



Europeanews

Regulatory & Governmental Affairs

Issue 45/2022. 05 – 09 December 2022

/ Content

Law.....	1
Politics/General	3
Decisions.....	4
From the OJEU.....	5
Brussels intern	5
Contact	6

/ Main Topics

- General ■ Bank/Insurance/Tax ■ Enviroment ■ Media/Telecom ■ Competition/SA
- Healthcare ■ Aviation/Transport ■ Foreign Trade ■ Energy ■ Compliance ■ Food/Tobacco

/ Law

■ ■ Artificial Intelligence

The Council adopted its position, so-called general approach, on the proposal for an Artificial Intelligence Act, which will lay down a horizontal legal framework for AI and in particular a definition of an AI system, a list of prohibited practices and a classification of AI systems as high-risk, in addition to provisions regarding the governance, market surveillance, enforcement and penalties. Inter-institutional negotiations with the European Parliament with a view to agree on a final text will start once the latter adopts its own position.

[Council general approach](#)

■ Competition – Horizontal Block Exemption Regulations

The EC adopted two regulations extending the period of validity of the horizontal block exemption regulations on Research & Development and

Specialisation Agreements (together HBERs), which were due to expire at the end of the year. The extension until 30 June 2023 will allow the finalisation of the review exercise by the European Commission.

[EC dedicated page](#)

■ Capital Markets Union

The EC presented a series of measures to further develop the Capital Markets Union. The package consists of six legislative proposals, covering three parts: clearing, corporate insolvency, listing act. The clearing part contains a proposal for a regulation amending the European Market Infrastructure Regulation (EMIR), the Capital Requirements Regulation (CRR) and the Money Market Funds (MMF) Regulation; a proposal for a Directive amending the Capital Requirements Directive (CRD), Investment Firm Directive (IFD), and the Directive on Undertakings for Collective Investment in Transferable Securities

(UCITS). The listing part contains a proposal for a Regulation amending the Prospectus Regulation, Market Abuse Regulation and the Markets in Financial Instruments Regulation; a proposal for a Directive amending the Markets in Financial Instruments Directive and repealing the Listing Directive and a proposal for a Directive on multiple-vote shares. The corporate insolvency part consists of a Directive on corporate insolvency. The legislative proposals will now be submitted to the European Parliament and the Council for adoption.

[EC dedicated page](#)

■ VAT

The EC presented a series of measures to modernise the EU's Value-Added Tax (VAT) system in particular following the development of the platform economy. The new system will introduce real-time digital reporting for business that operate cross-border in the EU; updated VAT rules for passenger transport and short-term accommodation platforms; a single VAT registration across the EU. The new rules will amend the VAT Directive (2006/112/EC), the Council Implementing Regulation EU 282/2011 and the Council Regulation on Administrative Cooperation EU 904/2010. The legislative proposals will be sent to the Council for agreement and to the European Parliament and the Economic and Social Committee for consultation.

[EC dedicated page](#)

■ Taxation

The EC released its proposal to amend the Directive for Administration Cooperation (DAC), and to complement the Markets in Crypto-assets (MiCA) Regulation. The new rules will require all crypto-asset service-providers to report transactions of clients residing in the EU and will establish a common minimum level of penalties for situations of serious non-compliance. The text will be submitted to the European Parliament for consultation and to the Council for adoption. The new reporting requirements with regard to crypto-assets, e-money and digital currencies shall enter into force in 2026.

[EC dedicated page](#)

■ Anti-Money Laundering

The Council agreed its position on an anti-money laundering (AML) regulation and a new directive (AMLD6), which will form the new AML set of rules once adopted. According to the new rules, all crypto-asset service providers will be obliged to conduct due diligence on their customers. Specific enhanced due diligence measures for cross-border correspondent relationships for crypto-asset service providers will be foreseen. Third-part financing intermediaries, people trading in precious metals, precious stones and cultural goods will also be subject to the obligations of the regulation. Inter-institutional negotiations with the European Parliament in order to agree on a final version of the texts can now start.

[Council general approach on the proposal for a regulation – Annexes – Council general approach on the proposal for a directive](#)

■ Deforestation and Trade

The Council and the European Parliament reached a provisional agreement on the proposal to minimise the risk of deforestation and forest degradation associated with products that are imported into or exported from the EU. The deal sets due diligence rules for all operators and traders who place, make available or export certain commodities such as palm oil, beef, timber, coffee, cocoa, rubber and soy and a number of derived products. In two years a review will be carried out to establish if other products need to be covered. The agreement need to be formally adopted by both institutions. The agreed text will be available soon.

