



COVID-19 KEY EU DEVELOPMENTS POLICY & REGULATORY UPDATE

No. 45 | 28 April 2021

This regular alert covers key regulatory EU developments related to the COVID-19 situation. It does not purport to provide an exhaustive overview of developments and contains no analysis or opinion.

LATEST KEY DEVELOPMENTS

Competition & State Aid

- Portugal is first Member State to officially deliver Recovery and Resilience Plan to European Commission
- EU Single Resolution Board responds to European Commission's consultation on review of crisis management and deposit insurance framework, including COVID-19 crisis and State aid concerns
- EU approves new and amended Member State measures to support the economy

Trade / Export Controls

- European Commission to hold Civil Society Dialogue meeting on EU-US trade relations

Medicines and Medical Devices

- European Medicines Agency further assesses the benefits and risks of administering the AstraZeneca COVID-19 vaccine
- EU Member States agree on technical specifications of Digital Green Certificate for COVID-19

Cybersecurity, Privacy & Data Protection

- *No noteworthy developments for this issue*

COMPETITION & STATE AID

State Aid

Portugal is first Member State to officially deliver Recovery and Resilience Plan to European Commission (see [here](#))

On 22 April 2021, Portugal became the first Member State to officially deliver its Recovery and Resilience Plan to the European Commission.

Portugal's plan, amounting to €16.644 billion, sets out the reforms and public investment projects foreseen for implementation with the support of the Recovery and Resilience Facility (RRF), the key component of NextGenerationEU, the EU's plan for rebounding from the COVID-19 crisis. The RRF will provide up to €672.5 billion to finance reforms and investments (i.e., grants totaling €312.5 billion and €360 billion in loans).

Portugal's plan focuses on the three pillars of resilience, green, and digital transformation, including for social housing, energy-efficiency in buildings, and digital education. Projects in the Portuguese plan cover the RRF's entire lifetime until 2026.

The RRF guidelines, notably, make clear that the investment projects included in Member State recovery plans must comply with State aid rules. The Commission published practical guidance for swift treatment of projects under State aid rules, as well as a number of sector-specific templates to help Member States design and prepare the State aid elements of their recovery plans (*Jones Day Commentary, "EU Member State COVID-19 Recovery Plans Must Comply with State Aid Rules," March 2021, see [here](#)*).

The Commission will assess the Portuguese plan within the next two months. Based on the Commission's proposal, the Council will then have four weeks to adopt the Commission proposal.

The Commission will continue to closely engage with the remaining Member States to deliver robust national recovery plans by 30 April 2021. As stated by Commission President Ursula Von der Leyen, the "*goal remains to adopt all plans by the summer.*"

EU Single Resolution Board responds to European Commission's consultation on review of crisis management and deposit insurance framework, including COVID-19 crisis and State aid concerns (see [here](#))

On 21 April 2021, the Single Resolution Board ("SRB") published its response to the Commission's targeted consultation on the review of the bank crisis management and deposit insurance ("CMDI") framework.

SRB, the central resolution authority within the European Banking Union, is charged with ensuring the orderly resolution of failing banks.

The targeted consultation seeks to gather stakeholders' experience with the current CMDI framework, as well as their views on revising the framework. The Commission's stated aim in amending the framework is to increase its effectiveness in managing bank crises in the EU, as well as to strengthen depositor protection, including through the creation of a common depositor protection mechanism in the Banking Union.

Additionally, the State aid framework for banks will also be reviewed in the context of the CMDI framework review, towards ensuring consistency between the two regimes, adequate burden-sharing of shareholders and creditors to protect taxpayers, and safeguarding financial stability.

In the context of the COVID-19 crisis, in particular, the SRB noted that EU banks were afforded an exception under the Bank Recovery and Resolution Directive ("BRRD"), which provides for precautionary measures to allow the provision of external financial support from public resources to a solvent

bank, as a measure to counteract potential impacts of a serious disturbance in the economy of a Member State and to preserve financial stability. The Commission has made clear that any measures taken under the BRRD exception must demonstrate compatibility with applicable State aid rules. (see *Jones Day COVID-19 Key EU Developments No. 30 of 7 January 2021*).

The SRB emphasized its view that such recent “[r]ecent temporary adjustments to the conditionality for precautionary measures ... were justified by the specific circumstances of the Covid-19 outbreak; these should however lapse together with the Temporary [State aid] Framework and be strictly limited to Covid-19 effects.”

The targeted consultation will run until 20 May 2021. In parallel, during this same period, a general public consultation is covering only general questions on the bank crisis management and deposit insurance framework (see [here](#)).

