An overview of the EU's "Spring 2020" fiscal support and regulatory relief measures

April 30, 2020

The European Union's (EU) response to both the healthcare and economic issues that have gripped much of the EU during the first quarter of 2020 has grown steadily. Altogether, the EU and its Member States are mobilizing support that amounts to 3% of the EU's GDP in the form of fiscal measures and 16% of EU GDP in the form of liquidity support, or about €3.2 trillion as a total fiscal response.[1] More may follow as policymakers have voiced support for a more comprehensive "Marshall Plan"[2] for the EU to complement a larger EU budget, i.e., the multi-annual financial framework. Following announcements of various EU-level and national-level measures[3], details have now left the drawing board as these programs begin to be deployed.[4] The EU's "three safety nets" package for workers, business and sovereigns amounting to a total of €540 billion is expected to be operational by June 1, 2020.

In many instances, EU institutions have, in the absence of "real" direct powers in relation to healthcare policies[5], taken a role in coordinating the efforts of its Member States. Conversely, where EU institutions do have direct powers allowing them to act, they have started to support Member States with new or repurposed solutions[6]. In most instances, these impact financial institutions directly but also influence how they engage with counterparties, clients and consumers and more broadly the communities in which they conduct business.

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[1] It is quite conceivable that the EU will need to revise its own "New Industrial Strategy for Europe", which was published in March 10, 2020, and which complements the European Green Deal and the European Digital Single Market Strategy, including on digital finance.

[2] Putting this into perspective, the Marshall Plan's aid granted to Europe between April 1948 and 1951 totaled US$12 billion or US$128 billion in 2020 figures to reconstruct European industry, paving the way for the European project that became the EU.

[3] An overview of national measures by Member State is available here.

[4] Please also refer to our Global Government Announcement Tracker and our COVID-19 Hub.

[5] The EU does not have powers in the founding treaties to define health policies, nor the organization and provision of health services and medical care. Instead, its limited mandate is to promote action that serves to complement national policies and to support cooperation between member countries in the field of public health as well as the accessibility to and sustainability of systems, as well as early warning of serious cross-border threats to health. All of these are areas in which the EU Commission is, following the firefighting part of the current COVID-19 crisis, likely to look to create new powers that go beyond just those of coordinating national responses.

[6] See also an overview from EU Commission President Von der Leyen, available here.

EU coordinated relief – where are we now?

Some of the EU's responses, such as the Coronavirus Response Investment Initiative[7], apply across the entire EU-27, while others are aimed at the 19 jurisdictions participating in the Eurozone and its Banking Union, which include some of the EU's largest but also hardest hit countries, such as Italy, Spain, France, Germany, Belgium and the Netherlands. These countries, while dealing with domestic challenges, were for most of March trying to agree at an EU level how to finance both (1) the immediate relief efforts but also the longer-term economic recovery and (re-)financing plans, and (2) the degree of support but equally level of solidarity.[8]

Finally, following prolonged negotiations, the Eurogroup[9] members reached consensus, meeting in an "inclusive format"[10] somewhere between the late evening of the second night of Passover and the eve of Easter Friday. The compromise builds on core measures destined for the Eurozone-19 that were summarized by[11] the Eurogroup's President as "three safety nets and a plan for the recovery, to ensure we grow together, not apart, once the virus is behind us. These proposals build on our collective financial strength and European solidarity"[12].

[7] This €37 billion initiative uses EU-level cohesion funds to strengthen healthcare systems, support SMEs and short-term employment schemes, along with community-based services. It is supplemented by another €28 billion in unallocated EU funds. Equally, the EU, including through the European Investment Fund, which is tasked with providing funding to SMEs in the EU, will be able to incentivize banks to provide liquidity. This is supported by EU budget guarantees. When taken together, these efforts should provide some €8 billion of financing to at least 100,000 SMEs and small mid-cap companies. In addition, the EIB, as the EU's "development bank" for furtherance of EU policy goals, will free up a further €20 billion for lending as working capital for SMEs. This EU-wide financing comes in addition to more widely reaching changes in EU state aid rules.

[8] It should be noted that the EU on April 8 also communicated that it would, together with Member States, financial institutions the EIB and EBRD, commit €15.6 billion from its "External Action" resources to help "partner countries" and their health, water and sanitation systems and their research and preparedness to deal with pandemics and mitigate socioeconomic impacts. Further details are available here. The EU has stated that the first of these "Team Europe" support packages are already being implemented in the Western Balkans (due to receive €800 million), which includes certain countries that have begun EU accession talks, as well as other regions, including €3.25 billion channeled to Africa, of which €1.19 billion is reserved for Northern African neighborhood countries. €962 million is reserved for the "Eastern Partner countries" as well as €2.1 billion for the Middle East.

[9] The Eurogroup is an informal body within the Council of the European Union where ministers of the 19 Eurozone Member States, meeting monthly or more frequently, discuss matters relating to shared responsibilities related to the euro, notably on close coordination of economic policies and growth in the euro area. The Eurogroup officially meets as part of or on the fringes of the business of the Council of the European Union, one of the EU's co-legislative bodies, which represents the national governments of the EU-27 Member States when adopting EU laws and policies.

