Assessment of Market Practice & Regulatory Policy

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# ICMA Quarterly Report

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ICMA

International Capital Market Association

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The mission of ICMA is to promote resilient and well-functioning international and globally integrated cross-border debt securities markets, which are essential to fund sustainable economic growth and development.

ICMA is a membership association, headquartered in Switzerland, committed to serving the needs of its wide range of members. These include public and private sector issuers, financial intermediaries, asset managers and other investors, capital market infrastructure providers, central banks, law firms and others worldwide. ICMA currently has some 620 members in 65 jurisdictions worldwide.

ICMA brings together members from all segments of the wholesale and retail debt securities markets, through regional and sectoral member committees, and focuses on a comprehensive range of market practice and regulatory issues which impact all aspects of international market functioning. ICMA prioritises four core areas – primary markets, secondary markets, repo and collateral markets, and the green, social and sustainability markets.


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# Looking ahead with optimism

by **Bryan Pascoe**

Four months into the CEO role, I feel that this is an excellent opportunity to reflect on the work done by the ICMA and also to think ahead. The year has obviously been shaped by the ongoing impact of the pandemic, but, as difficult as that has been, it has in no way slowed the pace of engagement and output by our staff and members. It has been very noticeable how adaptable all parties have been in continuing to operate in a virtual manner whether that be around internal meetings, committee meetings, events, and education courses. All elements have continued at pace, and it is very encouraging to see how efficient we have become in communicating through virtual channels.

At the same time there are always going to be greater efficiencies in some elements of formal and informal face-to-face interaction and our staff have enjoyed the ability in the last few months to spend time in the office and hold in-person meetings with all stakeholders. Personally, I have been fortunate to be able to conduct several trips within Europe to meet with members, regulators and key stakeholders, which has been invaluable in helping to frame my views on how to take the Association forward. With COVID-related restrictions again escalating we are needing to adapt once again, but constructively we now have the ability to switch modes and deal with this almost as "business as usual".

At the Board meeting in early December, I was able to lay out my strategic action plan for ICMA looking ahead. A key element of this plan will be to elevate our FinTech and digitalisation proposition as a critical over-arching theme across our business verticals of Primary, Secondary and Repo and Collateral, providing thought-leadership, encouraging consistency, standardisation and interoperability across business lines, and supporting deliverable frameworks for best practice. Our current proposition, in conjunction with the work of FinTech Advisory Committee (FINAC), already drives several strong initiatives but there is significant scope to enhance our visibility in this space, and to support members more broadly and strategically as regulatory focus on the use of technology, data and decentralised infrastructure solutions intensifies.

Commercialising our broader best practice offering and creating a more visible ICMA brand will also be a focus. Using data more effectively, we will look to provide members and stakeholders with more agile thought-leadership output on broader market trends and developments across secondary, repo and primary markets in both conventional and sustainable format. Our existing education programme is already very strong and has adapted well to virtual streams with a 60% increase in course registrations over the last year, but we can further enhance this through developing the breadth of our courses, improving delegate experience and astute marketing. Coupled with these enhancements we will look to strategically grow our membership base around our core competencies, especially in areas (both geographic or by member type) where we feel we can strengthen our relevance and impact, at the same time ensuring this enables us to refine and balance the structure of our committees to drive the most diverse debate and output.

Our market-leading advocacy work will naturally remain central to the value and relevance we bring to all members. Our effectiveness in this space has been strongly underlined in 2021 by our core involvement and leadership in areas such as IBOR reform, settlement discipline and the MiFID transparency regime. Looking into 2022 the regulatory workload will remain heavy with post-Brexit divergence between the EU and UK regimes being an important area where we can support members. Further within the context of the EU, the heightened focus and intensification of activity in the broad-reaching CMU project presents a significant opportunity for ICMA to work with members to help frame critical market infrastructure developments. Work is already afoot in both the advocacy and market practice arenas across a number of streams and the close proximity to EU decision makers and stakeholders through our Brussels office will be instrumental in ensuring we focus our resources efficiently.

Further afield, our Asia-Pacific team recently played a critical role in the Hong Kong SFC consultation on syndication and bookbuilding market practices and this will remain an important focus area for us with both sell-side and buy-side members as we help to shape its implementation throughout the first half of 2022. As the Asian debt capital markets and fixed income arena continues to develop and grow, I feel very strongly that ICMA will be able to play a critical role in supporting key cohesive initiatives such as the internationalisation of the China debt capital markets, repo market growth and local currency market development.

Sustainability across all regions remains a core overarching theme for ICMA. This year has seen an acceleration of the market in terms of volumes, with issuance of almost US$1 trillion now recorded, but it has been the rapid developments in complexity, potential fragmentation of taxonomies and regulatory reporting and disclosure developments that have been even more dynamic. There is much work to do in this area to ensure the market evolves in an orderly and functional manner to support high-level political and social ESG goals and ICMA is uniquely positioned to play a key role in the debate as this evolves.

As a final word I would like to thank members, Board members and colleagues for the support and engagement I have enjoyed so far. I would also like to congratulate all my colleagues on their great achievements throughout a very intense and challenging year. There are busy times ahead and, from where we stand now, the environment in 2022 promises to be no easier than it has been in 2021. Once again, we will need to be flexible and adaptable to deliver on all our priorities and initiatives.

I wish everyone a safe and successful year ahead.

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# EU/UK capital market fragmentation in a global context

by **Paul Richards**


## Summary

This assessment considers the risks of capital market fragmentation arising between the EU and the UK, a year after the end of the post-Brexit transition period, and it examines the scope for regulatory cooperation in future in a global context, in six parts: the EU and UK as two separate markets; the limited scope for equivalence; regulatory divergence; differences in approach to regulation; the opportunity for regulatory and supervisory cooperation; and the importance of a global approach.


## Introduction

1 At the end of the post-Brexit transition period on 31 December 2020, the UK left the EU Single Market, passporting rights ceased and the EU and UK markets became two separate markets. This assessment updates previous assessments since the UK referendum on Brexit, a year after the end of the post-Brexit transition period. In doing so, it considers the risks of capital market fragmentation arising between the EU and the UK, and it examines the scope for regulatory cooperation in future in a global context. A common objective is to ensure that international capital markets are efficient and resilient so that they can finance sustainable economic growth and development.[1]

2 The global context has become increasingly important since the global financial crisis in 2008/09, when the Financial Stability Board (FSB) was established under the aegis of the G20 to oversee financial services regulation globally, alongside the International Organization of Securities Commissions (IOSCO) as a global standard setting body for securities markets, the Basel Committee on Banking Supervision (BCBS) on banking regulation and the Committee on Payments and Market Infrastructures (CPMI). This year, an agreement has also been reached in the OECD on a global minimum level for corporate tax and, under the aegis of the UN, COP26 in Glasgow has resulted in global agreement on implementing measures relating to climate change, including by setting up an International Sustainability Standards Board (ISSB).

3 While the remit of these boards and committees and the agreements that they reach are global in scope, the legislation arising generally needs to be implemented in different jurisdictions (eg the EU and the UK) separately. The power to take decisions about whether, when and in what form to introduce legislation lies ultimately with the regional or national governments concerned, and they frequently need to take account of distinct local factors. For example, the FSB Official Sector Steering Group oversees the transition from LIBOR to risk-free rates globally, but legislation has been introduced separately in the US, UK and the EU, among others, and the authorities in each jurisdiction are aware of the importance of avoiding a conflict of laws between them. There are other cases in which legislation in a particular jurisdiction is intended to have an extra-territorial effect.

## The EU and UK as two separate markets

4 Since the end of the post-Brexit transition period on 31 December 2020, the cross-border securities market

1. Financial services regulation is only one of the external influences on international market firms operating in financial markets in different jurisdictions: others include the political context, monetary and fiscal policy, corporate and individual taxation, labour laws, the legal, market and technological infrastructure, as well this year as the impact of the recovery from the COVID-19 pandemic.

has continued to function as efficiently as it can, largely because capital market firms were well prepared for the cessation of passporting rights and the fragmentation of the Single Market into two separate EU and UK markets. Preparations by market firms involved ensuring that they had authorisation to operate in both the EU and the UK separately, instead of being able to rely on passporting rights to provide services across borders between them:

- In the UK, the authorities' objective has been to ensure that regulated firms based in the UK are subject to UK authorisation and supervision. From the end of the post-Brexit transition period at the end of 2020, the Temporary Permissions Regime (TPR) has provided a period of up to three years in which EEA firms and funds previously using a passport can seek authorisation in the UK from the PRA/FCA; and the Temporary Transitional Power (TTP) has given regulated firms a 15 month period until 31 March 2022 to comply fully with UK law by implementing changes to EU legislation onshored in the UK at the end of the post-Brexit transition period, with limited exceptions where compliance has been required earlier.
- In the EU, there is no equivalent to the TPR at EU level. While there is a patchwork of arrangements and waivers at national level, the European Commission is planning to clamp down on them.[2] The ECB and ESMA have both set out requirements for UK firms dealing with EU customers. These requirements, which the EU authorities are seeking to enforce, include the transfer of EU-related capital, assets and operations to authorised and regulated EU legal entities, but also the transfer of key staff to ensure that these entities are not just "letter boxes" or "brass plates".
- Where market firms have transferred activities from London to the EU, they have transferred them to different locations within the EU. In securities markets, ESMA has the task of preventing regulatory competition within the EU by encouraging convergence in the implementation of regulations in different EU national centres.

5 At one level, the separation of the Single Market into two separate EU and UK markets has made the European Commission's objective of achieving Capital Markets Union (CMU) more important.[3] The CMU Action Plan launched in September 2020 recognises this, and has been followed by a Communication by the Commission accompanied by a package of measures announced in November 2021 to ensure that investors have better access to company and trading data.[4] It is also important to emphasise that the EU initiative to finance the recovery from the COVID-19 pandemic through joint debt issuance is a major step towards closer financial market integration in the EU.[5] But at another level, the departure of the EU's largest financial centre has made CMU harder to achieve in practice without international cooperation involving a closer working relationship with third countries, including the UK. The EU would be more effective in addressing capital market fragmentation internally if this was also addressed by the EU with third countries externally.

## The limited scope for equivalence

6 Granting equivalence is the way in which the EU promotes international cooperation in capital markets by recognising regulation in third countries as equivalent to its own.[6] When the UK left the EU Single Market and EU regulations were onshored to the UK, capital market regulations in the EU and the UK were initially the same. So the question to be addressed was whether the EU and the UK would grant each other equivalence as third countries. The EU/UK financial services MOU which both sides agreed at the end of March 2021 was intended to enable progress on equivalence determinations "without prejudice to the unilateral and autonomous decision-making process on each side".[7]

7 In November 2020, the UK Government offered a package of equivalence decisions to EEA firms. The EU has not so far made significant grants of equivalence to the UK, with the exception of equivalence for UK CCPs – which are of systemic importance to the EU economy – until the end of June 2022. Time-limited equivalence has been granted in this case so

2. eg through proposals for bank capital requirements under Basel III. The implications for relations between EU and UK regulators are not yet clear.

3. "EU capital markets remain fragmented, hampering companies' ability to raise capital across the EU. ... The EU's global competitiveness is weakened by the fragmentation of its capital markets": European Commission Communication: *CMU: Delivering One Year After the Action Plan:* 25 November 2021.

4. CMU Action Plan, 24 September 2020; CMU Communication and CMU Package, 25 November 2021. The Package includes: the European Single Access Point (ESAP); the Review of the European Long-Term Investment Funds (ELTIFs) Regulation; the Review of the Alternative Investment Fund Managers Directive (AIFMD); and the Review of the Markets in Financial Instruments Regulation (MiFIR).

5. Next Generation EU. In addition, in implementing monetary policy, the ECB has helped to keep sovereign bond spreads in the euro area low through market intervention, though there is a risk that rising inflation, coupled with tapering and rising interest rates, will lead to market fragmentation in the form of higher spreads between different sovereign borrowers in the future.

6. There are around 40 specific provisions which provide for equivalence in 17 EU Regulations and Directives, mostly in more recent EU legislation. Around 240 such decisions have been taken by the EU so far affecting 30 countries.

7. The MOU has not yet been signed.

that the EU can build up the resilience of its own market infrastructure in the meantime with the aim of achieving open strategic autonomy. However, the European Commissioner has stressed that, while the EU needs to achieve strategic autonomy in the medium and long term, the Commission wants to avoid a cliff-edge which might cause market disruption in the short term.[8] In November 2021, the Commission announced that equivalence for UK CCPs would be extended beyond the end of June 2022.

8 One of the European Commission's main concerns about granting regulatory equivalence to the UK is the prospect of regulatory divergence in future, given that the UK has left the Single Market.[9] The UK authorities consider that regulatory divergence is consistent with equivalence where both the EU and the UK are committed to the same regulatory outcomes (as in the case of global international standards set by the FSB and IOSCO). But the EU authorities consider that the outcomes are only likely to be the same if the rules are the same. The rules are not the same between the EU and some other third countries to which the Commission has granted equivalence. But in those cases, equivalence is designed to bring the two parties together, whereas the future relationship between the EU and the UK is not yet clear. In any case, too much reliance should not be placed on equivalence: it is a patchwork which can apply in the case of some EU regulations, but cannot apply in others, and where it does apply it can be withdrawn by the Commission at short notice (ie a minimum of 30 days).