EU approves new and amended Member State measures to support the economy (see [here](#) and [here](#))

Since the onset of the coronavirus outbreak, the European Commission has adopted a significant number of State aid measures under Article 107(2)b, Article 107(3)b and under the Temporary Framework.

The most recent measures adopted to support the economy and companies affected by coronavirus outbreak include:

- €462 million Portuguese support to compensate TAP for damage suffered due to the coronavirus outbreak
- €75 million Belgian scheme to support companies restarting activities in Flemish Region affected by the coronavirus outbreak
- €1.9 billion Czech scheme to support uncovered fixed costs of companies affected by the coronavirus outbreak
- €8 million Portuguese scheme to support companies in Azores region affected by coronavirus outbreak

TRADE / EXPORT CONTROLS

European Commission to hold Civil Society Dialogue meeting on EU-US trade relations (see [here](#))

On 18 May 2021, the Commission’s Directorate-General for Trade (“DG Trade”) will hold a Civil Society Dialogue meeting on EU-US trade relations. DG Trade’s Civil Society Dialogue involves regular meetings to discuss trade policy issues with interested parties, in view of promoting transparency and active stakeholder participation in trade policy and proposed actions.

The Commission notes that despite the economic slowdown caused by the COVID-19 pandemic, the EU and the US remain each other’s largest trade and investment partners and that this transatlantic partnership remains a “*central artery*” of the global economy.

Furthermore, EU-US trade relations are seen as invigorated with the new US administration and engagement between Executive Vice-President and Commissioner for Trade Valdis Dombrovskis and new US Trade Representative Katherine Tai.

The Civil Society Dialogue meeting will be led by Rupert Schlegelmilch, Acting Deputy Director-General responsible for EU-US trade relations in the Directorate General for Trade. He will discuss the EU’s initial contacts on trade issues with the new US Administration and will set out his expectations

regarding EU-US trade priorities in the coming months. He will also discuss EU-US trade policy with participating stakeholders.

MEDICINES AND MEDICAL DEVICES

European Medicines Agency further assesses the benefits and risks of administering the AstraZeneca COVID-19 vaccine (see [here](#))

On 23 April 2021, the European Medicines Agency's ("EMA") Committee for Medicinal Products for Human Use ("CMPH") adopted its interim opinion, concluding that the benefits of Vaxzevria, the AstraZeneca's COVID-19 vaccine, outweigh its risks in adults of all age groups.

The CMPH's interim opinion follows the European Commission's request on 9 April 2021 to the EMA to further assess the data on risk of thrombosis (blood clots) in different age groups and/or gender, as well as to identify possible other risk factors in relation to administering Vaxzevria.

The CMPH studied the vaccine's benefits and the risk of unusual blood clots in different age groups in the context of the monthly infection rates. Its analysis showed that the benefits of vaccination increase with increasing age and infection rates. However, insufficient data was available from across the EU to provide further context on benefits and risks on the basis of gender.

The CMPH also evaluated available data on the use of the second dose. It concluded that inadequate exposure and follow-up time did not allow to determine whether the risk of unusual blood clots after a second dose would differ from the first dose. Therefore, the CMPH recommended to continue administering a second dose of Vaxzevria between 4 and 12 weeks after the first dose, in line with the product information.

The CHMP review remains ongoing, and additional data will be published upon its conclusion.

EU Member States agree on technical specifications of Digital Green Certificate for COVID-19 (see [here](#) and [here](#))

On 22 April 2021, the Member States agreed on the technical specifications necessary for the establishment at EU level of the IT infrastructure for the functioning of the Digital Green Certificate to facilitate free movement during the COVID-19 pandemic.

The agreed technical specification covers data structure, encoding mechanisms (such as the QR code to ensure security and authenticity) and the IT gateway ensuring that certificates can be read and verified across the EU whether provided in digital or paper format.

To recall, on 17 March 2021, the Commission adopted a Proposal for Regulation for a Digital Green Certificate (see [here](#)) to enable free movement during pandemic within the EU, with the possibility of including Iceland, Liechtenstein, Norway and Switzerland in the mechanism (see *Jones Day COVID-19 Update No. 41 of 27 March 2021*).

The Certificate will serve as proof that a person: (i) is vaccinated against COVID-19; (ii) received a negative test result; or (iii) recovered from COVID-19.

The Certificate should be issued to EU citizens and their family members, regardless of their nationality. It should also include non-EU nationals who reside in the EU and visitors who have the right to travel to other Member States.

The Commission's proposal will undergo discussion and adoption by the Parliament and the Council, in view of rolling out Digital Green Certificates by June 2021.

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