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From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

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To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council
of the European Union

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Subject: ANNEX to the COMMUNICATION FROM THE COMMISSION TO THE
EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN
ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF
THE REGIONS A Capital Markets Union for people and businesses -
new action plan

Delegations will find attached document COM(2020) 590 final.

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ANNEX

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to the

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

A Capital Markets Union for people and businesses - new action plan

Annex 1: List of actions and indicative timeline

I. MEASURES TO SUPPORT A GREEN, DIGITAL, INCLUSIVE AND RESILIENT ECONOMIC RECOVERY BY MAKING FINANCING MORE ACCESSIBLE TO COMPANIES

<u>Action 1: Making companies more visible to cross-border investors</u>	
<i>The Commission will adopt a legislative proposal in Q3 2021 to set up a European single access point (ESAP). This platform shall provide seamless, EU-wide access to all relevant information (including financial and sustainability-related information) disclosed to the public by companies, including financial companies.</i>	Q3 2021
<p>The information to be covered should reflect the needs of investors and the interests of a broader range of users, including financial intermediaries and civil society. Therefore, this platform should also improve the availability and accessibility of sustainability-related data, steer more investments towards sustainable activities and contribute to meeting the objectives of the European Green Deal¹.</p> <p>The platform will build on the European financial transparency gateway² (EFTG) pilot project and be complementary to the business registers interconnection system³ (BRIS), but will not alter its functions. The legislative proposal will entail streamlining EU legislation⁴ on disclosure of company data to the public. The platform will, to the greatest extent possible, build on existing EU and national IT infrastructure (databases, registers) in order to avoid adding to companies' reporting burden. All information will be provided in comparable digital formats. The details about the platform's information coverage, governance and business model are still to be decided.</p>	
<u>Action 2: Supporting access to public markets</u>	
<i>In order to promote and diversify small and innovative companies' access to funding, the Commission will assess, by Q4 2021, whether the listing rules for public markets (both SME growth markets and regulated markets) could be further simplified.</i>	Q4 2021
<p>The assessment will focus in particular on: (i) the appropriateness and consistency of the SME definition across financial legislation, (ii) potential simplification of the market abuse regime, and (iii) the merits of introducing transitional provisions for first time issuers on regulated markets and SME growth markets.</p>	

¹ Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions 'The European Green Deal', COM/2019/640 final.

² <https://eftg.eu/>

³ https://e-justice.europa.eu/content_business_registers_at_european_level-105-en.do

⁴ Notably the Transparency Directive (Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC) and the Non-Financial Reporting Directive (Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups).

<p><u>Action 3: Supporting vehicles for long-term investment</u></p> <p><i>The Commission will adopt a proposal for a review of the ELTIF Regulation⁵ by Q3 2021, building on the results of a public consultation launched in 2020 and an impact assessment.</i></p>	<p>Q3 2021</p>
<p>The review will among other things, look into: (i) the redemption policy and lifespan of ELTIFs; (ii) the extent to which ELTIFs are marketed in the EU; (iii) the appropriateness of investment limitations for retail investors, and; (iv) the extent to which the list of eligible assets and investments, as well as diversification rules, portfolio composition and limits on cash borrowing, should be updated.</p>	
<p><u>Action 4: Encouraging more long-term and equity financing from institutional investors</u></p> <p><i>A. As part of the review of Solvency II⁶, by Q3 2021 the Commission will assess whether the legal framework could be amended to further promote long-term investment by insurance companies, without harming financial stability and policy holder protection.</i></p>	<p>Q3 2021</p>
<p>The review of Solvency II will notably assess the appropriateness of the eligibility criteria for the long-term equity asset class, the risk margin calculation, and the valuation of insurers' liabilities, with the aim of both avoiding undue pro-cyclical behaviours and better reflecting the long-term nature of the insurance business.</p>	
<p><i>B. In its work on implementing Basel III, when reviewing the Capital Requirements Regulation⁷/Directive⁸ (envisaged for adoption by Q1 2021), the Commission will apply the flexibility embedded in Basel III to ensure the appropriate prudential treatment of long-term SME equity investments by banks.</i></p>	<p>Q1 2021</p>
<p>The CRR/CRD review aims to avoid that the implementation of Basel III has an undue impact on banks' investment in long-term SME equity as well as on banks' and investment firms' market-making activity.</p>	

⁵ Regulation (EU) 2015/760 of the European Parliament and of the Council of 29 April 2015 on European long-term investment funds.