## Regulatory divergence

9 The Governor of the Bank of England has made it quite clear that, as London is a global financial centre, the UK will not be a rule-taker from the EU. "Rule-taking pure and simple is not acceptable when UK rules govern a system ten times the size of the UK GDP."[10] In the UK, HM Treasury, the FCA and the PRA are reviewing EU financial services regulation onshored in the UK to check whether it is appropriate in a UK context.[11] There is already evidence that UK regulation will begin to diverge from EU regulation with the objective of improving EU regulations onshored in the UK and adapting them to changed circumstances:[12] eg in the cases of the BMR, SFTR, CSDR Settlement Discipline, PRIIPs, the Prospectus Regulation, MiFID II/R and Solvency II. Regulatory divergence will occur, not just in response to measures taken by the UK, but also in response to measures taken by the EU: eg following EU reviews of MAR, MiFID II/R, the Prospectus Regulation, PRIIPs regime, ELTIFs and the AIFMD. A number of these separate EU and UK initiatives cover the same regulations but, if the EU and UK decide to change the regulations in different ways, the result will increase rather than reduce divergence.

10 It is important to remember that the UK had a significant influence in drawing up capital markets regulation during the long period in which the UK participated in the Single Market. So UK changes to most existing regulations are not expected to be fundamental, at least for the time being. It is more likely that divergence will occur in the case of new regulations: ie the UK will not necessarily follow new EU regulations, given that the UK no longer has any say in making them, and may propose financial services regulation of its own (eg relating to sustainable finance and to FinTech). By taking this approach, the UK will not have any direct influence over EU regulation now that it has left the Single Market. But it is possible that the UK will exercise influence indirectly by setting an example (eg by not implementing CSDR mandatory buy-ins). The UK authorities have made a point of saying that they will not reduce regulatory standards, and that UK standards will be at least as high as the EU.[13]

11 While the EU and UK both make changes to their rules independently in order to improve them, and supervisory cooperation is designed to ensure that the rules are applied effectively, the risk is that the market fragmentation arising from the replacement of the Single Market by two separate EU and UK markets will make European markets as a whole less competitive in global terms (for example in relation to New York or financial centres in Asia.) A loss of competitiveness could occur, for example, if the need for market firms to operate in two separate markets leads to duplicated roles and less efficient allocation of resources.[14]

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8. Mairead McGuinness, EU Financial Services Commissioner, 18 October 2021.

9. Mairead McGuinness, EU Financial Services Commissioner: "There is no recreating the Single Market for financial services when [the UK has] decided to leave the Single Market": 22 January 2021.

10. Andrew Bailey, Governor of the Bank of England: *The Case for an Open Financial System,* 10 February 2021.

11. John Glen, Economic Secretary to the Treasury: "With the development of the EU's Single Market, much of our regulatory approach to capital markets was set in Brussels. Now that we have left the EU, we can tailor our rules more closely to the unique circumstances of the UK, improve standards and make regulation more proportionate.": Ministerial Foreword to the UK Wholesale Markets Review.

12. "Now that we have left the EU, we can tailor our rules more closely to the unique circumstances of the UK, improve standards and make regulation more proportionate.": HM Treasury Wholesale Markets Review, July 2021.

13. John Glen, Economic Secretary to the Treasury: "This review is not about lowering standards for wholesale capital markets. Instead it is about the need for regulation to be adjusted on the basis of evidence and experience to ensure it effectively addresses risks.": Ministerial Foreword to the UK Wholesale Markets Review.

14. Noel Quinn, HSBC Chief Executive: "There is the risk of fragmentation increasing costs, that is a reality. But that is outside my control: FT Global Banking Summit, 2 December 2021.

## Differences in approach to regulation

12 Underlying the separation of the Single Market into two separate EU and UK markets is a difference in approach to markets and their regulation between the EU and the UK:

- One difference in approach is that the EU puts more emphasis than the UK on the need for a location policy, under which EU customers should be served by market firms located in the EU, except in limited cases where regulatory equivalence has been granted, on the grounds that this will help ensure EU financial stability. The UK puts more emphasis on the need for an open financial system globally, together with the need to ensure that this is safe and consistent with financial stability.
- Another difference in approach is that the UK is proposing to delegate detailed technical rules to regulators (eg the PRA and the FCA), who will be accountable to Parliament, so that detailed changes can be made by the regulators in future without taking up Parliamentary time.[15] By contrast, the EU includes detailed technical rules in primary legislation. This should make UK regulation more agile than EU regulation, which needs to be negotiated and requires a common approach across the 27 Member States.[16]

## The opportunity for regulatory and supervisory cooperation

13 Despite these different approaches to regulation, the EU and the UK have a common interest in regulatory and supervisory cooperation to ensure financial stability, market integrity, investor and consumer protection, fair competition and the prevention of regulatory arbitrage, and to avoid extra-territorial conflicts between them. Both the EU and the UK also have similar concerns to ensure as far as possible that their respective regulatory systems are not undermined by risks arising from the activities of financial firms in third countries outside their control. Where systemic risks are greatest, regulatory and supervisory oversight is likely to be most needed. A degree of joint supervision is also needed in some cases (eg colleges of supervisors for the financial market infrastructure). Referring to the joint supervision of CCPs, the Bank of England has said: "We recognise that a system in which every jurisdiction that uses a CCP insists on imposing its own regulation and supervision on the CCP cannot work."[17]

## The importance of a global approach

14 It has become increasingly clear that regulatory divergence between the EU and the UK will continue. So the question is how best to manage this. Both sides have common outcome-based regulatory objectives at global level, share information and explain the approach they take to each other. One option would be for the EU and the UK to develop a common regulatory framework of a similar kind to the common framework that has already been developed between the EU and the US. There are also other technical ways of encouraging regulatory and supervisory cooperation between the EU and the UK. But the political context between the EU and the UK has not been favourable over the past year and is an overriding constraint. An example is the delegation of fund management from the EU to third countries, which is a global principle, but has become caught up in the post-Brexit negotiations between the EU and the UK.

15 Although the EU has not in most cases granted equivalence to the UK, it has granted equivalence in a number of cases to other third countries with different rules. The question here is whether third countries are being treated in a consistent way by the EU and how relations between the EU and third countries are going to develop in future. One option would be for the EU and third countries to seek a long-lasting settlement on capital market regulation consistent with the global regulatory framework established by the G20 through the FSB and IOSCO. If this was to be considered, it would need to relate not just to the regulatory relationship between the EU and the UK alone, but between the EU and third countries in general (including the US and Switzerland).

16 If that is not practicable, there is a risk of market fragmentation globally in the form of inconsistent legislative requirements in different jurisdictions (eg in defining taxonomies for sustainable finance), with an additional risk of conflict of laws where legislation in a particular jurisdiction is intended to have extra-territorial implications. And in the case of EU and the UK, there is a risk that continuous negotiation will be required (eg to take account of changes in regulation and technology). This has already been the experience of Switzerland and Norway. That will mean that capital markets in Europe are not as efficient and resilient as they could be, and that the Commission's objective of Capital Markets Union is more difficult to achieve in practice.

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15. John Glen, Economic Secretary to the Treasury: "The Government and Parliament will set the policy framework for financial services and the strategic direction of financial services policy. Working within this framework, the regulators will design and implement the regulatory requirements that apply to firms, using their expertise and agile rule-making powers to ensure regulation is well-designed and keeps pace with market developments": Ministerial Foreword to the UK's Future Regulatory Framework.

16. "The issues raised in this document sit alongside our intention to make regulation more agile, by devolving rules to regulators and giving more space for expert judgement." HM Treasury Wholesale Markets Review, July 2021.

17. Christina Segal-Knowles, Executive Director, Financial Market Infrastructure Directorate, Bank of England: *The UK's approach to cross-border cl*earing: FIA, 8 November 2021.

# The Capital Markets Union Package

By **Julia Rodkiewicz**
and **Charlotte Bellamy**

## Introduction

On 25 November 2021, the European Commission (EC) published a Communication on the delivery of its 2020 Capital Markets Union (CMU) Action Plan. It was accompanied by a set of legislative proposals reviewing MiFID II/MiFIR, AIFMD and the European Long-Term Investment Fund (ELTIF) Regulation and creating a European Single Access Point (ESAP) (together, the CMU Package).

ICMA welcomed the concrete steps that have been taken towards enhancing the EU's capital markets in the CMU Package. Resilient and well-functioning bond markets are critical to funding sustainable economic growth and development in the EU and beyond. In 2021, international primary bond markets provided around €1.6 trillion worth of financing in the EU.[1] A well-functioning and transparent secondary bond market is crucial to support this financing of the real economy.

In particular, ICMA was pleased to see progress on some of the key points it raised previously[2] that are crucial to supporting the further development of the cross-border bond market. This included:

- suggested amendments to MiFIR facilitating the emergence of one consolidated tape for each asset class, including bonds;
- amendments to the MiFIR bond transparency regime that mean liquidity and investment grade (IG) or high yield (HY) classification would be taken into account when deferrals are determined;
- the removal of the MiFID II Article 27(3) best execution reporting requirement;
- the ESAP proposal demonstrating progress towards a truly integrated EU platform for companies' public financial and non-financial documents; and
- the proposed review of the ELTIF Regulation to strengthen the role of securitisation.

Within these proposals, there are some points that ICMA views as requiring further consideration, in particular the calibration of the MiFIR transparency regime. In relation to the AIFMD Review, ICMA's buy-side community is concerned by certain aspects of the proposals and considers it to be important that improvements that may result from the ELTIF Regulation Review are not outweighed by changes that may be made under the AIFMD Review.

## Key points

*MiFID II/MiFIR:* ICMA is pleased to see, in the proposed amendments, one consolidated tape for each asset class, which is a positive development for bond markets. ICMA welcomes the fact that the EC has carefully considered the potential benefits of an EU post-trade consolidated tape as a tool for reliable access to consolidated data as set out in ICMA's 2020 Report, *EU Consolidated Tape for Bond Markets.* A consolidated tape for bonds will strengthen EU capital markets by linking together the currently fragmented post-trade data ecosystem. Furthermore, this is an important development in encouraging retail investment in EU financial markets, which is a goal of the 2020 CMU Action Plan.

With regard to the amendments to the MiFIR bond transparency regime, ICMA welcomes the proposed inclusion of market liquidity and IG and HY instrument classification as methodology variables in the future bond deferral regime. ICMA looks forward to engaging with ESMA on implementing

1. ICMA analysis of Dealogic data.
2. ICMA's preliminary thoughts and feedback on the High-Level Forum's (HLF) Final Report and preliminary thoughts on the 2020 Capital Markets Union Action Plan.

measures in due course. However, ICMA is concerned that the suggested maximum deferral for the reporting of a transaction price for large and illiquid trades is end-of-day. If this proposal is adopted, it will likely disadvantage EU fund managers, asset managers, pension funds and banks by compromising their market positions. ICMA recommends for large and illiquid bond trades a two-week price and size deferral. There should also be a published methodology for liquidity determination, for example using the amount outstanding. Further information can be found in the Secondary Markets section of this Quarterly Report.

In relation to best execution, the proposed deletion of MiFID II Article 27(3) is welcome.

The EC opened a feedback period on the MiFID II/MiFIR proposal with responses due by 7 March 2022. ICMA is preparing a response.

*European Single Access Point (ESAP):* ICMA has long recognised the advantages of an EU-wide digital access platform for companies' public financial and non-financial documents; and welcomes the EC's progress towards achieving this through its recent proposal.

ICMA agrees with the EC's proposed approach of building the ESAP in a proportionate and gradual manner. In particular, as the ESAP project develops it will be important to avoid: (i) inappropriate standardisation requirements (which can restrict borrower flexibility to access capital market funding); and (ii) borrowers needing to have coding resources (which can significantly increase the cost and so reduce the attractiveness of borrowers accessing capital market funding). Related to this final point, ICMA agrees with the EC's proposed approach to require initially information to be provided in machine readable format only where that format is already required by sectoral legislation.

ICMA considers that the functionalities of the ESAP should include filtering of information (as well as search and other functions proposed in Article 7 of the EC's proposal).

The EC opened a feedback period on the ESAP proposal with responses due by 7 March 2022. ICMA is preparing a response.

*ELTIF Regulation:* In ICMA's view, the ELTIF Regulation review is going in the right direction. The EC's thorough efforts to boost long-term investments and enhance capital markets are to be applauded. In particular, ICMA welcomes the distinction between professional and retail investors, the broadening of eligible assets, and the simplification of retail distribution rules.

The EC opened a feedback period on the ELTIF proposal with responses due by 7 March 2022.

*AIFMD:* The AIFMD review is very important for ICMA's buy-side community. There are concerns with certain aspects of the proposals, in particular the proposal to amend both the UCITS and AIFM Directives on areas such as delegation, the use of liquidity management tools and supervisory data reporting.

An article in the Asset Management section of this Quarterly Report draws particular attention to these aspects of the AIFMD proposal.

The EC opened a feedback period on the AIFMD proposal with responses due by 7 March 2022.

## Looking ahead

*CSDR mandatory buy-ins:* The political agreement reached on 24 November 2021 by the EU legislators to postpone CSDR mandatory buy-ins with a view to reviewing these provisions is very much supported by ICMA. In addition, ICMA welcomes the 17 December 2021 Public Statement from ESMA that it expects national competent authorities not to prioritise supervisory actions in relation to the application of the CSDR buy-in regime.

