

# RegCORE Client Alert

## Summary of 2021 EU State of the Union Policy Announcements

September 2021

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### A focus on key impacts for financial services firms and markets

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**Quick Take**

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The European Commission announced in the 2021 EU State of the Union speech a number of key priorities. The following are those that are likely to directly affect financial services:

- Introduction of an EU Cyber-Resilience Act to sit alongside and support additional efforts on network security (NIS2) and digital operational resilience (DORA).
- Stepping up delivery on the implementation of the Capital market Union Action Plan including the Initiative on harmonizing certain aspects of substantive law on insolvency proceedings.
- Reinvigorate initiative on instant payments in the EU
- Launch of a legislative proposal to facilitate small and medium sized enterprises access to capital.
- Advancing two legislative proposals firstly on the implementation of the OECD global agreement on re-allocation of taxing rights and secondly on the implementation of the OECD global agreement on minimum effective taxation.
- Finalizing the political agreement by 2023 on the EU's reformed Stability and Growth Pact.

While the above will likely during the fourth quarter of 2021 be detailed by further and wider-reaching workstreams that are set to be published by each of the European Commission, the European Supervisory Authorities (EBA, ESMA and EIOPA) as well as the European Central Bank, in addition to national competent authorities across the EU-27, the 2021 speech sets a clear path as to the EU's planning for beyond the pandemic. While the 2021 speech is comparably more focused than European Commission Ursula von der Leyen's 2020 inaugural speech, it points to a very busy 2022 for financial services firms and those authorities supervising them.



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## EU Commission charts the path ahead for planning beyond the pandemic

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Amongst EU institutions September is usually the time for setting the agenda for the year ahead. Key announcements on future policies, legislative initiatives and structural reforms take center stage ahead of the publication of more detailed work programmes. On 15 September 2021, European Commission President Ursula von der Leyen delivered her second EU State of the Union address<sup>1</sup>. This is the tenth time<sup>2</sup> such an address has been delivered by a European Commission President.

The 2021 speech offers an opportunity to reflect on the European Commission's achievements<sup>3</sup> over the past year. Notably this includes highlighting the successes of the unprecedented NextGenerationEU recovery plan as well as national-led recovery plans<sup>4</sup>, the Commission's debut on the capital markets as well as improving momentum in vaccination. By August 2021 70% of the EU adult population were reported as fully vaccinated. All of these developments underpin the welcome outlook that the Commission expects that 19 out of 27 Member States' economies are expected to return to pre-pandemic growth levels.

However, the 2021 speech more importantly allows the Commission to chart the course for the year ahead, and in this year, for planning beyond the pandemic. The speech is the platform to deliver its proposals for the big picture on aims and goals with technical details to follow. Inaugural State of the Union speeches of European Commission Presidents tend to be more about setting the scene for the entire term, whereas those that follow tend to reflect on achievements, refine previous but also introduce new concrete reforms while equally sticking to longer-term projects in various stages of successful delivery.

Unsurprisingly, the Commission in the 2021 speech highlights that the success of the EU's Single Market, which shortly celebrates its 30th anniversary, is core to the EU's progress and prosperity over the next five to ten years. Consequently, the Commission is pushing to expand and deepen the Single Market and the Commission's various efforts on the Banking Union and Capital Markets Union serve as catalysts to achieve that aim – certainly for financial services. Then there are those aims that are broader, such as the Commission pressing to develop a Digital Single Market, which aims to benefit a breadth of sectors.

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## One speech, many accompanying publications

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As in previous years and very much accompanying the speech, the European Commission President also sends a Letter of Intent to the President of the European Parliament and the incumbent holding the rotating Presidency of the Council. The Letter of Intent sets out proposed commitments, and details which actions the Commission intends to take both by legislative means and through other initiatives during the coming year.

The communicated aims and goals of the European Commission will likely be of interest to financial services firms and market participants. They also serve as a primer ahead of the comprehensive publications of respective 2022 work programmes later in 2021 by the European Commission as well as the respective European Supervisory Authorities (EBA, ESMA and EIOPA) and the ECB – please stay tuned for our coverage and analysis on these.

While the speech also provides the opportunity for the technical and political debate, notably amongst Members of the European Parliament<sup>5</sup>, the following sections present an overview of the salient points of interest to financial markets as announced in the 2021 speech<sup>6</sup> as well as in the 2022 high-level priorities and the more detailed policy announcements published in the "Letter of Intent"<sup>7</sup>.

