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NOTE

From: General Secretariat of the Council

To: Permanent Representatives Committee

Subject: Council Conclusions on the Commission's CMU Action Plan

COUNCIL CONCLUSIONS
on the Commission's CMU Action Plan

THE COUNCIL OF THE EUROPEAN UNION:

1. RECALLS its conclusions of 19 June 2015,¹ 10 November 2015² and 11 July 2017³ in relation to the initial Commission Action Plan on Building a Capital Markets Union.⁴
2. WELCOMES the important steps taken in relation thereto and, in particular, the wide range of legislative measures taken in recent years and ACKNOWLEDGES the progress achieved under the remit of the initial Capital Markets Union Action Plan.
3. RECOGNISES that, despite the measures taken so far, further steps are needed to progress towards a genuine Capital Markets Union (CMU).
4. NOTES the importance of what has been accomplished to date as a result of the first phase of CMU and the need to give recent legislative changes time to take full effect.
5. RECALLS, in light of this, the Council Conclusions on the Deepening of the Capital Markets Union of 5 December 2019,⁵ REITERATES the importance of the principles outlined therein, which should continue to underpin the further deepening of the CMU, and STRESSES the unaltered relevance of the comprehensive list of measures that should be explored to progress swiftly to a genuine CMU.

¹ Council Conclusions on a Capital Markets Union, Doc. 10148/15

² Council Conclusions on the Commission Action Plan on building a Capital Markets Union, Doc. 13922/15

³ Council Conclusions on the Commission Communication on the mid-term review of the Capital Markets Union Action Plan, Doc. 11170/17

⁴ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Action Plan on Building a Capital Markets Union (COM(2015) 468 final), Doc. 12263/15

⁵ Council Conclusions on the Deepening of the Capital Markets Union, Doc. 14815/19

6. WELCOMES the important preparatory work and reports produced by the *High-Level Forum on the Capital Markets Union*⁶ established by the Commission and by the *Next CMU High-Level Group*⁷ set up by some Member States.

7. HIGHLIGHTS the need to build a polycentric CMU that can exploit the benefits of existing market places and infrastructures within Member States in order to avoid excessive dependency on one financial market place in the future.

8. HIGHLIGHTS that the further development of the CMU goes hand in hand with the intensified development of local and regional capital markets and financial ecosystems, as the aim of creating a genuine CMU for the European Union will be easier to achieve in an environment that enables and empowers all national and regional capital markets to emerge and evolve.

9. STRESSES the importance of the CMU in providing additional and alternative funding opportunities within the EU, thereby reducing the reliance on bank funding, and increasing private risk sharing within the single market, thus making the EU's financial system more stable and unlocking additional funding for economic activity in Europe, but at the same time

ACKNOWLEDGES that the CMU cannot succeed without strong and globally competitive EU banks.

10. NOTES the importance of the CMU, not only for the European Union as a whole, but also for a deeper Economic and Monetary Union, for the Banking Union and for a stronger international role of the euro by enhancing the effectiveness, efficiency, integrity and robustness of the single market for financial services.

⁶ A new Vision for Europe's capital markets. Final Report of the High Level Forum on the Capital Markets Union. June 2020.

⁷ Savings and Sustainable Investment Union. The Next CMU High-Level Group Report to Ministers and presented to the Finnish Presidency. October 2019.

11. HIGHLIGHTS that making swift and tangible progress towards a genuine CMU has become more urgent than ever in light of recent challenges for EU enterprises and investors, notably the COVID-19 pandemic and the withdrawal of the United Kingdom which entails that the largest capital market in Europe will henceforth be outside the Union.

12. EMPHASISES that a deepened CMU is needed to unlock the opportunities offered by the current economic disruptions for a forward-looking transition to a sustainable and digital economy in the European Union. STRESSES that the actions for further development of the CMU should be taken into account as much as possible with parallel work on the Commission's Strategy for Digital Finance as well as its Action Plan on Sustainable Finance.

13. IS CONVINCED that bundling the available financial resources and unleashing their full potential in a genuine CMU is a vital ingredient for renewing the European economies to make them more resilient, forward-looking and sustainable, thus answering to the generational tasks posed by climate change and the demographic challenges Europe is facing, while protecting prosperity for EU citizens.

14. IS CONVINCED that greater retail participation is vital for bundling the available financial resources and that CMU will provide retail investors with adequate opportunities for long-term savings to cover for future financial needs and STRESSES that a high level of investor and consumer protection and market integrity standards is a prerequisite for instilling trust in the financial sector.

15. IS CONVINCED that an attractive and competitive single market for capital is a *conditio sine qua non* for the European Union to be successful in the global competition for economic resources, which is critical to securing jobs and growth in the Union.

16. In light of this, WELCOMES the renewed Action Plan of the Commission⁸ that addresses many of the challenges that need to be overcome in order to advance towards a genuine CMU.

⁸ 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 (COM(2020) 590 final), Doc. 11064/20 + ADD 1.

17. STRESSES that the CMU is an ongoing endeavour and that the next steps towards a genuine CMU require a clear prioritisation of measures. Those actions, that are important to improve the funding of the economy and particularly of SMEs and have the potential to support a swift economic recovery in the context of COVID-19 pandemic, are therefore deemed most urgent at this juncture. They should have the highest priority and should all be delivered by the Commission as soon as possible, but not later than by the end of 2021 (Paragraph 19). The measures that are considered most important for mobilising private capital should also be delivered as soon as possible (Paragraph 21). These should be followed by measures that are deemed of major importance for progressing towards a more vibrant and globally competitive capital market in the short term (Paragraph 23) and medium term (Paragraph 24). The actions should be accompanied by impact assessments, where appropriate.

