

# ESMA sets out expectations regarding application of IAS 12

The European Securities and Markets Authority (ESMA), the EU's securities markets' regulator, has published today [a Public Statement on IAS 12 Income Taxes](#), setting out its expectations regarding the application of the requirements relating to the recognition, measurement and disclosure of deferred tax assets (DTAs) arising from unused tax losses in IFRS financial statements.

This Public Statement aims to promote consistent application of IFRS across the European Union, and includes key messages that issuers, auditors and audit committees should take into account when recognising deferred tax assets in their financial statements, thereby providing insights on issues on which European enforcers usually challenge issuers.

The Public Statement stems from the findings and discussions of the European Enforcers Coordination Sessions (EECS), where several cases highlighted that significant divergence exists in the application and enforcement of the requirements on deferred tax losses arising from unused tax losses carried forward.

ESMA and National Competent Authorities will continue to monitor the application of the requirements set out in IAS 12 and will pay attention to the issue highlighted in this Public Statement when performing examinations of financial statements.

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## Daily News 15 / 07 / 2019

### **Juncker Plan: €800 million for innovative small and medium-sized businesses in eleven countries**

The European Investment Bank (EIB) and ProCredit Group are providing €800 million to innovative small and medium-sized companies (SMEs), under the European Fund for Strategic Investments (EFSI), the core element of the [Investment Plan for Europe](#), or "Juncker Plan", and the [InnovFin SME Guarantee Facility](#). The financing will target companies using new technologies and producing new products in one of the eleven countries where the facility is available (Albania, Bosnia and Herzegovina, Bulgaria, Georgia, Germany, Greece, Moldova, the Republic of North Macedonia, Romania, Serbia and Ukraine). A press release is available [here](#). As of June 2019, the Juncker Plan has mobilised nearly €410 billion of additional investment. The Plan is currently supporting 952,000 small and medium businesses across Europe. (For

*more information: Annika Breidthardt – Tel.: +32 229 56153; Enda McNamara – Tel.: +32 229 64976)*

### **Competition: European Commission publishes 2018 Report on Competition Policy**

The European Commission has today published the Report on Competition Policy for 2018, presenting its most important policy and legislative initiatives, as well as key decisions adopted last year. The 2018 report stresses how fostering a competitive internal market benefits both EU consumers and companies, with a focus on the effectiveness of competition enforcement, challenges in the digital economy, a more resilient financial sector and a fair and non-discriminatory taxation of firms active in the EU, as well as on promoting a global competition culture. The full text (available in [EN](#), [FR](#), and [DE](#) and other languages) and the accompanying staff working document (available in [EN](#)) are available [here](#). *(For more information: Ricardo Cardoso – Tel.: +32 229 80100; Maria Tsoni – Tel.: +32 229 90526)*

### **Mergers: Commission clears the creation of a joint venture between Apollo and Ares**

The European Commission has approved, under the EU Merger Regulation, the creation of a joint venture by Apollo Management, L.P. (“Apollo”) and Ares Management Corporation (“Ares”), all of the US. The joint venture will be active in the exploration and development of oil and natural gas properties, and will only have activities in the US. Apollo is active in the private investments sector with investments in various businesses throughout the world. Ares is a publicly traded global alternative asset manager. The Commission concluded that the proposed transaction would raise no competition concerns because the joint venture has no actual and foreseen activities within the European Economic Area. The transaction was examined under the simplified merger review procedure. More information is available on the Commission’s [competition](#) website, in the public [case register](#) under the case number [9400](#). *(For more information: Ricardo Cardoso – Tel.: +32 229 80100; Maria Tsoni – Tel.: +32 229 90526)*

## **ANNOUNCEMENTS**

### **European Union presents EU progress on Sustainable Development Goals at UN High Level Political Forum in New York**

Commissioner for International Cooperation and Development Neven **Mimica** and Commissioner for Environment, Maritime Affairs and Fisheries Karmenu **Vella** are attending the [United Nations High Level Political Forum on Sustainable Development](#) this week, to present the EU’s progress towards the Sustainable Development Goals – both within the European Union and internationally. A

detailed review of progress will be presented at the main EU side-event co-hosted with Finland on Thursday 18 July. During the week, Commissioner **Mimica** will also participate in an event organised jointly with France addressing the links between inequalities and climate change; an event on clean energy transition co-hosted with Ethiopia, the UN Department of Economic and Social Affairs and the International Renewable Energy Agency; an event of the International Labour Organisation to accelerate efforts to end forced labour; and an event hosted by Iceland and Malawi on bridging the gap between education and youth employment. *(For more information: Carlos Martin Ruiz de Gordejuela – Tel.: +32 229 65322; Daniel Puglisi – Tel.: +32 229 69140)*