[10] This refers to a meeting format of the Eurozone's finance ministers, as well as those of non-Eurozone EU Member States as per the following list.

[11] Press Release available here and Remarks by Eurogroup President following the videoconference available here.

[12] See meeting page available here.

The Eurogroup's "financial support package" promises to be "coordinated, combined and comprehensive" in its coverage both in EU-wide and Eurozone-specific measures. It includes short-, medium- and long-term initiatives as part of the "safety nets" that amount to €540 billion worth of low-cost loans and credit lines, partly involving the EU's main bailout fund, the European Stability Mechanism (**ESM**), and further funding channels deployed by the European Commission (**EC**). It also includes EU-wide funding channels provided by) and the European Investment Bank (**EIB**). It also relies on the EC's new temporary loan-based instrument, which provides EU-27 Member States with a total of €100 billion, on favorable terms, under its "Support to mitigate Unemployment Risks in an Emergency" (**SURE**)[13] program, backed by another €25 billion of guarantees voluntarily committed by Member States to the EU budget. SURE aims to help individual EU-27 Member States faced with increased public expenditure related to introducing new or extending existing national short-time work schemes or support packages for self-employed professionals.

The Eurogroup's package was agreed on April 14 and approved on April 23 by the EU-27's national leaders. However, as announced by the Council of the EU and the Commission[14], a number of details are subject to further finalization. This includes primarily the final size of the "Recovery Fund" as well as the balance between use of grants and loans. A longer-term challenge, is for Brussels and national capitals to reach agreement on how to (re-)finance the suite of recovery efforts. This was an area that caused considerable debate and the Eurogroup's package postpones the discussion on financing to an undefined later date. The discussion centered around the use of common debt issuances. As some may remember, the European Central Bank (**ECB**) had already been supportive of such debt issuances prior to their rebranding as Corona Bonds[15].

It remains to be seen whether the financing of the EU's efforts will be through a common debt issuance, given that the compromise text and the statements on April 23 refer to the use of "innovative financial instruments"[16] to finance a time-bound Recovery Fund, or through some other alternative. France's President Macron announced on April 16 that such a Recovery Fund should be, when set up, capable of issuing common debt with a common guarantee. Some of these difficult decisions on financing are likely to tie into the wider pressures on national policymakers to conclude a way forward on the EU's first post-Brexit 2021-2027 MFF, i.e., the multi-annual budget, which stalled in March and still needs to be agreed in full. However, on April 23, the Commission confirmed that the budget[17] would be raised from the current cap[18] of 1.2 to 2 percent per year of the EU's gross national income (GNI) thus allowing for an extra trillion of financial headroom in potential spending.[19]

This Client Alert looks at the key features of the EU's financial support package and what it means for financial services firms, as well as the actions taken by the ECB in its own €750 billion Pandemic Emergency Purchase Program (**PEPP**), which was announced on March 18. Both the PEPP and the temporary easing measures on collateral eligibility rules in connection with central bank lending that were announced on

[13] See general information here and a factsheet here.

[14] See statement here.

[15] See coverage from our Eurozone Hub available here. It should be noted that Italy, France and Spain were strongly pushing for the use of Corona Bonds as the chief avenue of what has become this package but this was opposed by Germany, Finland, Austria and quite notably the Netherlands. It is conceivable that Corona Bonds may, however, come back again as a tool to support refinancing of what will be a common debt.

[16] It should be noted that in addition to Corona Bonds, some commentators have argued that the EU needs a common institution that acts as an equity fund, others have also called for co-investment opportunities in tax-efficient wrappers that operate cross-border for retail clients, an aspect that would also supplement and strengthen the aims of the EU's Capital Markets Union.

[17] The EU's budget is financed by the following "own resources":
1. traditional own resources (mainly customs duties) that Member States collect on behalf of the EU, retaining 20"% of relevant amounts as collection costs; In addition to own resources, other revenue that accrues to the EU budget includes tax on EU staff remunerations, contributions from third countries to certain programs such as Horizon 2020 and Erasmus, interest on late payments and fines on companies for breaching competition law. Further changes have been tabled in the following proposal.

[18] The cap was introduced by Council Decision 2014/335/EU which sets out the general provisions for the EU's financing system. The cap applies to the "own resources ceiling for payments" so that in one year own resources cannot be exceed the GNI figure.

[19] The EU budget is financed by the system of "own resources" and cannot run a deficit. A number of debates since 2018 have been underway to simplify but also expand the budgetary negotiations of EU-27 Member States and for these to move away from geographically pre-allocated expenditures to instead focus on those policies with the highest European added value.

April 7, are now being put into operation, along with relief on compliance with certain prudential, conduct of business and regulatory reporting requirements.