ICMA has long taken the position that this regulatory initiative contained a number of critical design flaws as well as ambiguity around scope and process, not only from an implementation perspective, but also with respect to the potential implications for EU bond market liquidity and stability. ICMA looks forward to engaging further with the EC and ESMA as they review the role of regulatory buy-ins in EU bond markets, and how this sits with the objectives of CMU. Meanwhile, the ICMA Buy-in Rules, part of the ICMA Secondary Market Rules & Recommendations, will remain an effective and accessible contractual remedy for settlement fails in the international bond markets.

These issues are further discussed in the feature article on *CSDR Mandatory Buy-ins* in this Quarterly Report.

*Cross-border provision of settlement services:* From a repo and collateral management perspective, the fragmented post-trade environment in Europe has been a long-standing concern. While important steps have been taken, in particular with the launch of TARGET2-Securities and the associated harmonisation agenda driven by the European Central Bank, there are still frictions in place which prevent collateral from flowing freely across borders. ICMA's European Repo and Collateral Council (ERCC) actively contributed to the 2017 Report by the European Post-Trade Forum (EPTF) established by the EC, which attempted to identify remaining barriers in this area and put forward suggested solutions towards a more integrated post-trade space in the EU. ICMA encourages the EC to continue to take these into consideration as part of its CMU work, in particular under Action 13 of the Action Plan. In the meantime, the ERCC is actively working with members and other key stakeholders, including the relevant infrastructure providers, to identify remaining inefficiencies and bottlenecks in the settlement space.

*EU Listing Act:* ICMA is looking closely at the EC's targeted consultation on the EU Listing Act, including the proposed amendments to the EU Prospectus Regulation. ICMA has been involved at all levels of the debate on the EU prospectus regime since its inception. Whilst the EU Prospectus Regulation currently works well from the perspective of the wholesale international bond markets, and there are limited areas that need fixing, ICMA looks forward to engaging with the EC and others on further improvements that could be made to make it even more efficient. ICMA agrees with the EC proposal that progress towards the overarching policy objectives of the EU Listing Act to cut red tape for companies that want to raise funds on EU public markets and to facilitate access to capital for SMEs are critical pillars of CMU.

Further information is reported in the Primary Markets section of this ICMA Quarterly Report.

*Other CMU areas:* ICMA looks forward to engaging on several other forthcoming actions set out in the EC's CMU Communication and Annex, in particular actions relating to building retail investors' trust in capital markets following ICMA's response to the public consultation on the retail investment strategy in August 2021.

## Final remarks

The CMU Package contains some good proposals that could help to achieve the key objectives of the CMU Action Plan of (i) making financing more accessible to EU companies, (ii) making the EU an even safer place for individuals to save and invest long-term and (iii) integrating national capital markets into a genuine Single Market. There is more to be done, and ICMA will be engaging with the EC and others on enhancing the recent proposals and making progress in other areas with a view to making the EU's capital markets work even more effectively for the real economy.

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# CSDR mandatory buy-ins

By **Andy Hill**

## A delay is announced

On 17 December 2021, ESMA published a public statement expecting NCAs not to prioritise supervisory actions in relation to the application of the CSDR buy-in regime when it is due to come into effect on 1 February 2022. On 23 December 2021, ICMA was a co-signatory to a joint-association statement clarifying their interpretation of ESMA's statement, which is that EU legislators do not expect market participants to take further action towards implementation of the mandatory buy-in requirements. The ESMA statement follows agreement between co-legislators at the 24 November 2021 trilogue meeting for the DLT Pilot Regime Regulation that the mandatory buy-in (MBI) regime should be decoupled from the CSDR Settlement Discipline package in order to delay its implementation. This is in light of the ongoing European Commission review of CSDR, with amendments to the regime and implementation timeline expected in the first half of 2022.

## The case against MBIs

ICMA is pleased that the MBI regime will not be going ahead in February 2022. ICMA has long opposed the implementation of MBIs in the EU non-cleared bond markets on the following grounds:

(i) It is expected to have a significant detrimental impact on bond market liquidity since it will be an effective deterrent to market makers taking short positions, as well as to lending securities. It is further likely to have a procyclical effect in times of market stress.

(ii) The cost of implementation, particularly from a contractual remediation perspective, noting that this will stretch beyond EU market participants, is likely to far outweigh the benefit of any incremental improvement in settlement efficiency rates.

(iii) Largely due to some impolitic drafting in the Level 1 provisions, there remains significant ambiguity around the scope and application of the MBI process, as well as concern that some elements of the regulatory technical standards (RTS) may not be implementable.

ICMA first highlighted concerns about MBIs in its 2015 impact study which attempted to illustrate and quantify the anticipated effects for bond market pricing and liquidity. In 2017, ICMA was the first association to publish a position paper proposing that the MBI provisions not be implemented, and that they be reviewed while the European Commission undertakes a rigorous impact assessment. Since then, ICMA has continued to bring attention to a number of implementation challenges, regulatory ambiguities, and potential defects of the MBI provisions, including the asymmetrical treatment of the buy-in and cash compensation payments, the methodology for determining the cash compensation reference price, the lack of a pass-on mechanism, and the requirement to appoint a buy-in agent.

In 2019, ICMA published a second impact study that not only sought to illustrate the anticipated outcomes for bond market pricing and liquidity, but also the indirect effects on repo and securities lending markets, as well as the expected consequences for investors. ICMA's buy-side constituents were now becoming more heavily engaged in the discussions around MBIs, with concerns not only about the cost and complexity of implementation, but a growing awareness that it is investors in European capital markets who would ultimately be disadvantaged by the regime.

The COVID-related market turmoil of March-April 2020 saw a significant spike in settlement fails as markets became more volatile, trading volumes increased, and as firms' operations teams adjusted to working remotely. This raised new concerns as to what could have been the impact had MBIs been in force at that time, something flagged in ICMA's review of how the EU corporate bond markets performed during this period. Shortly after this, the UK announced that following its departure from the EU it would not be implementing the CSDR Settlement Discipline package.

It was perhaps these developments that led the European Commission to include MBIs in its Targeted Review of CSDR in late 2020. In its response to the Commission's public consultation, ICMA drew on its extensive body of work on MBIs to date, as well as providing analysis of how bond markets would have been impacted during the COVID turmoil had the regime already been in place.

As it became clearer in early 2021 that the MBI regime would almost certainly need to be revised, ICMA and the wider industry called on the Commission to delay implementation of the current MBI provisions until the legislative process to amend MBIs had been completed, along with a suitable period for the industry to prepare for the new RTS. Essentially, this was to prevent the industry from having to undertake the extensive contractual and operational work necessary to support implementation twice.

As it came to light that there was growing agreement among the Commission, ESMA, and the Member States that a delay to MBIs was necessary, and that the focus was now on how to effect such a delay, ICMA, with its members, and in coordination with other industry associations, intensified its engagement with regulators and policy makers to communicate the importance of announcing the intention to delay as soon as possible in order to spare the industry of more unnecessary cost and effort. In September 2021, ESMA wrote an open letter to the Commission supporting a delay to MBIs and requesting urgent action to provide a signal that a modification of the current implementation timeline is considered, ideally before the end of October 2021. That signal finally came in the form of a "tweet" on 24 November 2021, followed by a more official press statement on the Commission website the following day.

## What next for MBIs?

We now expect the Commission to propose an amendment to CSDR, decoupling MBIs from Settlement Discipline. Once this has been passed into law, we would then expect ESMA to put forward a proposed amendment to the delegated act (the "Level 2") outlining a new date of application for MBIs. This postponement should be long enough for the Commission to put forward its proposed amendments to the MBI regime and for this to go through the usual legislative process involving the co-legislators. Once this is in law, new RTS will be required, which will also be subject to the usual legislative process before this is passed into law. Finally, the industry will require time to prepare for implementation. Therefore a delay of at least two years, and possibly longer, would seem reasonable. ICMA would also argue that sufficient time should be given to observe the impact of the CSDR penalty mechanism, and other initiatives to improve settlement efficiency in the EU, which could negate any argument for MBIs.

It will also be important to scrutinise the revised MBI proposal when this is published, expected to be in May 2022. Given the numerous design issues of the current framework, as well as significant ambiguity around scope and application, re-designing a regulatory model for buy-ins will not be straightforward. There have been some calls, perhaps as a well-intentioned gesture of compromise, that MBIs be retained in law, but as "optional buy-ins". This is likely to be problematic. Firstly, this in itself would not address many of the implementation challenges and ambiguities related to the current framework. Secondly, this would still likely require an extensive global contractual re-papering exercise, which also raises issues around extraterritorial enforceability. And thirdly, this could conflict with, and even undermine, existing, well-designed and appropriately calibrated contractual remedies.

This not only highlights the complexity of trying to introduce buy-ins through legislation, but also the near impossibility of doing so through post-trade regulation. As ICMA has maintained since 2015, buy-ins are not a post-trade process: they are market transactions, with associated market risk. If the EU authorities are determined to introduce regulatory buy-ins, they should do so through market regulation. Or better still, not do it at all.

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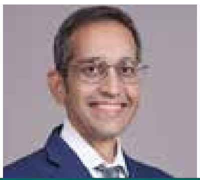
# Hong Kong SFC conduct requirements for bookbuilding and placing



By **Mushtaq Kapasi** and **Ruari Ewing**

In October 2021, the Hong Kong Securities and Futures Commission (SFC) released consultation conclusions on a new Code of Conduct for capital market transactions in Hong Kong.

This is the most significant regulation of debt primary markets in Asia-Pacific in recent memory. In fact, the SFC's proposals in certain aspects go beyond regulatory requirements found in other debt capital markets, including the EU and United States. The new Code will, at minimum, apply to all bond issuances managed from Hong Kong. The reforms will likely cover a large proportion of cross-border G3 Asian deals and almost all international bonds from Chinese issuers. The new rules may also affect global deals with a more tenuous Hong Kong connection.

The new Code is effective 5 August 2022, reflecting a nine-month implementation period. The SFC will "closely monitor the implementation of the new requirements and issue additional guidance as necessary."

Following the Consultation Paper on *A Proposed Code of Conduct on Bookbuilding and Placing Activities in Equity Capital Market and Debt Capital Market Transactions* issued in February 2021, ICMA responded to the consultation in May 2021, reflecting discussions with the Asia Bond Syndicate Forum, the Asia-Pacific Legal and Documentation Forum, buy-side members of ICMA, and other market stakeholders.

Overall, the final Code is largely in line with expectations. The final Code includes some clarifications as well as material changes of specific provisions that posed significant legal and practical problems, but no large-scale revisions from the originally proposed text. Highlights of the new Code include:

- DCM scope
  - The scope for DCM transactions remains as originally proposed, and the Code applies to relevant bookbuilding, placing and marketing activities conducted in Hong Kong. (On the other hand, ECM deals are fully in scope or out of scope depending on whether they are listed in Hong Kong).
  - Club deals, private placements, and pre-priced/allocated deals are out of scope.
  - Convertible and exchangeable bonds will be considered DCM for purposes of the Code.
- Appointment of syndicate
  - Syndicate managers should be appointed "at an early stage".
  - All active syndicate members must be formally appointed with a written agreement which specifies roles, responsibilities, fixed fee entitlement, and a fee payment schedule.
- Advice from syndicates to issuer
  - Syndicate managers do not have to advise issuers on syndicate membership.
  - Syndicate managers generally do not have to advise issuers on fees, but will be required to provide guidance to issuers on market practices for fee structure.
  - Syndicates should advise on pricing and allocation, but should follow the allocation strategy agreed with issuer.
- Syndicate/proprietary orders
  - Proprietary orders of syndicates must be treated as subordinate to outside investor orders, unless otherwise advised by the issuer.
  - Arm's length orders from syndicate asset management arms will not be considered proprietary (ie they are *pari passu* with external client orders).
  - Orders from treasury arms of syndicate banks will be considered proprietary.

- X orders are prohibited, with no exemptions.
- Book updates
  - Effectively mandatory: syndicates should disclose "complete and accurate information in a timely manner on the status of the order book" to targeted investors
  - Syndicate managers should also disseminate "material information related to the offering" (particularly orders and price-sensitive info) to other syndicate banks "in a timely manner".
- Assessment of investor clients
  - Lead managers should take "all reasonable steps" to identify investors associated with issuers and should advise issuers to provide sufficient information to syndicates to enable them to reasonably identify associated investors.
  - For DCM, "associated" investors defined as investors who are directors, employees or major shareholders of issuer, syndicates, or related group companies.
- Investor disclosure
  - For "omnibus" orders, syndicate members will have to disclose the underlying investor identities to issuers and to the senior syndicate managers. (The intention is to enable discovery of duplicate orders and orders associated with the issuer or syndicates).
  - This information will be limited to client's name and ID, and the senior syndicate managers can use underlying investor information only for order allocation.
- Rebates
  - No outright ban on rebates, but disclosure is required.
  - Rebates may be offered by issuers to intermediaries, but cannot be passed on to end-investors.
- Inflated orders
  - Syndicates should not "knowingly" accept inflated orders, should clarify with investor client orders "that appear unusual".
- Record keeping
  - Syndicate must keep a robust audit trail: this includes, among other things, records of all orders and changes to order book, as well as "key communications with and information provided to" issuer, other syndicate members, and investors.

ICMA will remain active over the implementation phase:

- engaging directly with the SFC to elucidate areas of the Code relating to DCM where the practical interpretation is not clear;
- working through the ICMA primary committees to establish common practices on procedures and documentation to comply with the Code;
- bringing together various constituencies (including issuers and investors across the region) to ensure that emerging market practice is fair, efficient and practical; and
- educating Asia-Pacific bond market stakeholders on the new Code and implications for Asian primary market practice.