[EC proposal for a Regulation on the making available on the Union market as well as export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation 995/2010](#)

■ EU and Chile Trade Partnership

The negotiations between the EU and Chile on the Advanced Framework Agreement, which will deepen trade and investment relations between the two parties, have been completed. Now both the EU and Chile will proceed with the legal verification of the deal, then the ratification will follow.

[Factsheet on EU-Chile Advanced Framework Agreement](#)

■ WTO

The EC asked for the establishment of two panels at the World Trade Organisation to resolve two ongoing disputes with China. The first one concerns the legality of the trade restrictions that the country has had in place against Lithuanian products; the other concerns the Chinese measures affecting EU holders of high-tech patents. The WTO Dispute Settlement Body will discuss the EU's requests at its next meeting on 20 December 2022.

[Case Lithuania – Case High-tech Patents](#)

■ Trans-European Transport Network

The Council adopted its general approach on the proposal for a regulation on Union guidelines for the development of the trans-European transport network, which lays down clear deadlines for the completion of the trans-European transport network. The European Parliament is expected to vote on the report in the first quarter of 2023. Intern-institutional negotiations with the European Parliament shall start in the first quarter of next year, once the lawmakers adopt their position.

[Council general approach](#)

■ RAPEX Weekly Report

The EC published its weekly report for all dangerous consumer products, with the exception of food, pharmaceutical and medical devices.

[Weekly Overview Report](#)

/ Politics/General

■ Anti-Money Laundering

The European Banking Authority launched a public consultation on new Guidelines on the effective management of money laundering and terrorist financing risks when providing access to financial services. Contributions can be submitted until 6 February.

[EBA consultation paper](#)

■ Zero Pollution

The EC published its first Zero Pollution Monitoring and Outlook report and its third Clean Air Outlook report.

[Zero Pollution Monitoring and Outlook Report – Clean Air Outlook Report](#)

/ Decision

EC Decision of 07 December – Open Text / Micro Focus

■ Computer programming, consultancy and related activities

The EC approved the acquisition of sole control of Micro Focus International plc by Open Text Corporation.

[Case information](#)

EC Decision of 06 December – SE AG / SEC / SEPG

■ Manufacture of engines and turbines

The EC approved the acquisition of joint control of Shanghai Electric Power Generation Equipment Co. Ltd. (“SEPG”) by Shanghai Electric Group Company Limited (“SEC”) and Siemens Energy AG (“SE AG”).

[Case information](#)

EC Decision of 06 December – Euro denominated bonds

■ Activities auxiliary to financial services and insurance activities

The EC sent a Statement of Objections to Deutsche Bank and Rabobank over Euro-denominated bonds trading cartel case.

[Case information](#)

EC Decision of 05 December – Generali Real Estate / Munich Re / Saxon Land

■ Real estate activities

The EC approved the acquisition of Saxon Land B.V. by Generali Real Estate Spa (“GRE”) and Münchener Rückversicherungs-Gesellschaft Aktiengesellschaft (“Munich Re”).

[Case information](#)

EC Decision of 05 December – Kirk / LFI / ATP / Ferrosan Medical Devices

■ Manufacture of medical and dental instruments and supplies

The EC approved the acquisition of joint control of Ferrosan Medical Devices Group A/S by Kirk Kapital Strategic Investments A/S, Lundbeckfond Invest A/S and Arbejdsmarkedets Tillaegspension (“ATP”).

[Case information](#)

EC Decision of 05 December – Illumina / Grail

■ Manufacture of basic pharmaceutical products and pharmaceutical preparations

The EC sent a Statement of Objections to Illumina and GRAIL informing them of the restorative measures it intends to adopt following the Commission’s decision to prohibit the implemented acquisition of GRAIL by Illumina.

[Case information](#)

EC Decision of 02 December – ENI / Sonatrach / Equinor / In Salah JV

■ Distribution of gaseous fuels through mains; manufacture of gas

The EC approved the creation of a joint venture in In Salah Gas Limited by the Société Nationale pour la Recherche, la Production, le Transport, la Transformation et la Commercialisation des Hydrocarbures spa, the Eni Group and Equinor ASA.

[Case information](#)

/ From the OJEU

■ Non-opposition to concentrations

Non-opposition to the notified concentration Ali Group / Welbilt – Case M.10431 has been published.

[Document 2022/C 469/02 – Case information](#)

Non-opposition to the notified concentration BC Partners / Bain Capital / Fedrigoni – Case M.10894 has been published.