In addition, this Client Alert assesses some of the regulatory reliefs that EU-level authorities, such as the European Banking Authority (**EBA**), European Securities and Markets Authority (**ESMA**) and the European Insurance and Occupational Pensions Authority (**EIOPA**) have announced. These include coordinated relief (but not repeal) of existing rules and compliance requirements, along with postponing of start dates of new rulemaking for financial markets. These supervisory and regulatory relief measures apply to financial services firms and certain corporate issuers across the EU-27. They may be complemented by similar actions taken by national competent authorities (**NCAs**) and national legislators, some of which may have jurisdiction-specific measures, including moratoria or other protective shields for corporates and consumers. Equally, within the Eurozone and its Banking Union, the ECB, at the helm of the Single Supervisory Mechanism (**SSM**), and the Single Resolution Board, at the head of the Single Resolution Mechanism, have each taken additional actions to provide the Eurozone-19's banking sector with further relief. A key question will be whether some of these "temporary" measures could continue to roll over past the initial period and possibly have some elements that become more permanent. This would not only support the initial funding channels of deploying the relief but also the financing of those costs.

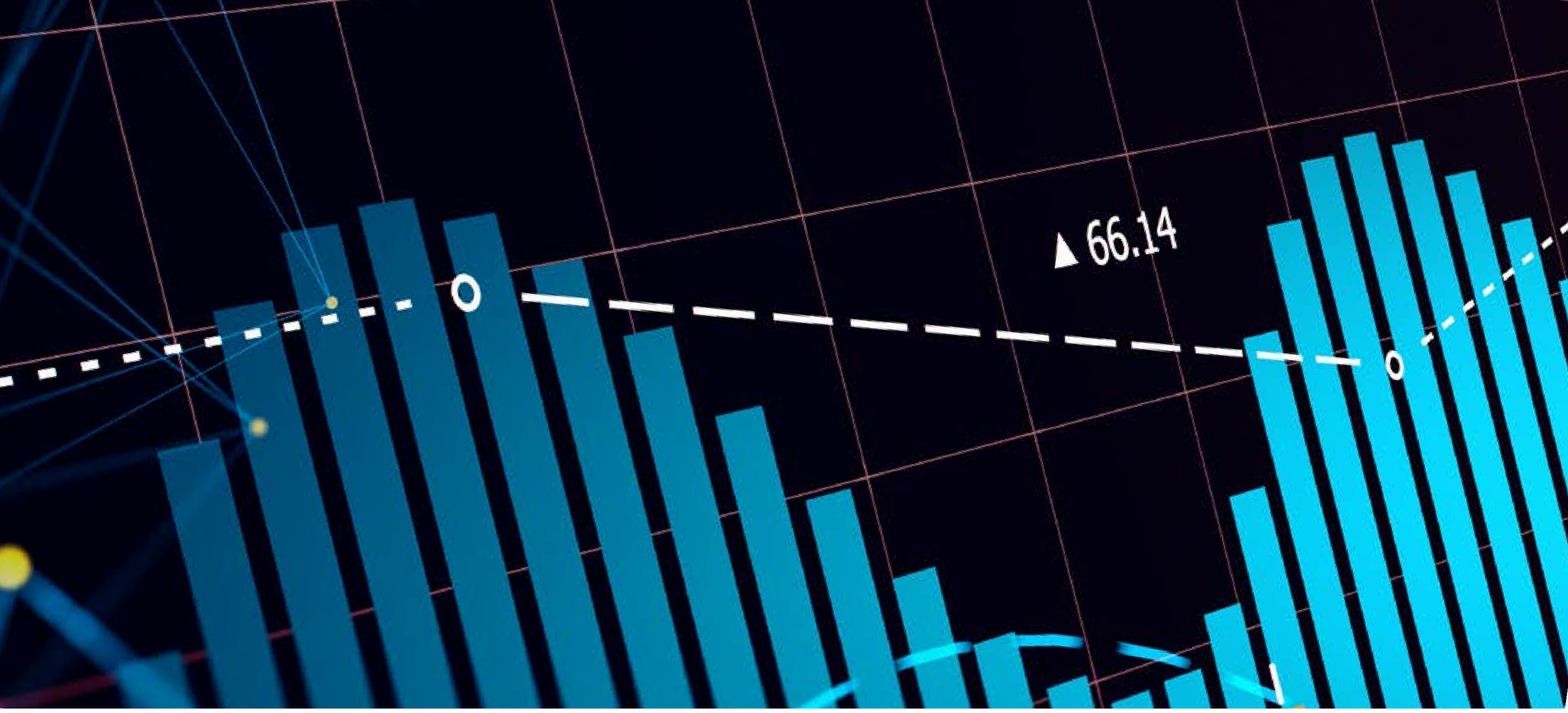
The Eurogroup's financial support package

The Eurogroup's core package includes:

1. **Announcing a time-bound and targeted "Recovery Fund"**, which is funded through the MFF, i.e. the EU's budget, and set to be refinanced through "innovative financial instruments". The Recovery Fund's primary aim is to prepare and support the EU's economic recovery and support the EU's wider "Roadmap for Recovery" for a rapid restoration of the full functionality of the Single Market.