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# The potential of sustainable bonds to finance gender equality

S By **Denise Odaro, IFC**

When Agnodice was caught for courageously practising medicine in 400 BC Greece when women faced the death penalty for doing so, I would imagine even then that her supporters would not have expected that millennia later, gender equality would remain an issue. Unfortunately, many women around the world still do not have the same access to critical opportunities and essential services as their male counterparts. This extends to access to finance. More than 1 billion women still do not use or have access to the financial system, according to World Bank Group data. IFC has estimated that, worldwide, a $300 billion gap in financing exists for formal, women-owned small businesses, and more than 70 per cent of women-owned small and medium enterprises have inadequate or no access to financial services.

Global debt capital markets are the arteries of the global financial system. They are a crucial source of raising funds, especially to help close financing gaps. By connecting the supply of capital with priority areas of need, capital markets can play an important role in providing investment financing to achieve the United Nations' Sustainable Development Goals (SDGs). The emergence of sustainable debt had offered a new way to exclusively drive finance to address social issues, including gender inequality; and investors are increasingly adopting strategies to intentionally, and measurably, use their capital to reduce the gender gap.

In spite of some progress in bridging this gap, debt capital flows are not on track to meaningfully contribute to the UN Sustainable Development Goal (SDG) 5: "Achieve Gender Equality and Empower all Women and Girls". Additionally, the COVID-19 pandemic is disproportionately impacting women, widening the gender gap, and making the need for financing to address gender inequalities even greater. Pre-existing gender gaps have amplified the crisis asymmetrically between men and women, even as women have been at the frontlines of managing the crisis as essential workers. The hardest hit sectors by lockdowns and rapid digitalization are those where women are more frequently employed. Combined with the additional pressures of providing care in the home, the crisis has halted progress toward gender parity in several economies and industries.[1]

At the same time, the market for debt linked to sustainability targets has boomed since the pandemic, yet less than 12% this year is aimed at addressing inequalities between men and women. Gender-focused bonds remain relatively rare even as the market for sustainable debt -- including green and social bonds -- grows at a record pace. There has been $305 billion worth of debt sales linked to sustainability performance indicators this year, with just $35.1 billion including targets for female staff, empowerment or women in management and on boards, according to data from BloombergNEF.[2]

The Climate Bonds Initiative posits that in 2020 the average size of a social bond issuance was $273 million and the average size of a sustainability bond issuance was $630 million. Conversely, gender themed bond issuances range from $5 million to $500 million. Though the market is growing, few such bonds have been issued so far: less than 80 gender focused bonds aligned with the Social and Sustainability Bond Principles have come to the market since 2013 and these are mainly issued by multilateral development banks and banks to mostly large institutional investors.[3]

With the objective of broadening the scope of sustainable finance to direct capital at scale to reducing the gender gap and to increase wider take-up beyond the financial sector into the real sector, IFC, in partnership with UN Women and the International Capital Market Association, developed guidance for the purpose. The information provided in the guide - *Bonds to Bridge the Gender Gap: A Practitioner's Guide to Using Sustainable Debt for Gender Equality* - provides guidelines based on existing frameworks to aid the ecosystem of the debt market including new and existing bond issuers, borrowers, underwriters, arrangers, and external reviewers to take action to integrate

1. WEF: Global Gender Gap Report 2021
2. Martin, Ronan, 2021, "Gender bonds get new rules to spur sales in ESG boom", Bloomberg, November 16, 2021
3. Morrison, Catherine, 2021, "Gender bonds haven't been a hit globally, but a Japanese bank may change that" PassBlue, December 6, 2021,

gender equality objectives into sustainable debt products in both the public and private sectors. It is also a resource for investors seeking to understand and support projects and strategies that are designed to advance gender equality.

Given that the Social and Sustainability Linked Bond Principles are globally the most referenced framework for sustainable finance, the guide complements the Principles and importantly it can be applied across asset classes. In particular, the guide also highlights its relevance to the loan market.

As highlighted in the guide, debt instruments such as Social, Sustainability, and Sustainability Linked Bonds and Loans provide financing opportunities for market participants that want to advance gender equality. These bonds, for example, can provide capital to fund projects to create better social outcomes for target populations in areas such as education, healthcare, or financial inclusion. These products can also shift the typical relationship between issuers and investors that centers on the exchange of financial data toward one that also focuses on accelerating organizational change to advance social impact. In the bond market, particularly, the demand for gender-related sustainable bonds remains high among investors—higher than the current supply.[4]

For issuers, these bonds offer an opportunity to demonstrate their leadership in advancing gender equality. They also offer issuers the opportunity to diversify their investor base and leverage new sources of financing, as well as the potential to be included in sustainability indices. For public sector issuers[5], integrating gender objectives into bond frameworks is a powerful way to raise financing to address the structural causes and consequences of gender-based discrimination at the national or sub-national level.

With this in mind, social and sustainability bonds are categorized under the use-of-proceeds approach, whereas Sustainability Linked Bonds and Loans come under the performance-based approach.

Under the use-of-proceeds approach, social bonds are used to finance projects with positive social outcomes, as defined by the Social Bond Principles. In the context of gender, social bonds can be used to finance projects that address gender inequalities. Guidance around issuing social bonds for gender has been outlined in the SBP which specifically identifies women as an eligible target population for social bond projects. It also includes a list of common project categories such as socioeconomic advancement and empowerment, specifically: "equitable access to and control over assets, services, resources, and opportunities; equitable participation; and integration into the market and society, including the reduction of income inequality." The list of project categories in the SBP is not exhaustive, however it allows issuers to identify other categories of projects related to gender equality, if desired.

When incorporating gender equality objectives into a use-of-proceeds bond, issuers have three options. The first option is making gender the sole objective of a Social Bond, which is often referred to as a gender bond. For example, financial institutions can issue gender bonds to fund ongoing loan portfolios that are intended for women entrepreneurs. Gender bonds could also be issued by a public sector issuer that intends to direct the proceeds entirely toward implementing the country's National Action Plan for Gender Equality and Women's Empowerment.

The second option is to include gender alongside other social objectives in a broader Social Bond. For example, a Social Bond that includes a number of eligible project types could be a good option for a private sector issuer that, in addition to projects specifically focused on advancing gender equality, would like to use the bond's proceeds to finance its projects for other target populations, such as low-income individuals, persons with disabilities, sexual and gender minorities, or other groups. Similarly, a Social Bond may be a good option for a public sector issuer that seeks to address gender equality under SDG 5, as well as tackle issues related to decent work and economic growth under SDG 8.

And the third option is to include gender alongside green objectives in a Sustainability Bond, which is used to finance a combination of green and social projects.

Under the performance-based approach, Sustainability-Linked Bonds enable issuers to demonstrate their high-level commitment to advancing gender equality by committing to achieve one or more gender related KPI and SPT. For those bond issuers without a sufficient pipeline of eligible projects, this approach can be a good alternative to nevertheless include gender equality objectives in a funding program.

The ultimate aim of this guide is to unlock tremendous funding opportunities presented by sustainable debt instruments that can be used by market participants to accelerate financing solutions that drive gender equality. As the late Kofi Annan put it, gender equality is more than a goal in itself. It is a precondition for meeting the challenge of reducing poverty, promoting sustainable development and building good governance.

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4. Isjawara, Rebecca. 2021. "The 'S' in ESG here to stay after pandemic-induced surge in social bond sales." S&P Global Market Intelligence. July 29, 2021.

5. Public sector issuers include national (sovereign), regional, city, and local governments; specialized government agencies; and public development banks.

# Summary of practical initiatives by ICMA

1 *ICMA Public Sector Issuer Forum:* At its meeting on 13 October 2021, the Public Sector Issuer Forum discussed three main issues. First, Jim Cunha, Executive Vice President of Secure Payments and FinTech at the Federal Reserve Bank of Boston, introduced a discussion on central bank digital currencies (CBDCs). Second, Nicholas Pfaff made a presentation on key features of the EU Green Bond Standard, followed by discussion. Third, a number of PSIF members shared their experiences of working life post COVID-19.

2 *EU and UK Prospectus Regulation and listing regimes:* ICMA engaged with the European Commission on issues relevant to cross-border bond markets under the EU Prospectus Regulation in advance of the publication of the European Commission's consultation on the EU Listing Act, which includes a number of questions relating to the EU Prospectus Regulation. ICMA is preparing to respond to the consultation, which also includes questions relating to EU MAR, the EU Transparency Directive and other aspects of EU regulation relevant to the EU's listing regime. ICMA has also engaged with HM Treasury in relation to the UK Prospectus Regulation consultation to which ICMA responded in September 2021.

3 *Hong Kong SFC Code of Conduct:* In October 2021, the Hong Kong Securities and Futures Commission (SFC) released consultation conclusions on conduct requirements for capital market transactions in Hong Kong which clarify the roles of intermediaries and set out the standards expected of them in bookbuilding, pricing, allocation and placing activities. ICMA intends to facilitate standard practices and documentation to ensure efficient and fair international bond syndication in line with the Code.

4 *Syndicated closing in the ICSDs:* On 20 October 2021, ICMA published a paper on the new model for syndicated closing in the ICSDs. The paper describes the new model, including changes from the current model, and suggests how transaction documentation can consequently be modified for a vanilla Reg S bond involving an underwriting syndicate and the syndicate's issuer client.

5 *ESAs' PRIIPs consultation:* On 16 December 2021, ICMA responded to an ESAs' consultation on the PRIIPs regime.

6 *ICMA Primary Market Handbook:* ICMA has updated the ICMA Primary Market Handbook to include its post-Brexit standard language and certain other updates.

7 *China domestic bond market guides:* On 24 September 2021, ICMA and National Association of Financial Market Institutional Investors (NAFMII) jointly published two publications intended to encourage understanding and participation by international institutions in China's interbank bond market: *Investing in China's Interbank Bond Market: A Handbook* and *Panda Bonds: Raising Finance in China's Bond Market (Case Studies).* The Handbook contains an overview of developments in China's bond market and the case for international investment; descriptions of the market infrastructure and oversight; and details of the process required for international investors to access the market via the three different channels: Bond Connect, CIBM Direct and the QFI regime. The panda bond case studies present successful transactions by international issuers in the panda bond market.

8 *Primary markets technology directory:* ICMA has conducted a review of its primary markets technology directory, covering existing and emerging technology solutions available to automate all or part of the process of issuing debt securities. The latest version includes over 45 technology solutions, up from 28 in its 2019 review and 22 in its first edition from 2018. Building on ICMA's work in primary bond markets, the directory's purpose is to keep ICMA members informed about what platforms and technology solutions are available in a rapidly expanding competitive marketplace. The updated directory can be accessed via ICMA's website.

9 *Common data dictionary:* Following a roundtable discussion in December 2020, and completion of the first phase of the CDM for repo and bonds in July 2021, ICMA held another roundtable with market stakeholders on 15 December. The purpose was to discuss a possible approach for creating a common data dictionary, which aims to promote STP and interoperability between the ever-growing number of vendor solutions.

10 *ICMA Primary Market Forum:* ICMA held its Primary Market Forum (PMF) on 21 October 2021. This year's PMF featured a panel of speakers discussing recent developments in sustainable finance, a session on the ICSDs' syndicated new issue closing process and a further panel discussing the functioning of primary bond markets globally. This was followed by a session dedicated to technology in primary markets.

## *Secondary markets*

11 *CSDR mandatory buy-ins:* Following ongoing advocacy by ICMA and others, a regulatory proposal to decouple mandatory buy-ins (MBIs) from the CSDR Settlement Discipline (SD) regime, in order to delay their implementation, has been agreed by the co-legislators. The process involves an amendment to the Level 1 Regulation to give effect to the decoupling from SD, followed by a Level 2 proposal by ESMA providing for the delay. Given that this process will almost certainly extend beyond the February 2022 go-live for SD, ESMA has provided the equivalent of a "no action letter" to deprioritise enforcement of MBIs until the delay is in law.

12 *CSDR penalty regime:* ICMA's CSDR Settlement Discipline Working Group is now beginning to focus on the practicalities of the CSDR penalty regime, from the perspective of bond and repo markets, and has rolled out a Penalty Workstream. The Working Group plans on publishing market best practice and FAQs ahead of the anticipated go-live in February 2022.

13 *CSDR SD technology directory:* To help market participants prepare for CSDR implementation, ICMA published in July 2021 a directory of technology solutions aimed at managing cash penalties under CSDR Settlement Discipline. The directory is updated periodically.

14 *MiFID II bond market transparency regime:* ICMA is proposing a new post-trade transparency regime for the EU corporate bond market. Following the important work in 2020 by ICMA on a bond consolidated tape, which is the vehicle for post-trade transparency, the ICMA MiFID II Working Group (MWG) Transparency Taskforce began extensive discussions and analysis to determine the appropriate transparency regime to support the consolidated tape. ICMA's Transparency Taskforce proposal, published on 8 December 2021, summarises the Taskforce's findings and sets out ICMA's position on a bond market transparency regime methodology for EU corporate bond markets.

15 *ESMA consultation on best execution:* The MiFID II Amending Directive suspends the application of the RFR 27 reporting requirements for two years and requires the Commission to comprehensively review the adequacy of the reporting requirements under Article 27(3) and (6) of MiFID II and submit a report to the European Parliament and the Council. This ESMA consultation paper aims to identify the reasons for RTS 27 and 28 shortcomings and find possible solutions. ICMA responded by the due date of 23 December 2021.