[Document 2022/C 467/01 – Case information](#)

Non-opposition to the notified concentration PHO P / Stora Enso Maxau – Case M.10942 has been published.

[Document 2022/C 466/03 – Case information](#)

Non-opposition to the notified concentration Athora / Axa Customer Solutions – Case M.10895 has been published.

[Document 2022/C 466/02 – Case information](#)

Non-opposition to the notified concentration Stora Enso / De Jong Papier Holding / DJV Holding – Case M.10948 has been published.

[Document 2022/C 464/06 – Case information](#)

Non-opposition to the notified concentration Platinum Equity Group / Imerys Htsm – Case M.10900 has been published.

[Document 2022/C 464/05 – Case information](#)

Non-opposition to the notified concentration Salic / Olam / Olam Agri – Case M.10790 has been published.

[Document 2022/C 464/04 – Case information](#)

Non-opposition to the notified concentration Macquarie / Aberdeen / AIP / Certain Masmovil Assets – Case M.10910 has been published.

[Document 2022/C 464/03 – Case information](#)

Non-opposition to the notified concentration Infravia / Liberty Global / Telefonica / Opal – Case M.10906 has been published.

[Document 2022/C 464/02 – Case information](#)

■ Prior notification of concentrations

Prior notification of the concentration Astara Western Europe / Mitsubishi Corporation / Isuzu Motors Limited / Isuzu Sales Deutschland – Case M.10837 has been published.

[Document 2022/C 466/10 – Case information](#)

Prior notification of the concentration Providence Equity Partners / Rothschild & CO / A2MAC1 – Case M.10979 has been published.

[Document 2022/C 464/12 – Case information](#)

Prior notification of the concentration Bouygues Immobilier / CLC Holdings / CLC France Property JV – Case M.10954 has been published.

[Document 2022/C 464/11 – Case information](#)

Prior notification of the concentration Cura / Generali / T-C Pep Property – Case M.10957 has been published.

[Document 2022/C 462/09 – Case information](#)

Prior notification of the concentration Dufry / Autogrill – Case M.10880 has been published.

[Document 2022/C 462/08 – Case information](#)

Prior notification of the concentration Remondis / H&M / JV – Case M.10907 has been published.

[Document 2022/C 462/07 – Case information](#)

/ Brussels intern

■ Data Act

The Presidency of the Council is working on a third compromise text on the proposal for a regulation on

harmonised rules on fair access to and use of data (Data Act).

The information in this newsletter does not replace advice in any particular case.

© Noerr Partnerschaftsgesellschaft mbB Rechtsanwälte Steuerberater Wirtschaftsprüfer 2022 / noerr.com

■ Digital Markets Act

In the next few days the European Commission is expected to release a first draft form for digital companies to notify their status as gatekeeper, for public consultation.

■ Environmental Crime

The Council aims to adopt a general approach on the draft environmental crime directive in the coming weeks. The new rules will update and enlarge the list of offences covered and will harmonise, for the first time, the level of penalties.

■ Corporate Taxation

EU Ministers discussed the proposal for a Council directive on ensuring a global minimum level of taxation for multinational groups in the Union, which will transpose into EU law part of the agreement by the OECD/G20 Inclusive Framework on base erosion and profit shifting (BEPS), which provides for a global two-pillar reform of the rules on international corporate taxation. More precisely, the directive concerns the second pillar of the reform. Even if there is a strong political will by several Member States to finally reach an agreement, Hungary vetoed the deal. The possibility of proceeding with the enhanced cooperation, which enables a minimum of nine EU countries to cooperate in a particular field if the Union as a whole cannot find an agreement, is now stronger than ever.

/ Contact

For suggestions, comments please contact:

Noerr Partnerschaftsgesellschaft mbB Rechtsanwälte Steuerberater Wirtschaftsprüfer
Boulevard du Régent 47-48
1000 Brussels
Belgium

Co-Head of Regulatory & Governmental Affairs



Dr. Holger Schmitz
T +49 30 20942160
holger.schmitz@noerr.com

Co-Head of Regulatory & Governmental Affairs



Dr. Alexander Birnstiel
T +49 89 28628241
alexander.birnstiel@noerr.com

Associated Partner



Dr. Dr. Claus Zimmermann
T +32 491 90 54 60
claus.zimmermann@noerr.com

Regulatory Affairs Advisor



Giovanna Ventura
T +32 2 2745573
giovanna.ventura@noerr.com