1. **Setting up the safety nets in the Eurozone-19 through a Pandemic Crisis Support credit line** which builds off the existing ESM's[20] Enhanced Conditions Credit Line (**ECCL**) and offers Member States affected by the current external shocks a precautionary line of credit based on standard terms that are to be agreed by the ESM's governing bodies. The Eurogroup statement sets out that "The only requirement to access the credit line will be that euro area Member States would commit to use this credit line to support domestic direct and

[20] See further information available here.



indirect healthcare, cure and prevention-related costs due to the COVID-19 crisis. The provisions of the ESM Treaty will be followed. Access granted will be 2% of the respective Member's GDP as of end-2019, as a benchmark. With a mandate from the leaders, we will strive to make this instrument available within two weeks, while respecting national procedures and constitutional requirements."

2. **Setting up a safety net for non-Eurozone EU Member States offered by the EC through its Balance of Payments (BoP) facility**, which is a mechanism foreseen by Article 143 of the Treaty on the Functioning of the European Union, with further details expected to be provided over the next few weeks.

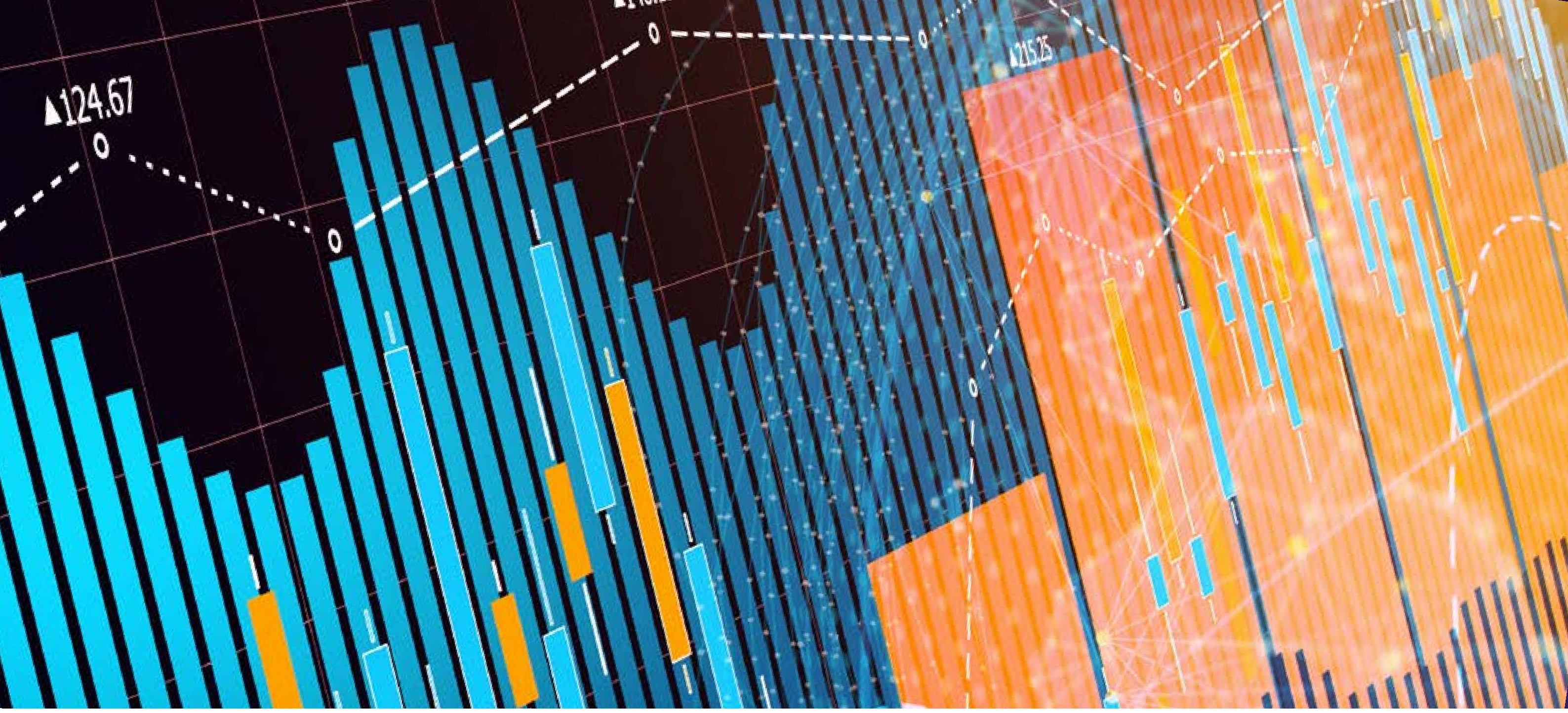
The Eurogroup's core package is supplemented by the following measures (in addition to those introduced above), which are all supposed to be complementary to each other:

3. **Reactivating the EU's Emergency Support Instrument (ESI)** to provide emergency aid and grants to EU healthcare systems. Based on a proposal from the EC dated April 2, the ESI's €2.7 billion firepower can be topped up by voluntary contributions from Member States.
4. **Leveraging the EIB through a Pan-EU Guarantee Fund** of €25 billion, which can, through national promotional banks, provide financing of up to €200 billion for companies, notably SMEs.