⁶ Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance.

⁷ Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 Text with EEA relevance.

⁸ Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC.

<p><u>Action 5: Directing SMEs to alternative providers of funding</u></p> <p><i>With a view to facilitating access to finance for SMEs, by Q4 2021 the Commission will analyse the merits and feasibility of setting up a referral scheme to require banks to direct SMEs whose credit application they have turned down to providers of alternative funding.</i></p>	<p>Q4 2021</p>
<p>The feasibility assessment will analyse the effectiveness of existing bank referral schemes. The Commission will also explore the merits of reciprocally requiring alternative funding platforms to refer turned-down SMEs to banks, and whether the scope of a referral scheme would need to be extended to include equity finance providers, matchmaking platforms and specialised advisory hubs.</p>	
<p><u>Action 6: Helping banks to lend more to the real economy</u></p> <p><i>In order to scale-up the securitisation market in the EU, by Q4 2021 the Commission will carry out a comprehensive review of the EU securitisation framework⁹ for both simple transparent and standardised (STS) and non-STS securitisation.¹⁰</i></p>	<p>Q4 2021</p>
<p>The review will aim to strengthen the role of securitisation as an instrument available to banks to help them provide sustainable and stable funding to the real economy in a post-COVID-19 environment, with a particular focus on SMEs and the green transition. Particular attention will be paid to the capacity of the current framework to adequately reflect the effective riskiness of both STS and non-STS securitisation instruments, including the appropriateness of disclosure requirements, the process for recognising significant risk transfer and the prudential treatment of cash and synthetic securitisation, while preserving the financial stability of the EU.</p>	

II. MAKE THE EU AN EVEN SAFER PLACE FOR INDIVIDUALS TO SAVE AND INVEST LONG-TERM

<p><u>Action 7: Empowering citizens through financial literacy</u></p> <p><i>A. In order to promote a shared understanding of financial competence among public authorities and private bodies and to provide a basis for the development of financial competence in various applications and settings, the Commission will conduct a feasibility assessment for the development of a dedicated EU financial competence framework by Q2 2021, building on relevant existing frameworks.</i></p>	<p>Q2 2021</p>
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⁹ Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation, and amending Directives 2009/65/EC, 2009/138/EC and 2011/61/EU and Regulations (EC) No 1060/2009 and (EU) No 648/2012.

¹⁰ In addition to strengthening the securitisation market, the Commission will continue to assess the possibility of introducing a dual-recourse instrument named European Secured Notes. As set out in Directive (EU)2019/2162 of the European Parliament and of the Council of 27 November 2019 on the issue of covered bonds and covered bond public supervision, it will submit a report to the European Parliament and the Council by 8 July 2024.

This measure seeks to provide a common conceptual basis for EU public authorities and private bodies to develop policies and learning applications and material that aim to increase individuals' financial competence. It will build on relevant existing frameworks and respect the principle of subsidiarity.

B. The Commission will assess whether it is appropriate to extend the principle enshrined in Article 6 of the Mortgage Credit Directive¹¹ to relevant sectoral legislation - Markets in Financial Instruments Directive¹² (MiFID), Insurance Distribution Directive¹³ (IDD), Pan-European Personal Pension Product Regulation¹⁴ (PEPP), Undertakings for the Collective Investment in Transferable Securities Directive¹⁵ (UCITS), Packaged Retail and Insurance-Based Investment Products Regulation¹⁶ (PRIIPs). It will do this with a view to proposing, if supported by a positive impact assessment, a horizontal omnibus legislation requiring Member States to promote formal, non-formal and/or informal learning measures that support the financial education of consumers, in particular in relation to responsible investing.