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<sup>1</sup> A recording of the speech is available [here](#) and a transcript [here](#).

<sup>2</sup> And first time that Brexit did not merit a single mention and the UK itself only one.

<sup>3</sup> A list of which is available in English [here](#) and as transcribed in other EU official languages [here](#).

<sup>4</sup> On 15 September 25 of 27 Member States had submitted their plans. Bulgaria and the Netherlands are yet to submit theirs. Of those submitted an average of 30% of total expenditure is to be directed towards social policy reforms. That in itself is welcome by the European Commission following its longstanding demands that national capital reform and invest in their respective domestic labour markets, education and social protection systems. The European Commission each year issues so-called "Country Specific Recommendations" to each of the 27 Member States and in 2019 and 2020 about 40% of these were related to targeted improvements to employment, skills and social policies.

<sup>5</sup> President von der Leyen listened to 81 MEPs statements before having an ability to respond to points raised.

<sup>6</sup> Available in English [here](#), the original multilingual version [here](#) and as transcribed in other EU official languages [here](#).

<sup>7</sup> Available in English [here](#) and as transcribed in other EU official languages [here](#).

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## The Commission's Letter of Intent points of interest for financial services

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The Letter of Intent contained a number of proposed initiatives, which are grouped into six thematic areas<sup>8</sup> that stem from the EU's 2019-2024 Priorities<sup>9</sup>. Three out of the six thematic areas and their respective workstreams are likely to be of interest to financial services firms and market participants:

| EU thematic area                        | Workstream – relevant parts in bold   | Potential considerations for financial services firms and market participants   |
|---|---|---|
| <b>A Europe fit for the digital age</b> | 1. <b>European Cyber Resilience Act</b>   | <ul style="list-style-type: none"> <li>The European Cyber Resilience Act will sit alongside NIS2, DORA and the operations of the European Cyber-resilience Board. We expect this to be an area of ongoing focus as financial services firms look to assess financial services' firms risk footprint as well as (over-) reliance on third-party IT and other outsourcing providers.</li> </ul>   |
|   | 2. <b>European Chips Act</b>  |   |
|   | 3. Roadmap on security and defense technologies   | <ul style="list-style-type: none"> <li>Accompanying the European Chips Act, the EU intends to coordinate EU and national investment "along the value chain" that aims to create a state of the art European chip ecosystem, including production, with security of supply and possibility of developing new markets for ground-breaking European technology. It remains to be seen what opportunities this might offer.</li> </ul>  |
|   | 4. Legislative proposal on building an space-based global secure communication system                       |   |
|   | 5. <b>Review of competition policy – "fit for new challenges"</b>   |   |
|   | 6. <b>Proposal for a Council Recommendation on improving the provision of digital skills</b>                | <ul style="list-style-type: none"> <li>EU Commissioner for the Internal Market, Thierry Breton, has also pitched a dedicated European Semiconductor Fund – details of which are yet to materialize.</li> </ul>  |
|   | 7. <b>Legislative proposal on a Single Market Emergency Instrument (SMEI)</b>                               | <ul style="list-style-type: none"> <li>The proposal for a Council Recommendation on improving digital skills is part of the EU's Digital Education Action Plan 2021-2027<sup>10</sup> which currently, amongst other things focuses on improving digital literacy, but has been earmarked as an initiative upon which aims to improve financial literacy could be advanced. In such instances, this could mean greater pressures on financial services firms to engage in proactive financial literacy improvement efforts of their retail (and possibly SME) clients.</li> <li>The SMEI a structural solution, which is part of the EU's revised Industrial Strategy<sup>11</sup>, and which aims to ensure the free movement of persons, goods and services in case of future crises. It should guarantee more transparency and solidarity and help address critical product shortages by speeding up product availability and reinforcing public procurement cooperation.</li> </ul> |
|   | 8. Legislative proposal on multimodal digital mobility services   |   |
| <b>An economy</b>                       | 9. Legislative proposal on the protection of workers from the risks related to exposure to asbestos at work | <ul style="list-style-type: none"> <li>The EU Commission's plan on achieving a deal on minimum corporate taxation may be announced as early as October 2021.</li> </ul>   |

<sup>8</sup> 1) A European Green Deal; 2) A Europe fit for the digital age; 3) An economy that works for people; 4) A stronger Europe in the world; 5) Promoting the European way of life; and 6) A new push for European democracy.