16 *IOSCO FSEG Corporate Bond Market Liquidity Working Group:* The IOSCO Financial Stability Engagement Group (FSEG) is leading a workstream on global corporate bond market liquidity and microstructures. The workstream leaders joined the meeting of the ICMA Secondary Market Practices Committee (SMPC) on 15 September 2021 to update members on this initiative as well as to solicit input from the Committee. There was a dedicated follow-up session on 11 October.

17 *AMCC Bond Market Liquidity Working Party (BML WP):* In September 2021, the IOSCO AMCC BML WP (chaired by Andy Hill of ICMA) launched a survey targeted at sell sides and buy sides active in corporate bond markets that is designed to help build a picture of corporate bond market microstructures across different regions, as well as to identify different stakeholder behaviours and motivations in times of market stress. This is intended to inform the IOSCO Financial Stability Engagement Group's work on corporate bond market liquidity. The survey was closed on 29 October, and a report is expected to be finalised in January 2022.

18 *Asia International Bond Markets:* ICMA, supported by the Hong Kong Monetary Authority, is in the process of refreshing its 2021 report, *The Asian International Bond Markets: Development and Trends*. In particular, the new report will look to delve deeper into secondary market structure and evolution. As previously, the research will combine quantitative analysis of market data along with qualitative input provided though stakeholder interviews.

19 *Securities and Exchange Board of India consultation on market making for corporate bonds:* ICMA held the pen on a joint response with ASIFMA to a consultation paper from the Securities and Exchange Board of India on a proposal to support market making in the Indian corporate bond market.

20 *Electronic trading directory:* ICMA has updated its mapping of solutions available for electronic cash bond trading. The Electronic Trading Directory (ETD) provides a consolidated overview of capabilities and services provided by trading venues, order and execution management systems (OMS/EMS) and bulletin boards. The number of listed solutions has grown from 22 upon initial publication in 2015 to over 50. Alongside the review, ICMA gathered the views from ETC members on market developments and direction of travel.

21 *ICMA Secondary Markets Update:* ICMA's Secondary Markets Update is published on a monthly basis. The latest version is available here.

## *Repo and collateral markets*

22 *ERCC elections 2022:* On 8 December 2021, ICMA sent out a call for candidates to stand in the next annual elections to the ERCC Committee. ERCC member firms have until 12 January to nominate a candidate for the elections, which will be held in electronic form between 26 January and 9 February.

23 *SFTR reporting:* On 21 October, the ICMA European Repo and Collateral Council (ERCC) released an updated edition of the *ICMA Recommendations for Reporting under SFTR*. The latest version reflects recent updates to the SFTR validation rules and reporting schemas published by both ESMA and the FCA, and other official guidance that has been released, in particular ESMA's Q&As, but also many lessons learned during the first year of SFTR reporting.

24 *SFTR public data:* ICMA continues on a weekly basis to collect, aggregate and publish the SFTR public data released by the trade repositories (TRs), covering both UK SFTR and EU SFTR. On 28 September, ICMA published a detailed report analysing the public data for the first full year of SFTR reporting.

25 *Repo and sustainability:* Further to the market consultation on the role of repo in green and sustainable finance, the ERCC has established a Task Force on Repo and Sustainability, which will be set up as a joint group with representatives from both the ERCC and the Green & Social Bond Principles. The proposed objectives of the group are to promote dialogue around repo and sustainability and to develop guidance or market best practices as needed.

26 *Settlement efficiency:* The ERCC is leading an industry effort to explore ways to improve settlement efficiency in Europe. A series of workshops was held in 2021 focusing on a number of relevant settlement optimisation tools, including partial settlement and auto-partialling, the shaping of settlement instructions and auto-borrowing functionality. Based on the outcome of the workshops, the ERCC has put together a white paper which will be released in early 2022.

27 *ERCC Buy-side Workshops*: The ERCC is planning to hold a series of workshops, bringing together a range of different buy-side participants in the European repo market, to discuss how they use the repo market and identify potential challenges related to market access, particularly in times of illiquidity or stress. Based on the outcome, ICMA intends to produce a white paper that can be used to help inform policy makers, regulators, and other market stakeholders. The first workshop is planned to take place in February 2022.

28 *ECB AMI-SeCo:* The ERCC is represented on the ECB's Advisory Group on Market Infrastructure for Securities and Collateral (AMI-SeCo) and is playing an active role on its Collateral Management Harmonisation Task Force (CMH-TF).

29 *European repo market survey:* On 30 November 2021, the ERCC released the results of its 41st semi-annual survey of the European repo market. The survey, which calculated the amount of repo business outstanding on 9 June 2021, is based on the returns of 59 financial institutions.

30 *Repo trading technology directory* and *operations FinTech directory for repo and cash bonds:* ICMA has updated both directories and published new versions in October which list over 200 post-trade and 20 repo trading solutions respectively. Given the importance of platform connectivity and interoperability with current financial market infrastructure, the updated directories include information on supported electronic communication protocols and standards. In addition, ICMA has published a briefing note providing background on current market trends, challenges and opportunities.

31 *ICMA Asia-Pacific repo market report:* ICMA is preparing a report on developed and emerging repo markets in Asia-Pacific by jurisdiction, with summaries of regulatory landscape, infrastructure, market size and liquidity, and relevant law and regulation.

32 *Asia-Pacific repo survey*: In December 2021, ICMA's ERCC, in partnership with ASIFMA, published a survey of G3 currency Asia-Pacific repo markets as of June 2021 using a methodology similar to that of the ICMA ERCC European repo survey. The report splits the Asian survey into two parallel surveys, one for trading repo in Japan and the other for rest of the APAC region.

33 *ERCC General Meeting:* On 13 October 2021, the ERCC held its autumn General Meeting. A focus of this virtual event was sustainability, with a keynote address by Torsti Silvonen, Deputy Director General at the ECB, on the ECB's climate change roadmap, followed by a panel discussion with market practitioners on the role of repo in sustainable finance. Another important issue was the ongoing industry work on settlement efficiency in preparation for the upcoming go-live of CSDR settlement discipline. This was covered in a second panel.

34 *EBA Q&A submission on LCR:* The ERCC has submitted a formal Q&A to the EBA outlining an issue related to the treatment of triparty repo under the Liquidity Coverage Ratio.

35 *Letter to the ECB on triparty and open-SFTs:* the ERCC has written to the ECB highlighting the potential impacts of proposal, understood to be under discussion, that would reduce the possibility for netting open-SFTs for the purposes of the Liquidity Coverage Ratio calculation.

36 *GMRA clause library project:* On 13 October, ICMA announced the launch of a four-month initiative with global lawtech and legal data consulting firm, D2 Legal Technology (D2LT), to develop ICMA's Global Master Repurchase Agreement (GMRA) Clause Taxonomy and Library, aimed at standardising and improving efficiencies in the process of negotiating and managing repo transaction documentation.

37 *ICMA ERCC Repo and Collateral Newsletter:* The ICMA ERCC Repo and Collateral Newsletter is published on a monthly basis.

## *Short-term markets*

38 *ICMA Commercial Paper Committee:* On 29 September 2021, the ICMA Commercial Paper and Certificates of Deposit Committee (CPC) published a white paper that maps the current structure of the market, analyses the March-April 2020 market turmoil and provides recommendations for market development.

39 *CPC meeting with the FSB to discuss short-term markets:* On 1 September 2021, Edwin Schooling Latter of the UK FCA joined a meeting of the CPC to discuss how the short-term European markets performed during the COVID-19 turmoil in 2020. He is co-chairing the FSB's Working Group on Dealer Behaviour.

## *Sustainable finance*

40 *Update to the Disclosure Memorandum*: In September 2021, ICMA published a comprehensive paper on the Sustainability Disclosure Regime of the European Union. The publication provides a summary of new and amended EU legislation which introduce significant sustainability and ESG disclosure requirements and how they interact with each other, and most importantly what they mean for ICMA's constituencies such as issuers and investors.

41 *ICMA Commentary Article 8 Delegated Regulation*: In October 2021, ICMA published a Commentary on the unintended negative consequences of the proposed exclusionary treatment of green and sustainability bonds issued by central governments, central banks and supranational issuers under the Article 8 of the EU Taxonomy Regulation. sovereigns and supranationals, lowering demand from investors and hindering growth of the market.

42 *Guidelines for Green, Social and Sustainability Index Providers:* The Green, Social and Sustainability (GSS) Indices Working Group of the Principles has been created with the objective of enhancing transparency, clarity, standardisation and integrity of information and services by GSS index providers. The group intends to publish guidelines for index providers, based on input from various market participants

43 *New Guidance for sustainable bonds for gender equality*: In November 2021, UN Women, IFC and ICMA launched a new practical guide to using sustainable bond issuances to advance gender equality, entitled *Bonds to Bridge the Gender Gap: A Practitioner's Guide to Using Sustainable Debt for Gender Equality.*

## *Asset management*

44 *AMIC Chairs:* Robert Parker handed over the Chair of the ICMA Asset Management and Investors Council (AMIC) and Executive Committee (AMIC Excom) to Stéphane Janin, AXA IM, and Max Castelli, UBS AM, as Co-Chairs, at the AMIC Excom meeting on 16 December 2021.

45 *AMIC events:* AMIC held two webinars in December: one on ESG disclosure for investors in Asia, which included the SFC (1 December), and one on CBDCs' potential impact on investors, which included the Banque de France (14 December).

46 *AMIC discussion with DG FISMA:* AMIC held a separate session for members on 8 December with Sven Gentner (Head of the Asset Management Unit at DG FISMA in the European Commission) following the publication of the AIFMD and the ELTIF reviews on 23 November.

47 *IOSCO Secretary General at AMIC Excom:* Martin Moloney, the new Secretary General of IOSCO, introduced a discussion at the AMIC Excom meeting on 16 December on buy-side priorities in IOSCO's agenda.

48 *AMIC Regulatory Update:* ICMA publishes an AMIC Regulatory Update on a monthly basis and the latest version is available here.

## *FinTech in international capital markets*

49 *Common Domain Model (CDM) for repo and bonds:* The CDM for repo and bonds is available to ICMA member firms. It provides a single, unambiguous representation of the execution, clearing and settlement of a fixed-term repo transaction, as well as the data points required for settlement of a bond transaction. ICMA has conducted a survey amongst the ERCC community to help determine next steps. Participants indicated unanimous support for extending the CDM further. ICMA is working on a roadmap for a potential future development phase. A recording of the CDM in action as well as CDM factsheets, amongst other materials, are available on ICMA's website.

50 *FinTech Advisory Committee (FinAC):* The sixth FinAC meeting was held on 1 December 2021 and featured a presentation by the HKMA and BIS Innovation Hub Hong Kong on Project Genesis on green bond tokenisation.

51 *Bank of England data collection transformation plan*: ICMA has been invited to join the Bank of England's Data Standards Committee (DSC) and attended the meeting on 30 November 2021. The committee forms part of the Bank of England's and FCA's joint transformation programme for data collection from the UK financial sector. The committee's purpose is to discuss issues and propose solutions in the area of data standards.

52 *FinTech regulatory roadmap:* ICMA continues to update its FinTech regulatory roadmap, highlighting relevant developments in prospect over the next few years. The timeline draws upon key milestones presented by regulators and national authorities and is broken down by national, EU and global initiatives.

53 *New FinTech applications in bond markets:* ICMA continues to update its tracker of distributed ledger technology and artificial intelligence/machine learning applications in capital markets, with a focus on bond

markets. The tracker currently lists more than 70 announcements or transactions.

54 *DLT regulatory directory:* ICMA's DLT regulatory directory covers new regulatory and legislative developments, national blockchain initiatives, publications and consultation papers. The directory seeks to provide a non-exhaustive overview of developments in selected jurisdictions across Europe, North America, and Asia-Pacific. Latest updates were included in December 2021 and are available on ICMA's website.

55 *FinTech and sustainable finance library*: ICMA has compiled a non-exhaustive list of recent publications on FinTech and sustainable finance, with a focus on bond markets. The library intends to complement ICMA members' resources and help inform broader discussions on this topic. The library aims to highlight the current views from academic, market, and official sector studies on the potential of FinTech to further sustainable debt capital markets. It can be found on ICMA's website.

56 *FinTech events:* ICMA's Regional Committee Switzerland-Liechtenstein held a virtual event on *Crypto, DLT and Capital Markets – a Swiss Perspective* on 9 December 2021. The French chapter of ICMA's Future Leaders Committee held a virtual event on *Crypto-assets and Blockchain: Why is this Crucial for Young Leaders?* on 13 December 2021.

57 *FinTech Newsletter:* ICMA's FinTech Newsletter provides a summary of ICMA's cross-cutting technology initiatives across its key market areas. It also provides insights into regulatory updates, consultation papers, news and other publications, and upcoming meetings and events. It is published regularly and the latest version is available here.

## Transition from LIBOR to risk-free rates

58 *Official sector sponsored working groups:* ICMA has continued to participate in the Working Group on Sterling Risk-Free Reference Rates (and to chair the Bond Market Sub-Group), the Working Group on Euro Risk-Free Rates (as an observer) and the National Working Group on Swiss Franc Reference Rates. ICMA is also in regular contact with the ARRC FRN Group in the US and national working groups in Asia.