Q1 2022

This measure seeks to build on the legal precedent set in the Mortgage Credit Directive by requiring Member States to promote learning measures that support consumers' financial education as regards responsible investing in other sectoral legislative acts (MiFID II, IDD, PEPP, UCITS, PRIIPs), where supported by a positive impact assessment and in full respect of the principle of subsidiarity.

Action 8: Building retail investors' trust in capital markets

A. The Commission will assess the applicable rules in the area of inducements and disclosure and, where necessary, propose to amend the existing legal framework in order to ensure that retail investors receive fair and adequate advice as well as clear and comparable product information.

Q1 2022

In the area of distribution, the assessment will consider inter alia possible measures to: (i) align investor protection standards in IDD with those applicable under MiFID II; (ii) ask distributors to inform clients of the existence of third-party products; (iii) improve the transparency of inducements for clients, and; (iv) introduce specific reporting requirements for the distributors of retail products to allow for supervisory scrutiny. In the area of disclosure, particular attention will be paid to

¹¹ Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010.

¹² Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU.

¹³ Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution.

¹⁴ Regulation (EU) 2019/1238 of the European Parliament and of the Council of 20 June 2019 on a pan-European Personal Pension Product.

¹⁵ Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities.

¹⁶ Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products.

improving consumer engagement, digital delivery and interaction with key information that allows comparisons, interaction and customisation. This action should include improvements to the disclosure of sustainability-related information, which would accelerate the uptake of sustainable products by retail investors. The Commission will complete the assessment by Q1 2022.

The Commission will then table the necessary legislative amendments to address any possible conflicts of interest emanating from the payment of inducements to distributors, as well as weaknesses of the current disclosure framework, notably to seek better alignment of IDD, MiFID II and PRIIPS. Where supported by a positive impact assessment, these amendments will be included in IDD, MiFID II and PRIIPs.

B. The Commission will put forward a legislative proposal to amend MiFID II by Q4 2021/Q1 2022 to reduce the administrative burden and information requirements for a subset of retail investors. This will involve reviewing the existing investor categorisation of retail vs. professional investors or the introduction of a new category of qualified investors.

**Q4 2021 /
Q1 2022**

This measure seeks to improve the categorisation of investors within the MiFID II framework with a view to reducing the administrative burden for companies as well as alleviating unnecessary safeguards and information requirements for a subset of investors that are currently classified as retail investors, although they have a good knowledge of financial markets and products. This will be subject to an impact assessment.

C. Subject to a positive impact assessment carried out in the context of the reviews of the IDD by Q1 2023 and MiFID II by Q4 2021, the Commission will introduce a requirement for advisors to obtain a certificate that proves that their level of knowledge and qualifications is sufficient to access the profession, and shows that they take part in an adequate level of continuous education. This aims to maintain a satisfactory level of advisor performance.

**Q1 2023
Q4 2021**

In addition, by Q1 2022 the Commission will assess the feasibility of setting up a pan-EU label for financial advisors, which can be used to comply with the requirement to obtain a certificate.

Q1 2022

These measures will ensure a level playing field among advisors and further improve the quality of financial advice in the EU, including in relation to sustainability.

Action 9: Supporting people in their retirement

A. In order to strengthen the monitoring of the state of play as regards pension adequacy in Member States, the Commission will seek to identify the relevant data and methodology for developing pension dashboards with indicators.

Q4 2021

B. In order to facilitate access to individualised pension information and raise people's awareness as regards their future retirement income, the Commission will seek to develop best practices for the set-up of national tracking systems.

Q4 2021

The Commission will send a call for advice to European Insurance and Occupational Pensions

Authority (EIOPA) by Q4 2020 to (i) identify the data that providers of occupational pensions should report to make it possible to develop pension dashboards with indicators and (ii) seek its input on the development of best practices for the set-up of national tracking systems. The deadline for receiving EIOPA's technical advice will be set as Q4 2021.

C. *The Commission will launch a study to analyse auto-enrolment practices and may analyse other practices to stimulate participation in occupational pension schemes, with a view to developing best practices for such systems across Member States.*

Q3 2020

In Q3 2020, the Commission will launch an external study to analyse existing auto-enrolment practices in occupation pension schemes, with a view to developing EU best practices. Auto-enrolment is a mechanism whereby savers are automatically enrolled into a retirement savings scheme, unless they actively opt out.