The ECB's recent actions

The ECB, acting as central bank but also in its supervisory role at the head of the SSM, has implemented the following measures:

1. **Launching its €750 billion Pandemic Emergency Purchase Program (PEPP).** This newest monetary policy activity will be conducted at least until the end of 2020 or such later date as the ECB judges the COVID-19 crisis is over. Net asset purchases will be conducted in all categories eligible under the ECB and Eurosystem's existing asset purchase programs (**APP**), i.e., public sector securities, corporate bonds and asset-backed securities. PEPP purchase of public sector securities will continue in accordance with the capital key of the national central banks. PEPP purchases will be carried out in a more flexible manner than the APP, permitting fluctuations in the distribution of purchase flows over time, across asset classes and notably among jurisdictions. Crucially the ECB will be permitted to purchase Greek government securities, for the first time since the 2010 Greek sovereign debt crisis. The PEPP will also widen the Corporate Sector Purchase Program's (**CSPP**) range of eligible assets to include non-financial commercial paper, so that all commercial paper of sufficient credit quality will be eligible for purchase under the PEPP. The ECB has also eased conditions for its targeted longer-term refinancing operations in TLTRO III.



2. **Introducing amendments to the ECB and Eurosystem Collateral Asset Eligibility standards for central bank refinancing operations.** This will lead to an easing but also expansion of standards, notably on the scope of Additional Credit Claims, to include claims (loans/debt etc.) related to the financing of the corporate sector. On April 22, 2020, the ECB also announced[21] that until September 2021 it would grandfather (i.e., continue to accept) those marketable assets i.e., bonds, used as collateral in Eurosystem credit operations as of April 7, if the credit rating fall below current minimum credit quality requirements[22] (i.e., "fallen angels") that would be subject to appropriate haircuts. This means that existing securities that become fallen angels could continue to stand as collateral for lending operations as opposed to being unwound, provided they meet all other collateral eligibility criteria. Future issuance from grandfathered issuers will also be eligible under this fallen angel window if they fulfil all other collateral eligibility criteria. As in previous announcements, the ECB has stated that it may decide further measures to continue the smooth transmission of its monetary policy operations in all jurisdictions of the Eurozone.

3. **Recommending temporary suspensions of dividend distributions and share buybacks by banks to at least October 2020.** This follows the ECB-SSM Recommendation to Banks[23], which while aimed at banks, has already received support from institutional investor associations as a welcome move towards encouraging capital conservation during the COVID-19 financial fallout. Certain EU non-financial corporations have equally decided to follow suit and other non-EU regulators have swiftly adopted similar measures. This, however, does raise questions for certain shareholders as to what happens at the end of the temporary suspension, as well as what might happen if the current suspension period is extended beyond October 2020.

4. **Providing regulatory capital and operational relief on capital and liquidity standards.**[24] In most cases, this allows banks to operate temporarily below their additional capital levels (Pillar 2 Guidance) and their capital conservation buffers, as well as the liquidity coverage ratio requirements. Banks will also be permitted to partially use capital instruments that do not qualify as Common Equity Tier 1 capital, and thus Additional Tier 1 or Tier 2 instruments, to meet their core regulatory

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[21] Available here.

[22] The threshold means that all assets that on April 7th were at least the rating of BBB- for all assets (except for asset-backed securities) will continue to be eligible in case of rating downgrades, as long as the downgraded rating is at or above a rating of BB on the Eurosystem harmonized rating scale. This allows a leeway for a rating drop by two notches.

[23] Available here.

[24] See statement here.

capital requirements. This grants them greater flexibility ahead of the change being introduced by EU-wide rules in January 2021, providing significant capital relief to banks in support of the economy. The ECB has estimated that some of these reliefs (up to €120 billion) could be used to absorb losses or potentially finance up to €1.8 trillion in lending. Equally, the ECB on April 16 announced[25] that it will temporarily lower the qualitative market risk multiplier, which is part of the capital requirements for market risk, so as to support banks' ability to maintain market-making activities and provision of liquidity. This temporary reduction of the qualitative multiplier compensates for currently observed increases of another factor, the quantitative multiplier, which can rise when market volatility has been higher than predicted by the bank's internal model. The ECB-SSM has stated it will review this temporary reduction after six months. The temporary adjustments to these regulatory requirements are also supported by national macroprudential authorities temporarily suspending banks' full compliance with countercyclical capital buffers so as to encourage lending, which has been endorsed by the ECB[26].

5. **Rescheduling on-site inspections, as well as extending deadlines for the implementation for remediation actions.** While granting operational relief is mostly aimed at non-critical supervisory measures, this does not mean banks can relax their compliance standards, in particular in relation to compliance with areas that are in the supervisory priority areas for 2020 and beyond. This notably includes the EU and ECB rules on non-performing loans and exposures (**NPLs**), as well as IFRS 9 compliance.[27] Even if the ECB and the EBA have granted some operational relief from compliance with NPL rules, notably provisioning, in the form of "supervisory flexibility", including on IFRS 9 and treatment of exposures subject to moratoria, banks should exercise caution. This is especially important given that the new NPLs are likely to be added to the lower but still existing stock stemming from the 2008 global financial crisis. The ECB is clear that it will focus on loan origination and credit servicing (including NPL rule compliance) standards.