<sup>9</sup> Available [here](#).

<sup>10</sup> Available [here](#).

<sup>11</sup> Available [here](#).

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*that works  
for people*

10. **Legislative proposal to facilitate small and medium sized enterprises access to capital**
11. **Initiative on instant payments in the EU**
12. **Implementation of the Capital market Union Action Plan including the Initiative on harmonizing certain aspects of substantive law on insolvency proceedings**
13. **Legislative proposal on the implementation of the OECD global agreement on re-allocation of taxing rights**
14. **Legislative proposal on the implementation of the OECD global agreement on minimum effective taxation**

- A renewed push on promoting the following workstreams are expected to be explained in further detail in the European Commission's workplan for DG-FISMA as well as those of the ECB-SSM and the European Supervisory Authorities:
  - SME funding channels beyond existing efforts with differing degrees of successful impact including prudential regulatory capital reforms or those wider efforts as part of the EU's current SME Strategy for a sustainable and digital Europe<sup>12</sup>;
  - Development pan-EU instant payments adoption; and
  - Harmonization of insolvency law – a longstanding issue with only recent tentative successes.

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The contents of the Letter of Intent also cement the European Commission's high-level priorities for 2022 which were also commented upon in the 2021 speech.

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### High Level priorities of the European Commission for 2022

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The European Commission in 2022 plans to build upon the following overarching themes and relevant priorities thereunder. Specifically, the European Commission will:

- **Continue the vaccination efforts in Europe and speeding up vaccinations globally, as well as strengthening the EU's future pandemic preparedness.**

Notably, the 2021 speech focused on a need to smooth what are "worrisome divergences in vaccination rates in our Union". Equally, the 2021 speech commits the EU to building, as announced in 2020, a "European Health Union", with EUR 50 billion in funding by 2027, albeit with little details on funding plans, and to speed up the set up and operation of a new Health Emergency preparedness and Response Authority (HERA) by early 2022. In the short term the European Commission is creating a new biodefence preparedness plan called the HERA Incubator, bringing together biotech companies, manufacturers, regulators and public authorities to identify and combat future pandemics.

- **Work on closing the climate finance gap, together with the EU's global partners.**

The EU has pledged to commit an additional EUR 4 billion to climate finance until 2027 and expects the USA and other partners "step up too". A number of key meetings at the global level, including COP26 will likely yield further announcements on EU policy.

- **Lead the digital transformation that will create jobs and drive competitiveness, while ensuring technical excellence and security of supply across the EU.**

In addition to the European Cyber Resilience Act, which aims to complement existing efforts such as the second Network Information Security Directive (NIS2) and the Digital Operational Resilience Act (DORA), the European Chips Act is novel rulemaking for the EU. The European Chips Act aims to create a "European chip ecosystem" that focuses on improving supply chains and reducing shortage of semiconductors as well as overreliance on non-EU chip production. Concurrently, the EU plans to

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<sup>12</sup> Available [here](#).

implement a new accompanying investment framework. Such an investment framework may provide a number of welcome opportunities for those seeking inasmuch as those providing funding.

- **Ensure fairer working conditions and better healthcare while creating more opportunities for Europe's youth to benefit from the European social market economy.**

The EU plans to introduce a number of targeted programs to coordinate national efforts and create common platforms strengthening work in this area in the previous years. This also includes the EU introducing a new Erasmus-style placement programme, ALMA, to help young Europeans who are neither in employment or education find temporary work experience in another Member State.

The EU also approved changes and to improve the attractiveness of its Blue Card scheme for foreign professionals, which grants the right to live and work in the EU. The Blue Card, inspired by the US Green Card was established in 2009 and is available in 25 of the 27 EU Member States<sup>13</sup>. It aims to provide a competitive advantage for employers in the EU in the global race for talent. The changes mean that those holding a permit need to secure a contract in the EU for a minimum of six months as opposed to 12 months previously. The rules allowing a bearer of an EU Blue Card to move from one EU Member State to another after 12 months of work have been eased. So too are the provisions for them to be joined by family members, who would also have the right to work.