III. INTEGRATING NATIONAL CAPITAL MARKETS INTO A GENUINE SINGLE MARKET

Action 10: Alleviating the tax associated burden in cross-border investment

In order to lower tax-related costs for cross-border investors and prevent tax fraud, the Commission will put forward a legislative initiative by Q4 2022, subject to a positive impact assessment and in close consultation with Member States, as well as explore additional ways to introduce a common, standardised, EU-wide system for withholding tax relief at source.

Q4 2022

This work will take into account the OECD treaty relief and compliance enhancement¹⁷ (TRACE) project and other EU initiatives, such as the Code of Conduct on withholding tax.¹⁸

Action 11: Making the outcome of cross-border investment more predictable as regards insolvency proceedings

A. *To make the outcomes of insolvency proceedings more predictable, the Commission will take a legislative or non-legislative initiative for minimum harmonisation or increased convergence in targeted areas of core non-bank insolvency by mid-2022.*

Q2 2022

The initiative for a legislative or non-legislative instrument could include a definition of triggers for insolvency proceedings, the ranking of claims (balancing interests of different types of creditors, including secured/unsecured creditors in insolvency) and further core elements such as avoidance actions or asset tracing. It will take into account the results of a public consultation as well as advice from a group of experts and discussions with Member States. It will also be supported by an impact assessment.

¹⁷ <http://www.oecd.org/ctp/exchange-of-tax-information/treaty-relief-and-compliance-enhancement-trace.htm>

¹⁸ https://ec.europa.eu/taxation_customs/sites/taxation/files/code_of_conduct_on_withholding_tax.pdf

<p>B. <i>To regularly assess the effectiveness of national loan insolvency systems, the Commission and the EBA will analyse the possibility of making legal amendments to reporting frameworks by Q1 2021. This could lead to legal amendments in Q4 2022.</i></p>	<p>Q1 2021 Q4 2022</p>
<p>Building on experience from the benchmarking of national loan enforcement¹⁹ (including insolvency) frameworks undertaken under the first CMU action plan, the Commission and the EBA will analyse the possibility of making legal amendments to reporting frameworks. This would enable the EBA to regularly update the Commission on the effectiveness of loan enforcement in Member States, without disproportionately increasing the reporting burden. Where appropriate, possible legislative amendments would be proposed in Q4 2022.</p>	
<p><u>Action 12: Facilitating shareholder engagement</u></p> <p><i>To facilitate investor engagement, in particular across borders, the Commission will assess: (i) the possibility of introducing an EU-wide, harmonised definition of 'shareholder', and; (ii) if and how the rules governing the interaction between investors, intermediaries and issuers as regards the exercise of voting rights and corporate action processing can be further clarified and harmonised. The Commission will also examine possible national barriers to the use of new digital technologies in this area.</i></p>	<p>Q3 2023 Q4 2021</p>
<p>This assessment will be carried out as part of the Commission's evaluation of the implementation of the Shareholder Rights Directive 2²⁰ (SRD 2), due to be published by Q3 2023. At this stage, and after duly taking into account market developments after the SRD 2 and its Implementing Regulation²¹ enter into force in September 2020, the Commission plans to investigate in particular the following:</p> <ul style="list-style-type: none"> • the attribution and evidence of entitlements and the record date, • the confirmation of the entitlement and the reconciliation obligation, • the sequence of dates and deadlines, • any additional national requirements (in particular, requirements of powers of attorney to exercise voting rights), and • communication between issuers and central securities depositories (CSDs) as regards timing, content and format. <p>Particular attention will be paid to effectiveness and efficiency considerations, as well as legal certainty aspects.</p> <p>The Commission will also investigate, by Q4 2021, whether there are national regulatory barriers to the use of new digital technologies that could make communication between issuers and shareholders more efficient and facilitate the identification of shareholders by the issuers or the participation and voting by shareholders in general meetings.</p>	

¹⁹ https://ec.europa.eu/info/publications/191203-study-loan-enforcement-laws_en

²⁰ Directive (EU) 2017/828 of the European Parliament and of the Council of 17 May 2017 amending Directive 2007/36/EC as regards the encouragement of long-term shareholder engagement.