59 *Tough legacy proposals:* ICMA has continued to engage with various official sector contacts and members in relation to the "tough legacy" proposals put forward by authorities in the US, the UK and the EU. On 20 October 2021, ICMA responded to the UK FCA consultation on tough legacy (CP21/29).

60 *Communication with members:* ICMA continues to keep members up to date with its work on the transition to risk-free rates via a dedicated webpage, the ICMA Quarterly Report, regular ICMA committee and working group meetings and e-mails to the ICMA Benchmark Group, and webinars for members, the most recent of which was recorded on 17 November 2021.

61 *Coordination with other trade associations:* ICMA continues to participate in regular calls of the Joint Trade Association LIBOR Working Party established by the LMA, as well as regular calls of the APAC Benchmark Working Group established jointly by ICMA, ASIFMA, ISDA and APLMA.

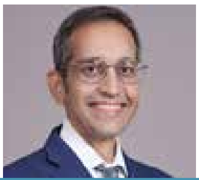
## Other meetings with central banks and regulators

62 *ICMA Regulatory Policy Committee (RPC):* A representative of the French Trésor joined the meeting of RPC on 9 December 2021, ahead of France's EU Presidency in the first half of 2022.

63 *Other official groups in Europe:* ICMA is represented, through Bryan Pascoe, on the ECB Bond Market Contact Group and, through Martin Scheck, on the ESMA Securities and Markets Stakeholder Group; through Nicholas Pfaff on the European Commission Platform on Sustainable Finance; through Lee Goss on the ECB Debt Issuance Market Contact Group (DIMCG); through Charlotte Bellamy on the Consultative Working Group on ESMA's Corporate Finance Committee; through Alexander Westphal on the Consultative Working Group of ESMA's Post-Trading Standing Committee; and through Gabriel Callsen on the Data Standards Committee of the Bank of England and FCA joint transformation programme for data collection from the UK financial sector.

# Primary Markets



by **Ruari Ewing, Charlotte Bellamy, Katie Kelly and Mushtaq Kapasi**

## EU Listing Act consultation

The European Commission published in November a targeted consultation on various aspects of EU legislation relating to listing, including the EU Prospectus Regulation, Market Abuse Regulation (MAR), MiFID II, Transparency Directive and Listing Directive.

Alongside this, the European Commission also published a general public consultation document containing certain high-level questions that are also included in the targeted consultation. The European Commission advises stakeholders to reply to only one of the two versions (either the targeted consultation or the general public consultation) to avoid unnecessary duplications.

The overarching objectives of these consultations are to make public markets more attractive for EU companies and to facilitate access to capital for SMEs. This is one initiative under the EU's 2020 Capital Markets Union Action Plan (Action 2).

Following informal engagement with the European Commission prior to the publication of the targeted consultation, ICMA is now looking carefully at the wide-ranging questions in the targeted consultation and preparing a response in time for the deadline of 11 February 2022.

In relation to the EU Prospectus Regulation, the overall message in ICMA's response is likely to be that the EU Prospectus Regulation works well from the perspective of the wholesale international bond markets, and there are limited areas that need fixing. To the extent that changes are made to the regime in order to address concerns in other parts of the EU's capital markets, this should be done in a way that does not impose unnecessary additional or disproportionate costs for users of the wholesale international bond markets. ICMA members do, however, have some suggestions for how the EU Prospectus Regulation could function even more effectively for the international bond market. These include targeted amendments to make the incorporation by reference and prospectus supplement regimes more efficient.

Regarding the MAR aspects, ICMA's response is expected to repeat prior ICMA positions around scope, the definition of inside information and the soundings regime (with a few potential additional nuances relating to mid-cap issuers).

ICMA is also considering the European Commission's questions related to the Transparency Directive and other areas of the targeted consultation paper.

Separately, as highlighted in the feature article on the Capital Markets Union Package in this Quarterly Report, ICMA is considering submitting feedback on the European Commission's proposal for a European Single Access Point by the 7 March 2022 deadline for comments. ICMA is also considering a response to the UK FCA further consultation on a new Consumer Duty, with a 15 February deadline, with a likely focus on the apparent policy intention to exclude mainstream bond issuance.

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## ECB publication of the DIMCG Advisory Report

### *Background*

The European Central Bank (ECB) for several years has been assessing potential enhancements to European debt issuance and distribution channels and how the Eurosystem might play an active role in establishing greater cross-border risk sharing through improved technical and functional harmonisation among EU Member States. Past examples of such initiatives promoting interoperability and integration are the TARGET2-Securities (T2S) harmonisation agenda and the Eurosystem's Single Collateral Management Rulebook for Europe (SCoRE) framework.

In 2019 the ECB-backed European Distribution of Debt Instruments (EDDI) market consultation resulted in a mixed consensus on the need or desire for a centralised platform for consolidating both the pre-issuance and post-trading stages of euro currency primary market issuance aimed at euro area sovereign, supranational and agency distributions but potentially also corporate debt. In this regard, there was the view by some that the *status quo* was largely meeting investor and issuer needs and that EDDI seemed to be a solution in search of a problem.

### *The DIMCG*

In 2020, a Debt Issuance Market Contact Group (DIMCG) was established by the ECB with a diverse group of stakeholders drawn from both the official and private sectors including issuers, intermediaries, investors, and market infrastructure providers and on 20 December 2021 the DIMCG's *Advisory Report on Debt Issuance and Distribution in the European Union* was published.

Early in the process, the DIMCG conducted a survey to collect and assess data on the risks, costs and potential inefficiencies in the debt issuance and distribution process. The DIMCG programme was organised around three main "pillars":

- *Pillar 1:* Identification of EU debt issuance issues and opportunities.
- *Pillar 2:* Problem identification and standard setting/ methodology.
- *Pillar 3:* Assessment of existing/emerging market solutions that could solve pillar 1 and 2.

### *Risks, costs, and inefficiencies*

The likelihood of the risks to the debt issuance process identified through the DIMCG's consultation overall were found to be generally low although some of these could have a significant financial, operational, or reputational impact. Costs of issuance for the most part were regarded as adequate. However, it is with respect to several market inefficiencies identified in the debt issuance process that is the focus of the DIMCG's practical recommendations for improved integration and harmonisation.

### *Key areas for harmonisation identified*

- Know-your-customer (KYC) and customer due diligence (CDD) procedures.
- Data exchange and data models in debt issuance.
- Bookbuilding and allocation.
- Term sheets and market conventions.
- Investor identification and classification.
- Settlement cycle of syndicated issuance transactions.
- Documentation and global notes.
- ISIN allocation.
- A potential common label for pan-European euro-denominated debt.

### *Common label for pan-European euro-denominated debt*

Toward the end of the DIMCG's work, the group also considered the potential for an optional "common label" for pan-European euro-denominated debt that adhered to the set of new standards established in some or all the DIMCG areas for harmonisation outlined above. There were, however, divergent views on this within the group. While some believed that this could help increase the transparency and value added of the pan-European debt market for investors, others thought it could lead to a two-tiered market and possibly worsen rather than improve market fragmentation.

### *What comes next?*

The DIMCG's terms of reference did not entail their acting to implement any of the above potential measures. Instead, the Advisory Report invites the industry and/or the relevant authorities to conduct further work to progress these potential market improvements.

The ECB notes that the DIMCG participants could reconvene within one year after the publication of the Advisory Report to assess market reactions to it and any progress made by the industry in taking up the DIMG's recommendations and eventually plan the next steps.

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## ICSDs' new syndicated closing model

On 21 April 2021, the two International Central Securities Depositories (ICSDs), Euroclear and Clearstream, announced that implementation would go ahead of a new model for the delivery vs payment (DvP) closing of syndicated bond issuance settling within the two ICSDs. On 21 October, the ICSDs announced the scheduling of such implementation for 14 March 2022 (recommending that this launch date be considered when deals are being prepared in an attempt to limit, to the extent possible, the number of closings during this launch period).

On 20 October 2021, ICMA published a paper on the new model. The paper aims: (i) to very briefly describe the new model (in contrast to the current model that it will replace); and (ii) to suggest how transaction documentation can be consequently modified for a vanilla Reg S bond involving an underwriting syndicate and their issuer client.

"Closing" is when, following pricing and allocation of a bond offering, the issuer exchanges its bond obligation for the cash proceeds of the offering on a DvP basis.

Broadly speaking, the current model involves closing occurring on the ICSDs' "doorstep", with the issuer's bond obligation being initially delivered by the issuer's agent to the ICSDs' common depository/common service provider (CD/CSP) in exchange for an ICSD commitment to pay (CtP) – ahead of initial credit (within the ICSD systems) to a member of the underwriting syndicate (the settlement bank) and then DvP settlement with investors.

The CtP is based on cash reservations and/or credit lines within the ICSD systems, with the intra-day liquidity/collateral requirements involved becoming an increasingly material fetter on clearing efficiency and liquidity as syndicated bond issuance transactions continue to grow in number and size. The new closing model proposes to address this, abolishing the CtP by effectively moving the closing into the ICSDs' books.

Broadly speaking, the new model involves the borrower's bond obligation still being initially delivered by the issuer's agent to the ICSDs' CD/CSP, but free of payment and for initial credit (within the ICSD systems) to a "commissionaire" account. This account is in the name of the settlement bank, but over which the issuer has third party rights (under the Belgian or Luxembourg Civil Codes). Closing then occurs in the consequent DvP settlement with investors, and the cash proceeds are remitted by the ICSDs from the commissionaire account to the issuer's order (as instructed to the underwriting syndicate).

In terms of suggested modifications to transaction documentation, the ICMA paper suggests drafting for use in subscription agreements, issuer instructions to their agents, underwriter instructions to CDs/CSPs, issuer payment instructions to settlement banks and signing and closing memoranda. The paper notes that, in the context of issuances under programmes, such modifications can be given effect at drawdown level and do not need programmes to be updated.

ICMA will continue to assist the market as it prepares for the transition to the new model.

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## ESAs' PRIIPs consultation

On 16 December 2021, ICMA submitted its response to the ESAs' call for evidence on the European Commission mandate regarding the PRIIPs Regulation. Much of the response reiterated prior ICMA positions.

*Focus mainly on scope:* ICMA's response was from the perspective the mainstream primary international bond (Eurobond) markets. In this respect, ICMA's PRIIPs focus has mainly been on PRIIPs regime scope rather than KID content/production – as threshold concerns relating to KID purpose and related liability[1] have meant that KIDs are not generally produced in the mainstream bond context. (ICMA is only aware of one KID seemingly have been produced in the margins of the mainstream Eurobond context since the PRIIPs Regulation came into effect in January 2018.)

*Official issuers:* The response noted that any extension of PRIIPs scope to issuers with certain EEA-related official status and non-profit entities with certain EEA official recognition (as defined in Prospectus Regulation Articles 1.2(b)/(d)/(e)) would likely, as for other areas of the bond markets, curtail retail supply – and it is unclear how this would benefit retail investors.

*Product scope:* The response noted that product scope of the PRIIPs Regulation is not entirely clear, compounded by extraneous and inconsistent official public statements.[2] This could be clarified by identifying granular product features that would not of themselves render a product "packaged" under PRIIPs – as the ESAs attempted to do with their 2019 Supervisory Statement (see further below) and as the UK FCA proposed in its recent Consultation Paper CP21/23 that ICMA responded to (as reported at page 31 of the Fourth Quarter 2020 edition of this Quarterly Report). However, such a granular approach to regulatory guidance can give rise to

1. See #12-#15 in ICMA's September 2018 response to a UK FCA Call for Input on PRIIPs.

2. See #3-#4 in ICMA's September 2018 response.

extended complex debate about individual granular features. It can also be more challenging in terms of future-proofing for new product structures – eg regarding sustainability-linked bonds that were only just coming into existence at the time the 2019 Supervisory Statement was finalised and that are not included among its list of coupon step-up events (issuer ratings downgrade, change of control event, tax or regulatory event). It is therefore challenging to be able to determine an exhaustive, definitive list of granular features that should not render a product "packaged" under PRIIPs. In this respect, ICMA has previously proposed an alternative, conceptual, approach to product scope guidance.[3] The most effective approach would be to amend the definition of a PRIIP in the PRIIPs Regulation itself – with the response suggesting the specific wording in this respect.

*ESAs' 2019 Supervisory Statement:* The response noted that the 2019 Supervisory Statement was a helpful step in the right direction to reassure the markets that vanilla bonds are indeed out of scope of the PRIIPs Regulation. However, differing views and so uncertainty have endured in the market as to what may be interpreted as "packaged" or not, with significant ongoing reluctance to make vanilla bonds directly available to EEA retail investors. In this respect, the impact in the mainstream bond space of the guidance contained in the 2019 Supervisory Statement has been limited by the Statement's unavoidably informal, non-binding nature: it potentially addresses liability to regulatory enforcement under administrative law (to the extent followed in practice by EEA national regulators) but has no scope to address liability to investors under civil law.

The limited substantive scope of the 2019 Supervisory Statement has also been a factor. As it is challenging to determine an exhaustive, definitive list of features that should not render a product "packaged" under PRIIPs, it is difficult to comment exhaustively on potential omissions from the substantive scope of the 2019 Supervisory Statement. The response however cited three specific examples of product features falling outside the 2019 Supervisory Statement despite involving no "intercession" (as contemplated under Recital 6 of the PRIIPs Regulation):

- bonds with make-whole provisions, as the 2019 Supervisory Statement notes only that NPV make-whole bonds (which are the common/market standard form) with a discount rate calculation mechanism known in advance (the meaning of which may depend on the particular drafting of a make-whole clause and the level of discretion drafted into it) "could be considered as a separate case";[4]
- sustainability-linked bonds (as noted under "product scope" above); and
- coupon caps and non-zero floors.