6. **Taking additional organizational and financial stability measures.** The ECB is delaying its Strategic Review of its monetary policy toolkit from the end of 2020 to mid-2021. Equally, the ECB has stepped up its use of existing central bank swap lines and implemented new facilities including a €2 billion swap line facility[28] with the Croatian National Bank, which will remain in place at least until end of 2020. Croatia, which currently holds the rotating presidency of the Council of the EU, the upper house of the EU's legislature, is set to join ERM II as a precursor to joining the Eurozone. The Croatian capital Zagreb was also hit on March 22, and again on April 23, with the strongest set of earthquakes in over 140 years, causing significant damage to over 20,000, mostly historic, buildings, loss of basic infrastructure, utilities and services and temporary homelessness for over 1,500 citizens in the midst of the lockdown. The total estimated economic loss from the earthquakes during the COVID-19 lockdown amounts to €5.5 billion and rising.

The ECB-SSM has also allowed firms to delay submission of various regulatory reports, as have other EU-level supervisory authorities.

Actions by the SRB

The Banking Union's Single Resolution Board (**SRB**) announced[29] on April 1, 2020, that it will offer similar relief for non-critical supervisory deliverables by banks, along with flexibility on the build-up and/or maintenance of loss absorbency standards in MREL/TLAC. The SRB will maintain and direct banks to continue their overall focus on financial stability and bank resolvability, with the SRB continuing its work on resolution planning and the preparation of 2020 MREL decisions, including setting the 2021 compliance deadlines.

[25] See statement here.

[26] See statement here.

[27] Please see coverage more generally on our Eurozone Hub on NPLs.

[28] See statement here.

[29] See announcement here.

Banks were notified of the SRB's updated approach in its 2020 "**Expectations for Banks**"[30] document, as to what capabilities it expects banks to demonstrate in order to show they are resolvable. Where needed and on a bilateral basis, the SRB and banks may agree on alternative phase-in dates. The SRB's Expectations are tailored to each individual bank and its resolution strategy, allowing for flexibility and proportionality.

The European Supervisory Authorities' (ESAs) recent relief measures – actions by the EBA, ESMA and EIOPA

EU-27 level financial supervisory authorities' actions have concentrated on the core themes below. These are in some instances supplemented by actions taken in individual Member States by NCAs. At its heart, the ESAs have focused on relief, but they have also set further specific supervisory expectations that firms and, in certain instances, issuers of financial instruments (including non-financial corporates) have to follow during the COVID-19 crisis. These include:

1. **Putting consumer protection at the core of conduct during the current crisis.** Firms have been reminded of their transparency, disclosure and general consumer protection obligations. Without prejudice to any conditions imposed by legally mandated moratoria, firms must act in the interests of the consumer. This applies in particular to consumer and mortgage lending, where the EBA's expectation is that any application of COVID-19 related emergency measures, including forbearance or moratoria, should not automatically lead to negative implications for the consumer's credit rating, given that banks are being offered some NPL rule and IFRS 9 relief. Payment service providers are also encouraged to play their part and raise transaction authorization thresholds for contactless payment from €30 to €50 per transaction.
2. **Communicating clearly and reviewing product governance frequently.** All financial services firms have been reminded of the necessity of timely and clear communication regarding their contingency planning and what it means for access to services. All financial services firms are reminded that now more than ever they must adhere to product governance compliance standards and carry out product reviews. Insurers, in particular, should focus on informing clients about their contractual rights.
3. **Following recommendations on operational resilience.** ESMA, EBA and EIOPA have each communicated clear supervisory expectations to all financial services firms and infrastructure providers to be ready to apply and revisit their business continuity and contingency plans to ensure operational resilience and the adequacy of financial resources. In addition, following in the ECB-SSM's footsteps, firms have been advised to embrace capital conservation efforts.
4. **Following COVID-19 disclosure and financial reporting expectations.** These expectations have been communicated to financial market participants and issuers, reminding them of the need to provide transparency in a timely manner on the actual and potential impact of COVID-19 on their business activities, financial situation and economic performance in their 2019 year-end or interim financial reports. ESMA, EBA and EIOPA have all recommended delays to current deadlines for financial services firms and issuers to submit regulatory reports. For certain reports, notably those related to NPLs and IFRS 9 reporting, supervisors are permitting flexibility in how firms calculate the impact of COVID-19 public or private moratoria on the treatment of an exposure 90 days past due, and whether it is unlikely to pay interest, be non-performing, or be defaulted. ESMA has equally delayed the start date of certain new reports, including public and private regulatory reporting to trade repositories of information required under the EU's Securities Finance Transactions Regulation (SFTR), which applies to repos, securities lending and margin lending.
5. **Preventing financial crime.** The EBA has called on national supervisors to remind firms that financial crime remains unacceptable during COVID-19. Authorities are asked to proactively support financial institutions' ongoing efforts to prevent financial crime, by sharing information on emerging threats, risks and trends (including those that are COVID-19 specific) in money laundering and terrorist financing, using both traditional and digital means. They are also setting clear regulatory expectations of firms, even if supervisors allow for flexibility.

