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The SAFE Regulatory Radar in March

Shaping of the EU sustainable finance framework, changes to the upcoming carbon border tax, and new rules for central securities depositories



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

Sustainable finance: European Union initiatives moving forward

This month, European institutions reached significant progress on sustainability-related topics. Supporting the European banking sector to transition to a more sustainable economy, the European Commission, the European Banking Authority (EBA), and the Platform on Sustainable Finance, an advisory board to the Commission, published their legislative proposals and non-binding reports.

On 9 March 2022, the European Commission adopted a [delegated regulation](#) complementing the Taxonomy Climate Delegated Act (TCDA) and the Taxonomy Disclosures Delegated Act (TDDA) in relation to economic activities in certain energy sectors. The details on the initial content of the [TCDA](#) were outlined in the SAFE Regulatory Radar in May 2021. At that time, the Commission postponed the adoption of rules for the energy sector for further technical assessment, especially keeping in mind the transitional role of fossil gas in the decarbonization of the economy.

The latest delegated regulation is based on the findings and consultation feedback of the Platform on Sustainable Finance and the member states expert group. The document provides detailed rules for economic activities in the natural gas and nuclear energy sectors. In particular, it contains descriptions of certain economic activities in these sectors and their proposed technical screening criteria. Furthermore, it introduces specific disclosure requirements for natural gas and nuclear energy sectors. The regulation will apply from 1 January 2023.

On 2 March 2022, [EBA](#) published a [report](#) that examines how sustainability could be introduced in the EU securitization market. This non-binding document strives to foster transparency of securitization transactions and to support sound market development. In detail, the report relates to the specificities of securitization and how sustainability-related disclosures could be introduced for securitization, acknowledging the upcoming EU Green Bond Standard (EU GBS) framework. It also examines policy implications of establishing a dedicated framework for green securitization. This report was submitted to the Commission for considering to establish a sustainable securitization framework.

As part of the further development of the environmental, social, and governance (ESG) framework, the Platform on Sustainable Finance issued a [report](#) proposing a structure for a social taxonomy. This report provides an overview of the EU legislative environment on sustainable finance and sustainable governance and identifies social objectives regarding health and safety, housing, wages, non-discrimination, and other issues. The report including specification of social attributes, planned for the first quarter of 2022, stresses the high demand for social bonds. The proposal implies a significant broadening in the current scope of the Taxonomy.

Carbon border tax: agreement on the Carbon Border Adjustment Mechanism

On 15 March 2022, the Council adopted its [general approach on the Carbon Border Adjustment Mechanism \(CBAM\) regulation](#), the details were outlined in the [SAFE Regulatory Radar](#) in July 2021. This initiative aims at avoiding carbon leakage while pursuing strong carbon pricing policies and measures to mitigate climate change.

Extending the initial proposal by the Commission, the Council proposes to introduce the centralized registry of [CBAM](#) importers at the EU level. According to the Council's position, it would contribute to the effectiveness of the [CBAM](#) governance. The Council also provides measures to reduce administrative complexity and prevent negative impacts on small businesses. In detail, new articles foresee an exemption from the [CBAM](#) obligations for goods with a value of less than 150 euros per shipping.

In terms of the next steps, the Council still must consider several issues relevant to the [CBAM](#) regulation. By 1 July 2022, the Council will deliver its position on revenues from the sale of [CBAM](#) certificates, which are under consideration for deliberation. Another topic for consideration covers the options for greater international cooperation with third countries. After that, the Council will start negotiations with the European Parliament.

Financial supervision: Simplified rules for settlements in EU financial markets

On 16 March 2022, the European Commission published a [draft regulation](#) amending the [Central Securities Depositories Regulation \(CSDR\)](#). Central Securities Depositories (CSDs) play a crucial role in the financing of an economy, operating the infrastructure that enables the settlement of securities (such as shares or bonds) in financial markets. The proposed changes aim to strengthen the stability and efficiency of the EU's settlements.

First, the regulation proposes to simplify the passport regime, for instance the process of the authorization of a [CSD](#) in another member state by shortening the period to transmit the request to the host supervisor and eliminating some bureaucratic burdens. Second, the Commission foresees supervisory colleges for [CSDs](#) that would be flexible to ensure an effective cooperation between supervisory authorities. Third, the regulation clarifies the conditions and amends the threshold under which a [CSD](#) may provide banking-type ancillary services. Forth, the changes strive at improving settlement discipline by revising rules on mandatory buy-in, which is a tool for ensuring delivery of securities against cash in a securities trade. Fifth, the new rules would require for third-country [CSDs](#) to notify [ESMA](#) when they are providing core services in the EU.

The draft regulation was submitted to the European Parliament and the Council for their consideration and formal adoption.

Current public consultations:

- **European Commission:** public [consultation](#) on the recognition of the Malaysian central counterparty arrangements as equivalent to the EU system. The deadline is Monday, 4 April 2022.
- **European Commission:** public [consultation](#) on the EU rules on central securities depositories (CSDs). The deadline is Tuesday, 17 May 2022.

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