*Retail scope:* The response noted that, broadly speaking, stakeholders are currently comfortable that, combined with some appropriate legending, the avoidance by issuer-controlled parties of retail-specific marketing and of direct retail access facilitation (such as admission to a direct retail trading platform) should not be reasonably seen as "making available" – bearing in mind also that the absence of a KID amounts to a statutory prohibition on retail sales by anyone of in-scope products. That said, it would be helpful for the retail scope of the Regulation to be explicitly aligned with the approach to exemptions under the Prospectus Regulation (such as those related to minimum denominations and to offers addressed solely to qualified investors).

*Taxonomy of PRIIPs:* The response noted that a classification of products that could then link to standardised, generic market-wide product information sounds superficially attractive. However, this might face the same challenges as those encountered in attempting to define the general product scope of PRIIPs. As ICMA's current focus is on clarifying mainstream bonds as being outside the product scope of the PRIIPs Regulation, it seems pointless to expend effort attempting to elaborate a taxonomy of product grouping/buckets within this space.

*Standardised KID disclosures:* The response agreed that the current degree of standardisation of the KID is detrimental to the proper understanding and comparison of certain types of PRIIPs. It is only meaningful to compare like with like. (Cars and motorbikes are both motor vehicles, but of limited comparability nonetheless.) Whilst this is intuitive, it may be a question to be answered by a consumer testing exercise (comparing understanding rates for less standardised KIDs and/or KIDs for narrower, more comparable product groups).

*Next steps:* The ESAs' issued the call for evidence further to a European Commission request for advice regarding its preparation of legislative proposals implementing aspects of the Commission's retail investment strategy. (ICMA responded to the Commission's consultation on a retail investment strategy for Europe, as reported at pages 29-31 of the Fourth Quarter 2020 edition of this Quarterly Report.) However, the above aspects that ICMA responded to were included in the call for evidence at the ESAs' own initiative, to further advise the Commission beyond its formal mandate. It is consequently unclear how much Commission interest there may be regarding such aspects. ICMA will

3. See #7 in ICMA's September 2018 response.

4. The European Commission acknowledged, in the context of its Capital Markets Recovery Package proposal, the absence of a clear rule that a make-whole clause does not of itself make simple corporate bonds into PRIIPs.

continue to engage on this topic, including by seeking to participate in a stakeholder event the ESAs plan to hold in the first quarter of 2022, ahead of the ESAs' 30 April 2022 deadline to deliver their advice to the Commission.

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## Primary Market Handbook updates

In November 2021, ICMA published several updates to the ICMA Primary Market Handbook in order to update regulatory references and standard language to reflect the EU and UK regulatory regimes following the end of the post-Brexit transition period on 31 December 2020.

This followed the publication of draft updated standard language on ICMA's website in December 2020.

More specifically, ICMA published in the ICMA Primary Market Handbook and an associated Circular to ICMA members and Handbook holders and subscribers:

- amended item 2.11, Documentation content, in Chapter 2, Programme establishments and updates;
- amended item 3.5, Updating of programme offer document, amended Recommendation 3.7, Pre-sounding, and amended Recommendation 3.10, EEA MiFID II/UK MiFIR target market, in Chapter 3, Prior to transaction announcement;
- amended item 8.4, Confirmation content, in Chapter 8, Confirmation to Managers;
- amended Appendix A4, Credit ratings in programme offer documents;
- amended Appendix A5a, Deal announcements;
- amended Appendix A12a, Product governance (MiFID II) language;
- new Appendix A12b, Product governance (UK) language;
- amended Appendix A13, Selling restrictions and legends (EEA PRIIPs Regulation, EEA Prospectus Regulation);
- new Appendix A13b, Selling restrictions and legends (UK);
- amended Appendix A15, Stabilisation materials;
- amended Appendix A16, Sub-€100,000 denomination bonds under the EEA Prospectus Regulation and retail cascade legends;
- new Appendix A16a, Sub-€100,000 denomination bonds under the UK Prospectus Regulation and FSMA and retail cascade legends; and
- amended Appendix B2, Glossary.

Post-Brexit amendments to Appendix A7, ECP documentation for Investment Grade issuers, and Appendix A8, Final terms and pricing supplement, are pending and will be published in due course alongside other updates to those Appendices.

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## F Primary markets technology directory

Digitisation of debt issuance continued apace in 2021. ICMA's latest review of its primary market technology directory, conducted in Q4, saw the addition of more than 10 platforms or applications for the issuance of debt instruments. This brings the total number of solutions to over 45, up from 35 in Q4 2020 and more than doubling compared to 2018 when the directory was first launched.

The directory seeks to provide greater transparency in a rapidly expanding competitive marketplace by comparing the key features and capabilities of technology solutions available to automate all or part of the process of issuing debt securities. The scope includes bonds, but also other types of debt instruments such as commercial paper, loans and Schuldscheine. It highlights whether the various solutions are aimed at underwriters, investors, issuers or others, at what stage of the issuance process they can be utilised, supported issuance methods as well as connectivity options.

Since the last review in 2020, new technology offerings have targeted in particular bond syndication, seeking to enhance deal-related data management and communication between underwriters and issuers, but also investors. New platforms have emerged to streamline end-to-end issuance workflows, but also to support the issuance, trading and settlement of digital securities based on distributed ledger technology. Amongst others, the directory includes a growing number of auction platforms aimed at both public sector and corporate issuers.

The directory is available to ICMA members, contributing non-member providers as well as regulators through ICMA's website.

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# Secondary Markets


by **Andy Hill and Elizabeth Callaghan**

## ICMA's proposal for a new post-trade transparency regime for the EU corporate bond market

### *Overview*

ICMA fully supports the establishment of a single consolidated tape for EU bond markets. ICMA views this as being the necessary vehicle for providing comprehensive, meaningful market transparency. In April 2020, ICMA published a report with recommendations for the establishment of an optimal post-trade consolidated tape for EU bond markets.[1] This report addressed a number of fundamental questions relating to the context, relevance, comparability, scope, design, and governance of a potential consolidated tape.

In the summer of 2021 as an important follow-up to this work, ICMA, through its Transparency Taskforce, began extensive discussions and analysis to determine what should be the appropriate "transparency regime" to support the consolidated tape. That is, what information should be made available on the tape, and when? While in many, if not most cases, full and immediate disclosure of transactions can be considered desirable, there is also a broad recognition that there are instances where it would be beneficial to the overall integrity and efficiency of the market to delay the dissemination of certain details, and possibly of the transaction itself.

### *The ICMA Transparency Taskforce*

The ICMA Transparency Taskforce (Taskforce) is made up of buy-side and sell-side heads of trading (some global) and senior traders and firm representatives. These buy and sell-side investment firms represent views from various EU countries such as Germany, France, Netherlands, Italy, Norway, Sweden, UK, and the US (operating in EU countries). They also represent varied transparency preferences, some requiring more transparency and some requiring less, based largely on their business models and their relative sensitivity to information leakage. While recognising that there is no single transparency model that could be considered optimal for every market participant, most importantly *this ICMA transparency proposal puts forward a regime that the majority of buy and sell- side Taskforce members agree that they "can live with".*

1. See https://www.icmagroup.org/assets/documents/Regulatory/MiFID-Review/EU-Consolidated-Tape-for-Bond-Markets-Final-report-for-the-European-Commission-290420v2.pdf.

On 25 November 2021, the European Commission (EC) published a Communication on the delivery of its 2020 Capital Markets Union (CMU) Action Plan. This package of announcements included proposals for amendments[2] to the MiFID and MiFIR texts. Specifically, the EC proposes that "ESMA should specify the deferral buckets for which the deferral period shall apply across the Union by using the following criteria: a. liquidity determination, b. size of the transaction (in particular, transactions in illiquid markets or that are large in scale), and c. the classification of the bond (investment grade or high yield)."

With regard to the EC's amendments to the MiFIR bond transparency regime, ICMA welcomed the proposed inclusion of market liquidity and IG and HY instrument classification as methodology variables in the future bond deferral regime. ICMA looks forward to engaging with ESMA on implementing measures. However, ICMA is concerned that the suggested maximum deferral for the reporting of a transaction price for large and illiquid trades is end of day. If this proposal is adopted, it will likely disadvantage EU fund managers, asset managers, pension funds and banks by compromising their market positions. ICMA recommends for large and illiquid bond trades a two-week price and size deferral. ICMA also notes that there was not a suggested methodology for liquidity determination, for example using the amount outstanding.

The ICMA paper summarises the Taskforce's findings and sets out ICMA's position regarding a bond market transparency regime methodology for EU corporate bond markets: one that benefits large and small industry participants. Under the umbrella of ICMA's MiFID II/R Working Group, the ICMA Transparency Taskforce aims to provide a workable transparency methodology for ESMA, in its "implementing measures" capacity, to strongly consider.

## Why is transparency important for bond markets?

The goal of the bond post-trade consolidated tape (CT), as perceived by Taskforce members, is to improve transparency, assist decision making, and provide market insights to end-investors, large or small. Adoption of the appropriate structure would benefit the whole market, by providing a centralised, high quality, affordable, trustworthy data source, offering a comprehensive market view. This would bring immediate benefits to professional bond markets and benefit the retail sector as well.

Transparency is important to bond market participants because it assists decision making and provides market insights to end-investors. Transparency also promotes price competition as investors are able to demand more accountability from their liquidity providers. Additionally, transparency facilitates automation advancements. Finally, market participants can assess accurately current market and liquidity dynamics, increasing overall investor confidence, particularly during times of market volatility.

Importantly, the establishment of a CT for bonds can be viewed as integral to the objectives of Capital Markets Union (CMU).[3] A post-trade CT for bonds strengthens EU capital markets by linking together the disparate trading venues and Approved Publication Arrangements (APAs) across the EU, enhancing investor confidence due to increased transparency in the market. Stronger and more liquid EU capital markets promote capital formation, job creation, and economic growth.

## Transparency vs liquidity

The Taskforce notes that, while regulatory frameworks should be calibrated in a way that achieves a high level of post-trade transparency, they should also take into account the potential impact that post-trade transparency may have on market liquidity. This is a recognition that, particularly in bond markets, too much information can be a bad thing. This is an acknowledgement of differing market structures and in particular a recognition of how bond market liquidity is created.

In illiquid markets, especially those that rely on market makers as the principal source of liquidity, prices can be extremely sensitive to information dissemination, particularly in response to public knowledge that a trade is trying to be executed or has just been executed. Such information leakage creates risks for both the liquidity provider and the liquidity taker. In the case of the former, the liquidity provider will be taking a position onto their books that they will subsequently look to offlay. If during this period (which could range from hours to weeks) the details of the original transaction are publicly disseminated, the market will anticipate the offlaying trade and adjust the price of the securities accordingly, to the detriment of the liquidity provider. In the case of the liquidity taker, if it becomes market knowledge that somebody is looking to execute a particular trade, either before they are able to execute (pre-trade) or as they attempt to execute the transaction in increments (post-trade), the market will similarly adjust in response to this information. Here the liquidity dimension of depth (ie the ability for the market to absorb size) becomes a fundamental consideration.

Accordingly, too much transparency can have an adverse effect on market efficiency and liquidity, either forcing liquidity providers to adjust their pricing (assuming that they do not withdraw liquidity completely) or amplifying market moves in response to any request for quote or partial execution. In both cases it is the investor who ultimately suffers. In its response to the consultation document for

2. ICMA-Preliminary-Thoughts-on-CMU-Package-29-November-2021-291121.pdf (icmagroup.org).

3. See the 2020 CMU Action Plan: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2020:590:FIN

the IOSCO transparency recommendations,[4] ICMA stressed that efficient and liquid markets are the most important considerations for investors, and which are valued far more than transparency in itself, since inefficient markets fail to serve both investors and issuers.

Thus, any public transparency framework needs to ride a fine line between improving market efficiency and undermining market liquidity.

This is what the Taskforce proposal aims to achieve: balancing the benefits of improved overall market transparency while protecting not only market makers and liquidity providers, but also investors, particularly in the case of large transactions, or transactions in less liquid bonds. This is why it proposes longer deferral periods (up to two weeks) not only for the publication of certain transaction sizes, but also prices.

## *Simplicity vs complexity*

Defining and measuring liquidity is not straightforward. In its 2016 report on the European corporate bond market, ICMA settled upon the following definition: the ability to execute buy or sell orders, when you want, in the size you want, without causing a significant impact on the market price.[5] This essentially captures the three dimensions of liquidity outlined by Kyle (1985) and Harris (2003): cost, depth, and time.

In recent years, a number of data providers have begun to produce "liquidity scoring" metrics for individual bonds. These generally take into account a range of dynamic and static variables, such as historical prints, observable quotes, price sensitivity, issue size, credit rating, maturity, age since issuance, index inclusion, and liquidity in similar bonds or related derivatives. Again, what these metrics attempt to map are the three dimensions of liquidity, estimating the time required to buy or sell a specified amount of bonds without a significant change in price, or the cost of executing the full size immediately.