- **Step up the EU's cooperation on security and defence while deepening the EU's partnerships with its closest allies.**

As in more recent years and calls for the EU to push for greater strategic autonomy, the EU dusted off historic plans and presented afresh a reinvigorated European Defense Union. Focus will be directed on better information sharing and greater situational awareness, greater interoperability through common platforms (including waiving VAT when buying European developed and produce defense equipment) as well as ultimately collective decision-making amongst Member States. Further efforts will be pressed ahead with a new European Cyber Defense Policy. Under the French Presidency of the Council, commencing 1 January 2022, the European Commission will convene a European Defense Summit. An EU-NATO declaration is also anticipated by the end of 2021.

Equally, the EU will together with the US continue to cover common topics for cooperation ranging from health security and sustainability, through the new Trade and Technology Council. Furthermore, the EU will continue to press efforts across those Western Balkan countries that are in various stages of the EU accession process. The EU will equally press ahead with investing in existing regional partnerships, including the EU-Africa Summit and creating a market for green hydrogen linking Africa and the EU as well as setting new partnership strategies, including following the EU's new Indo-Pacific strategy. These partnerships aim to promote regional security and prosperity.

- **Continue to defend European values and freedoms as well as protecting the rule of law.**

In addition to promoting partnerships above, the EU will apply a values-based approach, offering transparency and good governance to its partners, through a new "Global Gateway Partnership" that drives investments and infrastructure improvements but with conditions attached. While such initiative aims to compete with those of other countries, the EU's conditions include a proposed ban on products entering the EU that have been made by forced labor.

Moreover, within the EU, the Commission announced that from 2022 its Rule of Law reports will come with specific recommendations issued to Member States.

- **Finalizing the return to a reformed Sustainability and Growth Pact**

In the 2021 speech, the Commission announced that in the coming weeks it will relaunch the discussion on the Economic Governance Review, aiming to build consensus on the way forward well in time for the 2023 timelines with the EU's Stability and Growth Pact being reinstated by that time. While the Commission is reopening the conversation on the Stability and Growth Pact (SGP), it is not one without difficulty.

The last time the SGP reform debate was aired amongst national capitals differing views became drawn along a familiar north-south divide. The fundamental issue remains on how to balance a move to loosen the EU's deficit rules and allow for fiscal flexibility, against the risks looming in the form of high public

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<sup>13</sup> Denmark and Ireland have previously opted out and have their own national schemes on highly-skilled non-EEA workers. According to latest data from 2019, Germany is the main user, issuing more than 75% of Blue Cards in the EU followed by Poland and France.

debt left over from the pandemic or even the European Sovereign Debt Crisis. In the Eurozone-19 (soon to be 21) the average debt is expected to reach 102% of GDP at the end of 2021, with a number of larger economies expected to rise to 120%.

A number of the priorities above, as clarified in the speech are set out in further technical detail in the Letter of Intent.

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## Outlook

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The EU's 2021 State of the Union, marks the real start of the EU's policymaking cycle ahead of technical publications and workplans being released before the end of the year. More importantly, financial services firms and market participants may equally want to take note of the push for further Europeanization taking place across a number of areas already within the Commission's responsibilities as well as those new areas that it is seeking to tackle, or at least coordinate in a more centralized fashion.

Equally, even if the 2021 speech and accompanying documents may indicate the beginning of the end of COVID-19 firefighting, policymakers, financial services regulators and supervisors at the EU and the Member State level are all largely back into normal operating conditions. Many are looking to digest and apply the lessons learned during lockdown, but equally looking to pick up, as well as amend, those reform proposals that were paused by the pandemic.

Then there are those financial services rulemaking and institutional reforms that did not make it into the 2021 speech and accompanying documents, but which are likely to be reflected in forthcoming announcements. This includes everything from the finalization of Basel IV reforms through to the exact future nature of access to third-country CCP clearing still to be clarified, down to improving the EU's supervisory architecture, including the location of the EU's new Anti-Money Laundering Authority (AMLA). Desks are likely to be full with a much busier regulatory reform agenda than in previous years and with a more intrusive level of supervisory scrutiny.

# About us

PwC Legal is assisting a number of financial services firms and market participants in forward planning for changes stemming from these proposals.

If you would like to discuss any of the developments mentioned above, or how they may affect your business more generally, please contact any of our key contacts or PwC Legal's RegCORE Team via [de\\_regcore@pwc.com](mailto:de_regcore@pwc.com) or our [website](#).

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