International
Capital
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Association

Press release

News from the International Capital Market Association (ICMA)

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ICMA publishes legal opinions on standard repo agreement for 55 countries

(London, UK) The International Capital Market Association (ICMA) has announced the publication of new and updated legal opinions on the Global Master Repurchase Agreement (GMRA), the standard agreement used for international repo transactions. These legal opinions now cover 55 jurisdictions indicating both the extensive use of the GMRA and the increasing utilisation of repo as a funding tool.

The legal opinions have been obtained from locally appointed law firms and support the use of the GMRA by addressing the enforceability of the netting provisions and also the validity of the agreement as a whole. In addition, the opinions address the issue of recharacterisation risk (in respect of both the transfer of securities and the transfer of margin). While the opinions for all 55 jurisdictions cover companies, banks and securities dealers, the opinions for 23 jurisdictions also cover insurance companies, hedge funds and mutual funds as parties to the GMRA.

Commenting on the publication of the opinions Godfried de Vidts, Chairman of ICMA's European Repo Council said: "The European Repo Council welcomes the publication of the updated legal opinions supporting the use of the GMRA, the standard documentation which has reduced the risk of cross border repo transactions and so allowed the market to grow rapidly over the past few years. The range of jurisdictions now covered is a clear indication of the widespread adoption of repo in many new markets".

More follows/...

Both the UK Financial Services Authority (FSA) and the German Financial Supervisory Authority (BaFin) recognise the effect of netting provisions for regulatory capital and large exposure requirements provided that a legal opinion has been obtained which confirms the enforceability of such netting provisions and meets certain other requirements. The 2007 opinions assist repo market participants using the GMRA in fulfilling these regulatory requirements.

The 55 jurisdictions covered include many of the 27 countries of the European Union, with Slovenia and Slovakia being added for the first time, and also some of the rapidly growing financial markets of Asia e.g. China, Thailand, Philippines, South Korea and of the Middle East e.g. Abu Dhabi, Bahrain and Saudi Arabia. ICMA is looking to provide opinions for further jurisdictions as requested by market participants, including Croatia, Dubai, India and Israel.

All the 2007 legal opinions are available to ICMA members from the ICMA website at www.icmagroup.org, together with black lined versions of the 2006 opinions indicating any changes.

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Notes for editors

1. International Capital Market Association (ICMA)

The International Capital Market Association is the self-regulatory organisation and trade association representing constituents and practitioners in the international capital market worldwide. ICMA's members are located in 48 countries across the globe, including all the world's main financial centres, and currently number some 400 firms in total. ICMA performs a crucial central role in the market by providing and enforcing a self-regulatory code of industry-driven rules and recommendations which regulate issuance, trading and settlement in international fixed income and related instruments. ICMA liaises closely with regulatory and governmental authorities, both at the national and supranational level, to ensure that financial regulation promotes the efficiency and cost effectiveness of the capital market. www.icmagroup.org

2. Jurisdictions

The 2007 opinions have been jointly obtained by ICMA and SIFMA for the following jurisdictions: Austria, Belgium, Canada, China, Cyprus, England, Finland, France, Germany, Greece, Guernsey, Hungary, Ireland, Italy, Japan, Jersey, Luxembourg, Netherlands, Norway, Poland, Portugal, Spain, Switzerland, and the USA.

More follows/...

ICMA has also obtained updated opinions on its own for the following jurisdictions:
Abu Dhabi, Australia, Bahamas, Bahrain, Bermuda, Brazil, British Virgin Islands, Cayman Islands, Czech Republic, Denmark, Estonia, Hong Kong, Kuwait, Latvia, Lithuania, Malta, Mexico, Netherlands Antilles, New Zealand, Philippines, Saudi Arabia, Scotland, Singapore, South Africa, South Korea, Sweden, Taiwan, Thailand and Turkey.

In addition, ICMA has obtained new opinions for Slovakia and Slovenia.

The opinions for all 55 jurisdictions cover companies, banks and securities dealers. For the following 23 jurisdictions the opinions also cover insurance companies, hedge funds and mutual funds as parties to the GMRA:

Austria, Bahrain, Belgium, British Virgin Islands, Canada, Cayman Islands, Denmark, England, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Scotland, Sweden, Spain, Switzerland, Thailand and the USA (excluding insurance companies).

3. The repo market

Repos, or repurchase agreements, are simply short-term loans, where a security, usually a government bond, is used as collateral. They are principally used to fund bond positions in the wholesale financial markets, which in turn are used for hedging and arbitrage strategies against derivatives; the repo market therefore underpins the functioning of the financial markets as a whole. Despite being pivotal to the securities market in Europe, figures on repo market size are difficult to obtain. ICMA's semi-annual surveys are acknowledged to provide the most reliable analysis of the market yet produced, giving an insight into its structure, growth and size. The latest ICMA survey, published in February, set the lower limit for European repo market size at over EUR 6, 430 billion.

4. Contact details for further information

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