²¹ Commission Implementing Regulation (EU) 2018/1212 of 3 September 2018.

<p><u>Action 13: Developing cross-border settlement services</u></p> <p><i>To improve the cross-border provision of settlement services in the EU without negatively impacting financial stability, the Commission will review the rules covering a wide range of topics, including: (i) the cross-border provision of services by CSDs on the basis of a CSD passport and (ii) the procedures and conditions under which CSDs have been authorised to designate credit institutions or themselves to provide banking-type ancillary services.</i></p>	<p>Q4 2021</p>
<p>This will be achieved through a targeted review of the Central Securities Depositories Regulation²², to be carried out by Q4 2021. Such a review is required under the Regulation and will be supported by an impact assessment.</p> <p>Before adopting the legislative proposal, by Q4 2020, the Commission will present a report on the Regulation to the European Parliament and the Council. This report will reflect a broad consultation with all stakeholders, including Member States and European Securities and Markets Authority (ESMA).</p>	
<p><u>Action 14: Consolidated tape</u></p> <p><i>In order to create an integrated trading view across the EU and improve competition between trading venues, the Commission will propose legislative changes that will support the establishment of an effective and comprehensive post-trade consolidated tape for equity and equity-like financial instruments.</i></p>	<p>Q4 2021</p>
<p>The Commission will ensure that the tape's coverage is comprehensive and that the quality of data is adequate for the tape to provide added value for market participants, while taking into account costs of the set-up and the use-case.</p>	
<p><u>Action 15: Investment protection and facilitation</u></p> <p><i>The Commission will propose to strengthen the investment protection and facilitation framework in the EU.</i></p>	<p>Q2 2021</p>
<p>The action will be structured based on three pillars:</p> <ul style="list-style-type: none"> (i) substantive rules to ensure consistent and predictable protection of intra-EU investments; (ii) better enforcement of these rules, to be ensured by improving the effectiveness of dispute resolution mechanisms at national and/or EU level while guaranteeing access to national courts; (iii) specific investment facilitation measures, for instance, consolidation of information on rights and opportunities for investors in a single access point (for example on the Invest EU portal²³) and promotion of mechanisms for preventive problem resolution by stakeholders, as well as amicable dispute resolution. 	

²² Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012.

²³ <https://ec.europa.eu/eipp/desktop/en/index.html?2nd-language=en>

Action 16: Supervision

The Commission will work towards an enhanced single rulebook for capital markets by assessing the need for further harmonisation of EU rules and monitoring progress towards supervisory convergence. It will take stock of what was achieved in Q4 2021 and consider proposing measures for stronger supervisory coordination or direct supervision by the European Supervisory Authorities (ESAs).

The Commission is also carefully assessing the implications of the Wirecard case for the regulation and supervision of EU capital markets will act promptly and decisively to address any shortcomings that are identified in the EU legal framework.

Q4 2021

In full respect of the principle of subsidiarity, the Commission will systematically assess whether further harmonisation of EU rules is warranted. An enhanced single rulebook and effective supervision would level the playing field for market players and contribute to fair competition between them.

In upcoming sectoral legislative reviews, the Commission will also reflect on the effectiveness of the ESAs' convergence powers to identify possible gaps or areas where strengthened powers would help promote CMU. It will also consider whether convergence powers are being effectively used under the existing governance. Finally, the Commission will carefully monitor whether there has been sufficient progress on supervisory convergence for CMU to thrive. Should there be indications that the supervisory set-up is inadequate for the desired level of market integration, stronger supervisory coordination or direct supervision by the ESAs will be considered in future reviews, the next one being due by the end of 2021.

The Commission is also carefully assessing the implications of the Wirecard case for the regulation and supervision of EU capital market. It will take into account the conclusions of ongoing investigations. In light of the information available to the Commission at this stage, the collapse of Wirecard raises questions about the effectiveness of Wirecard's corporate governance, external statutory audit and supervision of financial information.