18. CALLS ON the Commission to focus also on actions that can be delivered via non legislative means , and which, like legislative means, can help channelling savings into the capital markets in order to make these funds available for the economy without risking financial stability, market integrity or consumer protection. This will also support the swift recovery from the steep plunge due the COVID-19.

19. URGES the Commission, accordingly, to prioritise and to accelerate its work in parallel on

- a. Facilitating access of corporations, in particular SMEs, to financing on capital markets by streamlining and simplifying the current rules for listing on regulated markets and admission to trading on multilateral trading facilities, notably SME growth markets, and by supporting financial ecosystems that can foster enhanced SME access to equity, without compromising the high standards for investor protection and market integrity,
- b. Setting up an EU wide "single access point" for financial and non-financial company information that is useful for investors in order to increase transparency, while avoiding creating disproportionate reporting and filing burden for EU companies. This data hub should include environmental, social and governance (ESG) data in order to promote more sustainable financial practices. It should be built on the current filing systems at national level, implemented as quickly as possible and further developed over time,

- c. Strengthening the role of insurers, banks and other institutional investors as long term investors and assessing ways to incentivise long-term investments by institutional investors in corporates and particularly SMEs without endangering financial stability or investor protection and ensuring risk adequate regulatory treatment of long term investments,
- d. Reviewing the appropriateness of the current securitisation framework with a view to enable capital markets to absorb more exposure from banks, thus freeing up lending capacities of banks, without undermining prudential standards or creating relevant risks for financial stability in the Union,
- e. Improving the regulatory framework for long-term investment vehicles by reviewing the European Long-Term Investment Fund (ELTIF) Regulation, thereby particularly taking into account the need to support the non-bank financing of SMEs and of long-term investment in infrastructure, which is needed for the transition to a sustainable and digital economy,
- f. Exploring the benefits and drawbacks of a referral scheme to direct SMEs to providers of alternative funding when their credit application has been turned down.

20. CALLS ON the Commission to initiate, within the mandate of this Commission, the implementation of the other parts of the Action Plan that aim to boost investment activity, including and in particular by retail investors inside the European Union, while maintaining a high level of consumer and investor protection, and to establish a globally competitive capital market. This is vital in order to make significant headway towards a genuine CMU.

21. ENCOURAGES the Commission accordingly to promote the mobilisation of private capital and to stimulate more investment activity inside the Union, in the following order, by

- a. Empowering citizens to take well-educated investment decisions through enhanced financial literacy, in particular by establishing a common conceptual basis to develop policies and measures that foster citizens' financial competence, while taking into account existing national and international initiatives and their work,
- b. Streamlining existing disclosure rules for the various capital market products and assessing the quality and fairness of investment advice provided to retail investors as well as the benefits and drawbacks of readjusting the current investor categorisation,
- c. Enhancing data availability and transparency by further assessing how to tackle the barriers to establish a consolidated tape in the EU.

22. EMPHASISES the need to make tangible progress towards a globally competitive CMU with unhampered cross-border capital movement in order to unlock the potential of a deep integrated capital market that is attractive for the movement and retention of external capital and expertise, to the advantage of investors and capital raisers.

23. In light of this, ENCOURAGES the Commission in the short term to, in the following order,

- a. Explore options for optimising the investment climate within the single market and to propose a Union framework that clarifies, strengthens and supplements the rules on the protection of cross-border investment within the Union,
- b. Explore ways to enhance the cross-border activities of post trading infrastructures, particularly in the area of settlement, while respecting the different jurisdictions of Member States, and propose necessary regulatory enhancements,

- c. Promote further supervisory convergence by working towards a more harmonised legal framework for regulated capital market activities. This framework should be based on the principle of ‘same activity, same risk, same rules’, taking into account the principle of proportionality and technological neutrality, and should ensure further harmonisation of regulatory requirements on, for instance, customer identification processes.⁹

24. ENCOURAGES the Commission, accordingly, to look at the more complex and time consuming structural reforms and to deliver the respective initiatives in the medium term, notably to, in the following order,

- a. Assess ways to simplify the withholding tax relief procedure for cross-border investments, while taking into account the existing work, such as the discussions at FISCALIS or on the OECD TRACE initiative, and preventing tax fraud, and to submit a legislative proposal,
- b. Assess legislative or non-legislative initiatives to increase convergence of the outcome of insolvency procedures in different Member States, taking into account the benchmarking exercise and building on advice from expert groups and Member States,
- c. Assess the need for further action to strengthen the confidence of investors and facilitate cross-border investments by, for instance, evaluating possible deficits in the areas of rules on enforcement of financial reporting of listed companies and supervision or oversight on technology providers in finance,
- d. Assess ways to support raising citizens’ awareness as regards their future retirement income by developing best practices for, e.g., national tracking systems,
- e. Assess the possible benefits and drawbacks of a harmonised definition of "shareholder".

⁹ Council Conclusions on anti-money laundering and countering the financing of terrorism, Doc. 12608/20.

25. REMINDS the Commission of the need to develop a set of clearly defined and adequate indicators of a qualitative and a quantitative nature, in consultation with the Member States. This set should include both key performance indicators to measure the progress of the CMU in general and specific indicators for the individual objectives, where useful, and INVITES the Commission to inform Member States on the progress of the CMU based on these indicators regularly and comprehensively.