[30] Available here.

The EU Commission will shortly finalize a legislative proposal to ensure that the ECB and other members of the European System of Financial Supervisors' prudential regulatory reliefs, NPL backstops and IFRS 9 relief are contained in a centrally coordinated way that has legislative effect to temporarily suspend legal provisions. This aims to allow financial services firms to be part of the solution and thus contribute to easing constraints in the real economy in a manner that goes beyond the various statements on "supervisory flexibility" announced by Banking Union and EU-27 policymakers at the EU but also national level. It will remain to be seen if and with what detail such legislation would tie-into the transitional arrangements and temporary relief measures announced at the international level, such as the BCBS or IOSCO, including for margin requirements for non-centrally cleared derivatives.

So what should financial services firms consider doing?

The breadth of measures discussed above are time-bound and have sector- and jurisdiction-specific details and pre-conditions for access or application. They also have differing degrees of interoperability between national and EU measures and between national measures of jurisdiction. Accordingly, the measures will individually - but equally cumulatively - impact firms, their counterparties and clients in different ways along the path to economic recovery.

Each financial services firm may need to respond differently. However, there are some steps that may apply regardless of geography, business line and client type, both when accessing the support available across different states and when complying with relevant rules and supervisory expectations. Regulatory policymakers have been clear that any relief measures are not repeals, and they are time-bound. Supervisors will scrutinize how financial services firms conduct their business with counterparties, clients and consumers, and that this should not lead to new excessive risk taking but rather financial services firms being part of the delivery of support. This will not be an easy task for financial services firms and their supervisors.

Consequently, firms, together with external counsel, may wish to consider the following preparing, planning, profiting and parting measures during all stages of this crisis:

1. Assess the impact of the types of relief and support measures, as well as the duration of such measures and their interoperability. As there are differences in national measures, firms will need to navigate which measures are available to them, for how long, and which ones make sense for them, their counterparties and clients. This includes looking at how to seize opportunities but also how to plot the feasibility of exit options from those measures and at what point. This will likely also include reviewing the breadth of availability and strength of financing channels in light of extraordinary monetary policy measures and changes to central bank collateral asset eligibility standards.
2. Benchmark the assessment in point 1 as to how it affects the firm's business operations overall but also in individual jurisdictions. This possibly includes benchmarking by reference to an inventory of relationships and exposures of the firm to its counterparties and clients (including consumers), which may not be in the same jurisdiction, and assessing this against the types of documented and undocumented arrangements in place between the firm and its counterparties and clients (notably consumers).
3. Conduct a holistic review of the firm's operational and financial resilience capabilities and efficiency, regardless of existing (and courtesy of COVID-19, tried and tested) business continuity plans and contingency measures. This includes looking at digital and cyber-related risks, more traditional risks affecting firms during normal operating conditions, as well as future pandemic preparedness.
4. Revisit but also reinforce market and conduct of business standards, as well as consumer protection measures, and make adaptations where required in light of new operating realities affecting how financial products are distributed and serviced.

5. Prepare for an increase in non-performing loans and exposures (**NPLs**) on the firm's balance sheet, as well as those of counterparties and clients, while including the impact of various moratoria. This means focusing on compliance with EU and ECB-SSM rules, as adjusted by the temporary relief measures, on the prompt identification, mitigation and management of existing pre-COVID-19 NPLs and those from 2020 onwards, as well as on how firms are meeting new EU rules on loan origination and credit servicing standards.
6. Remain vigilant in the event that a "second wave"[31] or "black swan" event arises, which could impact on the firm and its operating environment. Regardless of the stage of economic recovery, such an event could cause a return to lockdowns. Firms will equally want to take note of pressure on its own financial planning, as well as those of its counterparties and clients, to improve capital reserves and funding channels, as more frequent and prolonged pandemics and epidemics may require increased preparedness.[32]
7. Frequently revisit the firm's digital transformation projects in view of changing business engagement and operating conditions.
8. (Reverse-) stress-test points 1 to 7 above to account for shifts in behavior and demand in response to pressure for greater physical distance but more virtual collaboration and shorter supply-chains, with less over-reliance on specific geographical regions for goods and services, including those that have been outsourced.
9. Ensure there is a regular and consistent internal and external communications plan, including vis-à-vis investors and regulators, on measures being taken by the firm.

The points highlighted above will likely include firms evaluating priorities, and ideally doing so more frequently in a more agile manner, with more fallbacks and greater use of scenario planning and (reverse-) stress-testing. This applies to both the immediate short-term priorities over six to 12 months but equally longer-term strategic considerations, and assessing what the target operating model should look like over a five-to-seven year horizon.

Crisis to catalyst?

When taken together, these measures mark the largest coordinated form of monetary polic[33], fiscal stimulus and supervisory policy support actions since the 2008 financial crisis. The Eurogroup's finance ministers, as well as the ECB and other authorities at EU and national level, have all continued to pledge that they will do "whatever it takes", thus allowing room for future support. Financial services providers remain key channels for delivery of such support to their clients, non-financial companies in the "real economy", and the communities in which these firms are active.

