutions. As the ECB writes, by offering long-term funding to banks, TLTROs preserve favorable borrowing conditions for banks and stimulate bank lending to the real economy. The first series of TLTROs was announced back in June 2014, the second one in March 2016, and the third on 7 March 2019.

Financial transaction tax: German government expects no negative effects on financial stability

In the view of the German government, the planned financial transaction tax will not have any negative effects on financial stability. This can be read in a Government response (19/12142 (<http://dip21.bundestag.de/dip21/btd/19/121/1912142.pdf>)) to a Parliamentary Question of the Liberal Democratic Party (FDP) (19/11620 (<http://dip21.bundestag.de/dip21/btd/19/116/1911620.pdf>)).

In a preliminary remark, the government refers to the target set 2018 between Germany and France: The faltering negotiations on the introduction of a financial transaction tax at European level should speed up and conclude the process successfully.

According to the response, experience with a financial transaction tax in many industrialized countries – such as France, Italy, Belgium, Finland and Ireland – has shown that the share of equities in savers' investment will not decline significantly. The French financial transaction tax aims primarily taxing transactions with shares issued domestically and should, in general, serve as a model. The financial transaction tax on share transactions introduced in Italy proved its worth, the government explains further. The Federal Minister of Finance, Olaf Scholz, assumes that the finance ministers will agree on enhanced cooperation in the EU before the end of 2019. According to the document, he is striving for a speedy legal and effective implementation of the future decision of the finance ministers.

Capital Markets Union: new regulatory framework for the cross-border distribution of investment funds in the European Union

The European Commission has adopted a new legislation in the course of developing a Capital Markets Union in Europe and published it on 12 July 2019.

The package includes Directive (EU) 2019/1160 (<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019L1160&from=EN>) amending the UCITS Directive 2009/65/EC (<https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32009L0065>) and the Alternative Investment Fund Managers Directive 2011/61/EU (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32011L0061>) (AIFMD). Further, it includes Regulation (EU) 2019/1156 (<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019R1156&from=EN>) on facilitating cross-border distribution of collective investment undertakings and amending the European Venture Capital Funds Regulation 345/2013 (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32013R0345>) (EUVECA) and the European Social Entrepreneurship Funds Regulation 346/2013 (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32013R0346>) (EUSEF).

According to the Commission, the European investment fund market remains fragmented. Around 70 percent of all assets under management are held by funds registered for sale only in their domestic market. The regulatory changes aim to increase transparency, to remove inefficiencies, and to reduce costs for the cross-border distribution of investment funds.

The new legislation sets out a uniform regime of the pre-marketing of alternative investment funds (AIFs); Pre-marketing refers to informing potential investors in the EU about investment concepts with the aim of determining whether they are interested in the fund.

Directive 2019/1160 (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019L1160>) also introduces a new formalized procedure for AIFMs and UCITS (Undertakings for Collective Investments in Transferable Securities) managers of the discontinuation of marketing in a particular member state. Under the new rules, UCITS managers are no longer required to have a physical presence or a facilities agent in each member state where UCITS are marketed. Thus, managers have to ensure that all communications are identifiable to investors and clarify the risks of buying shares or units of UCITS and AIFs.

The package also establishes a “de-notification procedure” for managers of collective investment funds in case of termination of the funds offering in national markets. Other changes relate to the clarification of the customer service obligations and the introduction of a single online access point for information on national rules in regard to marketing requirements and fees.

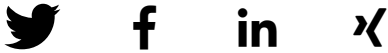
The European Commission expects the amendments to the UCITS Directive and AIFMD will result in substantial savings for funds marketed on a cross-border basis and reducing regulatory barriers.

The new framework entered into force on 1 August 2019 with the exception of some articles that will apply from 2 August 2021. Member states are required to transpose the directive into national laws by 2 August 2021 at the latest.

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