### **Commissioner Avramopoulos in Greece**

Today, Dimitris **Avramopoulos**, Commissioner for Migration, Home Affairs and Citizenship, is in Athens, Greece. This morning, he met with newly elected Prime Minister Kyriakos Mitsotakis. Commissioner **Avramopoulos** also met with State Minister George Gerapetritis, Minister of Civil Protection Michalis Chrysochoidis, Minister for Shipping and Island Policy Ioannis Plakiotakis and Alternate Minister for Migration Giorgos Koumoutsakos to discuss migration and security policy. *(For more information: Natasha Bertaud – Tel.: +32 229 67456; Markus Lammert – Tel.: +32 229 58602)*

[Upcoming events](#) of the European Commission (ex-Top News)

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## **ESMA amends enforcement decisions for Nordic banks following appeal**

ESMA, in June 2018, fined the five banks €495,000 each and issued five public notices for negligently infringing the Credit Rating Agencies Regulation (CRAR) by issuing credit ratings without being authorised by ESMA to do so.

Four of the five banks appealed against ESMA's decisions in 2018 to the BoA. In February 2019, while upholding all the infringements, the BoA accepted the banks' claim that they had not acted negligently given the very unusual circumstances of the banks' practice and while applying the high standard care required of the banks. Based on this decision, ESMA decided that the only appropriate supervisory measure in the four banks' cases were public notices regarding the banks' infringements and that no fine will be imposed, in accordance with CRAR.

### **Banks issued shadow ratings lacking registration**

Between June 2011 and August 2016, the four banks issued credit research to their clients – and SEB continued to do so until May 2018. This credit

research included the issuance of what the banks described as shadow ratings. These reports related to different entities and underlying financial instruments and these reports included opinions, which ESMA found met the definition of a credit rating provided for by the CRAR. However, no bank had acquired the necessary ESMA authorisation to issue ratings and such conduct infringes the CRAR which requires prior authorisation. None of the four banks was registered as a CRA nor had they applied for registration.

## **Background**

Under the CRAR, issuing credit ratings requires authorisation by ESMA to ensure that such ratings are independent, objective and of adequate quality and that Credit Rating Agencies (CRAs) are subject to the same rules and oversight across all EU countries. A firm, in order to be registered as a CRA in the EU, needs to provide proof that it fulfils the necessary organisational requirements and provides adequate safeguards, in particular regarding governance, conflicts of interests, internal controls, rating process and methodologies, business activities and disclosures.

## **Right of appeal**

Any of the four banks mentioned above may appeal against this decision to the Joint Board of Appeal of the European Supervisory Authorities.

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# **ESMA addresses derivatives trading obligation concerns following entry into force of EMIR Refit**

Following the entry into force of EMIR Refit on 17 June 2019, some counterparties are exempted from the clearing obligation while still being subject to the trading obligation. ESMA's statement addresses the possible implementation challenges that this misalignment creates for counterparties exempted from the CO. In addition, ESMA clarifies the application date of the trading obligation for those counterparties impacted by the modified application date of the clearing obligation under EMIR Refit.

ESMA's statement addresses two areas:

- Clearing and trading obligations for small financial counterparties and non-financial counterparties; and,
- Date of application of the trading obligation for financial counterparties (FC) which are in Category 3 and subject to the CO.

The statement advises National Competent Authorities (NCAs) not to prioritise their supervisory actions in relation to the DTO towards counterparties

exempted from the C0 following the entry into force of EMIR Refit.

Additionally, for financial counterparties (FC) in Category 3 which are subject to the C0, the date of application of the DTO should be the same as the new date of application of the C0 as amended by EMIR Refit. This date of application should hence be four months following the notification from FC to ESMA and NCA as required under EMIR Refit, rather than 21 June 2019.

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## **ESMA publishes responses to its Consultation on indices and recognised exchanges under the CRR**

12 July 2019

MiFID – Secondary Markets

ESMA publishes responses to its Consultation on indices and recognised exchanges under the Capital Requirements Regulation.

To view the responses, please click the button below.

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