While the banking sector is more resilient than in the past and is part of the delivery of solutions to the 2020 slowdowns, the EU's Single Market generally, and financial services specifically, are entering a new decade of further fast-paced change. This is all in addition to pressure to move to a more digitalized and more climate-sensitive decarbonized economy. Importantly, these changes have differing impacts on specific business models. Some sectors of the EU's economy are likely to be more attractive than they were prior to the COVID-19 crisis and could recover faster than others, regardless of how directly they have been affected by the 2020 economic readjustments.

Equally, some EU Member States, notably those that are less fiscally stressed, are likely to be at a competitive advantage over weaker members during and following the initial economic recovery. This is likely to be reinforced by the relaxation of EU state aid

[31] It is important to note that COVID-19 has already mutated into different strands. Equally, as with the Spanish Influenza the virus comes in waves. For background, the Spanish Influenza, affected a very different Europe from 1918 through to 1920, infected an estimate of 500 million worldwide over that period and killed an estimate of between 25 million and 150 million people worldwide. The pandemic spread in four waves: the spring of 1918, the second and most deadly wave from September 1918 to January 1919, and the third from February 1919 through the remainder for that year, with some countries having a fourth wave in 1920. Crucially during 1918 and 1919 most European countries were either still fighting war or rebellion or dealing with dissolution (including currency union dissolution), notably the multiethnic Austro-Hungarian Empire, which tore itself apart amid populism, widespread economic failure and famine, ultimately fueling the rise of fascism. For an overview of currency union dissolutions see also the following Working Paper.

[32] Please see our coverage on prolonged pandemic preparedness available here.

[33] Fiscal policy coordination, which is a competence that is not in the EU's power but is still in that of governments of the EU-27 in the absence of a fiscal union, remains the missing link that the ECB and the EC continue to call for. It remains to be seen whether the current market and macro-economic pressures may prove the much needed catalyst for change.

rules, allowing national efforts to support domestic economies, including direct capital injections and/or nationalizations across sectors, and thus enabling "their" businesses to secure a competitive advantage over weaker European competitors. Unless the EU embraces new tools and solutions to counterbalance this trend, this may distort competition in the EU's Single Market for financial services, and more generally, in what is supposed to be a level playing field. EU Commission President von der Leyen warned on this specifically in her April 23 statement that the EU needs a "common, future-proofed answer… to ensure the integrity and cohesion of the Single Market and its shared responsibility. The response is first to repair crisis damage, and then generate recovery, build resilience and guide our economy along the green and digital transitions in a fair manner" when discussing the link between the EU's multi-annual financial budget and the Recovery Fund.

Lastly and perhaps more pressingly, all financial and non-financial services firms will want to ensure that they are well equipped to face future adverse scenarios, regardless of the economic recovery and the suggested steps above. That being said, even if the current economic readjustments are a shock to the system and specific firms, it may be worth recalling the words of Jean Monnet, one of the EU's founding fathers, that "Europe will be forged in crises".

The current COVID-19 crisis could allow Europe to emerge stronger than before. It may be the much-needed catalyst to finalize both the Banking Union and Capital Markets Union projects, which are close to the finishing line, as well as to add impetus for continued and coordinated action to advance a more common fiscal policy[34]. As in 2008, the notion of "never let a crisis go to waste" may hold true for the EU in 2020 and beyond. As policymakers and the populace emerge from social distancing to review and rebalance the social contract, both at the individual national level but more importantly at the EU-level, they will hopefully embrace more solidarity, social cohesion and sustainability, as well as comprehensive growth. This would create an opportunity for financial services, rather than a burden of disarray.

If you would like to receive more detailed analysis of the topics discussed above, or in relation to the financial support measures, expansion of collateral eligibility standards and asset purchase programs, scope of regulatory reliefs or supervisory expectations, please get in touch with any of our Eurozone Hub key contacts.

We hope the above may provide some further insight into how to approach some of the solutions needed for what are indeed extraordinary times and very much new legal and operational challenges.

Our Eurozone Hub and Dentons Financial Institutions Regulatory lawyers have long advised and are advising a number of financial services firms across multiple jurisdictions in respect of these relief and support programs as well as their outreach measures in respect of counterparties, clients and other stakeholders (suppliers, auditors and supervisors).

The measures developed for our financial services clients translate into direct lessons learned that are deployable to the wider body of corporates that we service across the globe across various different business sectors.

In addition to speaking to your usual Dentons' contact please contact our global taskforce for a fast response on any COVID-19 issue you may have. Details of full COVID-19 relevant coverage are available on our COVID-19 (Coronavirus) Hub.

We stand ready to support in navigating these issues and how they apply to your business operations and those of your clients. We wish you and your families both comfort and strength during these unprecedented times.

[34] See also "A fiscal capacity for the euro area: lessons from existing fiscal-federal systems" published April 15, 2020, in its ECB Occasional Paper Series, which, while an informal policy paper per se, does hint at some of the ECB's inclinations.

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