MiFID II and MiFIR introduced a pre- and post-trade transparency framework for EU bond markets which came into effect in January 2018. This follows a number of other jurisdictions, many with long-established transparency regimes for bonds, most notably the US.[6] In its deliberations over the design of the EU framework, ESMA was clearly conscious of the interrelationship between bond market transparency and liquidity. The ESMA model would decide if a trade should be reported close to real time or deferred to a later date based on a determination of whether the market for the underlying security is considered liquid. The resulting liquidity determination and trade size deferral framework is inherently complex, largely based on an ongoing assessment of transactions in individual ISINs. While the objectives of the MiFID II/R transparency regime are well intentioned, the considered view is that this has led to an overly complicated framework that has fallen short of its stated goal.

What this highlights is that, when designing a transparency regime, balancing simplicity and complexity is also key for a workable solution. Overcomplicating the transparency regime can be counterproductive, while the same is true for oversimplifying it.

The ICMA Taskforce therefore decided to focus on a limited number of easily discernible variables. Two are characteristics of the underlying bond: whether investment grade (IG) or high yield (HY);[7] and the outstanding size of the issue. Taskforce members agreed that there is a marked difference in the liquidity and tradeable sizes of EU corporate bonds, depending on whether they can be classified as investment grade or high yield.[8] Furthermore, the size of the underlying issue (ie the amount of tradeable stock available) also plays a key factor in a bond's liquidity. The larger the issue, all things being equal, the easier it is to find secondary market liquidity. Both of these characteristics of individual ISINs are also widely and publicly available, and relatively static.

After careful consideration and data analysis, the Taskforce felt that an outstanding corporate bond issuance size of €1 billion (or equivalent) was the appropriate cut-off point in the determination of "liquid" or "illiquid".

The third variable is based on the actual trade size itself. Here it was felt that again there was merit in the simplicity of using static size thresholds to determine the appropriate deferrals. The result is three trade size buckets: small, medium, and large. These were based on analysing historical trade data and the observations of average and median trade sizes for both IG and HY bonds.

Plotting these three variables creates a three-dimensional lens that forms the basis of the proposal.

The next step was for the Taskforce to determine the appropriate calibrations for trade information deferrals, to be applied along the three dimensions. Again, it was important to consider the benefits of not overcomplicating deferrals, while at the same time balancing this against the risks of an overly simplistic model: not least one that started from the perspective of real time reporting being optimal. The Taskforce eventually concluded that both price and size dissemination could be bucketed in terms of: 15 minutes (within 15 minutes), end-of-day, and two weeks.

One of the Taskforce members (a prominent trading venue and data vendor) undertook analysis of different calibrations of the proposed a model using historical trade data. This allowed

4. ICMA's response to IOSCO's consultation paper on Regulatory Reporting and Public Transparency in the Secondary Corporate Bond Markets (October 2017).

5. Remaking the corporate bond market: ICMA's second study into the state and evolution of the European investment grade corporate bond secondary market (July 2016)

6. An overview of various global bond market transparency regimes can be found on the ICMA website.

7. See Annex II: High yield / Investment grade guidance.

8. This distinction is also used by the US Trade Reporting and Compliance Engine (TRACE)

the Taskforce members to understand better the degree of transparency that the proposal would provide (what information would be available and when), and therefore to refine it in an attempt to find the optimal calibration. This also highlights the importance of ongoing data analysis to evaluate the appropriateness and effectiveness of any transparency regime and to refine it continuously, as required.

Importantly, the framework, including the application of deferrals, should be harmonised across all relevant reporting jurisdictions. Another case of simplifying the model.

The final proposed transparency framework for corporate bonds is available from the ICMA website.

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## AMCC BMLWP survey on corporate bond market microstructures

### *The survey*

In January 2022, the IOSCO Associate Members Consultative Committee (AMCC) Bond Market Liquidity Working Party (BMLWP) will submit to the IOSCO Financial Stability Engagement Group (FSEG) a  report of its survey on corporate bond market microstructures and market participant behaviours.  The survey was conducted through the AMCC global membership during September-October 2021 and was targeted at sell-side and buy-side market participants active in corporate bond markets.

#### *AMCC Bond Market Liquidity Working Party*

The AMCC BMLWP was originated with the primary objective of complementing the work being undertaken by the IOSCO FSEG related to bond market liquidity, leveraging the AMCC's broad membership and diversity of relevant stakeholders. A call for interest was circulated among the AMCC membership in March 2021. The current BMLWP consists of the following members: AFME/GFMA, AIMA, ANBIMA, CCP12, EFAMA, IIROC, ICMA, JSDA, and WFE. It is chaired by ICMA.

### *Preview of findings*

While there are some gaps in the responses, most notably with respect to North America and Japan buy-side representation, the surveys may help in contributing to paint a picture of the different corporate bond market structures across key regional and national jurisdictions, as well as the market participant behaviours and drivers in times of market stress, drawing on the experience of the March-April 2020 turmoil. It is also apparent that predicting aggregate participant behaviour is not straight forward. Sell side participants report mixed reactions in terms of adapting their capacity for trading. For example, in some cases there seems to be an increase in balance sheet made available to support secondary market trading, while in others this remains the same, or decreases, while there was a significant increase in trading volumes amongst most sell-side participants during the March turmoil.

Furthermore, there appears to be a trend among liquidity providers to prioritising their existing clients. An overarching take-away from this would seem to be a general increase in day or agency trading, as opposed to assuming more principal risk and risk warehousing. However, some banks did increase their risk warehousing as well as trading capacity. Another common theme, and potentially related, is a shift from electronic trading to voice, putting more emphasis on the human element of liquidity provision. The significant volatility and increased risk also resulted in wider bid-ask spreads, as market participants adjusted to the shift in perception of riskiness during the events.

Given the rich and varying diversity of investor ecosystems, it is also difficult to draw general conclusions on the buy side behaviours in times of stress. Active fund managers may look to reduce exposure to credit markets, more generally, but some investor types, such as insurance funds, are less directionally biased, while others, such as credit hedge funds or central banks, may become net buyers of corporate bonds. In particular, many underlying investors within investment funds are long-term investors, and are usually keen to benefit from counter-cyclical purchases of assets (which helps to explain, for instance, why some fund managers experienced client inflows during the March 2020 turmoil). Overall, there seems to be an indication of a shift in preference to better quality credit, while there is a more mixed picture across jurisdictions with respect to changes in duration. One important consideration, as noted by one respondent, is that in the case of many funds, their investment behaviour will be driven by that of their underlying investors and in direct response to changes in redemptions or subscriptions. Thus, any assessment of market behaviour in stressed scenarios probably warrants some deeper analysis here.

In terms of the main concerns for investors in stressed markets, secondary market liquidity is the most significant, followed by the issues of mark-to-market, contagion risk, and redemptions. This very much intersects with the sell side's ability to provide balance sheet and pricing during times of increased trading volumes and volatility, which would appear to be limited. This would also suggest that approaching the question of market resiliency from the perspective of dealer capacity and incentives would likely have more direct benefits than attempting to anticipate and influence the decisions and behaviours of an extremely diverse and complex universe of investors.

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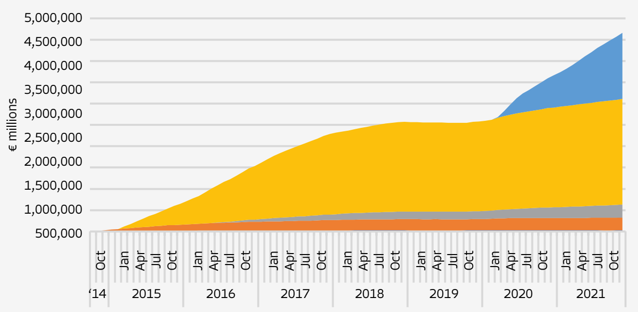
## ECB bond purchases

### *Total asset purchases*

As at the end of November 2021, the total net book value of cumulative purchases under the ECB Asset Purchases Programme (APP) and the Pandemic Emergency Purchases Programme (PEPP) is €4,661 billion (consisting of €3,113 billion under the APP and €1,548 billion under the PEPP).

**Cumulative APP & PEPP Purchases**
Total as at end Nov 2021: €4,660.7bn



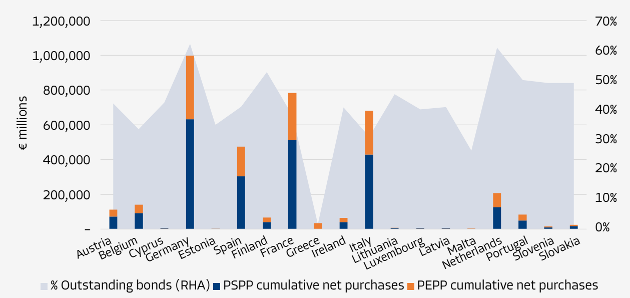

*Source: ICMA analysis using ECB data*

At its meeting on 16 December 2021, the ECB announced that it would increase its target for monthly net purchases under the APP in Q2 2022 to €40 billion (from the current €20 billion level), taking this to €30 billion in Q3 2022, and €20 billion in Q4. This is intended to smooth the transition of total purchases following the cessation of the PEPP at the end of Q1 2022. Currently the total combined monthly purchases under both the APP and PEPP are around €90 billion.

### *Sovereign bond purchases*

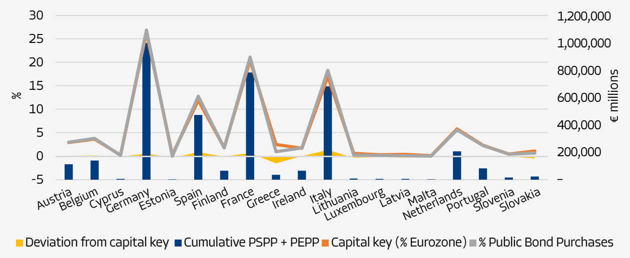
The total book value of net cumulative purchases of sovereign bonds under both the PSPP and PEPP is €3,715 billion as at the end of November 2021. Based on Bloomberg data, ICMA estimates this to be around 35% of the outstanding stock of eligible sovereign bonds. The overall percentage of outstanding eligible issuance is notably higher in the case of a number of sovereign issuers, in particular Germany (62%), Finland (53%), the Netherlands (61%), and Portugal (50%).

**PSPP & PEPP Cumulative Sovereign Bond Purchases** (€3,715.4bn as at end of November 2021)




*Source: ICMA analysis using ECB and Bloomberg data*

**All Sovereign Cumulative Purchases Deviation from Capital key**




*Source: ICMA analysis using ECB data*

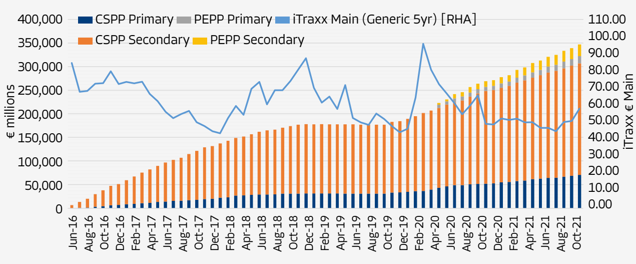
The above chart shows the combined cumulative net purchases under both the PSPP and PEPP by sovereign issuer, while also comparing the percentage of purchases with the respective capital key (weighted as a share of the Eurozone total sovereign capital key). This highlights a bias in purchases of the bonds of Italy (by a 1.3% differential relative to the capital key weighting), Spain (0.8%), France (0.7%), and Germany (0.5%). Greece is notably underweight (-1.5%), which is the result of Greek Government bonds being ineligible for PSPP purchases.

### *Corporate bond purchases*

The pace of purchases under the Corporate Sector Purchases Programme (CSPP) held steady in October and November, at €5.5 billion and €5.1 billion respectively (the average monthly purchase for 2021 so far is €5.1 billion). This takes total net cumulative purchases under the CSPP to €307 billion (of which €70.6 billion, or 23%, are primary market purchases, and €236.5 billion, or 77%, are secondary). Including the €39.9 billion purchases of corporate bonds under the PEPP (of which €2.7bn were made during October-November 2021), this takes the total net cumulative purchases of corporate bonds under both programmes to €346.9 billion.

Based on Bloomberg data, ICMA estimates a universe of CSPP eligible bonds at the end of November 2021 with a nominal value of €1,211 billion. This suggests that 29% of all eligible bonds are being held under the purchase programmes. Based on the 70% upper limit for purchases of individual ISINs, this implies that purchases are at 41% of capacity, leaving an estimated available pool of around €500 billion for further purchases. This further suggests that purchases continue to remain level with net eligible issuance.

**CSPP & PEPP Cumulative Corporate Bond Purchases and iTraxx Main**




*Source: ICMA analysis using ECB and Bloomberg data*

A briefing note on the latest ECB purchase data can be found on the dedicated ICMA webpage.

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## ICMA CSDR Penalty Workstream

While the implementation of CSDR mandatory buy-ins is being delayed, the regime for cash penalties is set to go live on 1 February 2022. ICMA's CSDR-Settlement Discipline Working Group has rolled out a Penalty Workstream focused on supporting implementation in the bond and repo markets. The intended outputs of the Workstream can be categorised under:

- General industry preparedness and any related issues or observations.
- Article 6 compliance and measurement.
- Penalties' scope and claims process.
- Settlement efficiency and fails prevention.

Through engagement with its members, ICMA hopes to produce a Guide to Best Practice to support implementation of the penalty regime with respect to bond and repo markets, as well as a list of Frequently Asked Questions. It is expected that these will remain living documents and will be updated on a regular basis.

The Workstream meets virtually on a regular basis and is chaired by Nicholas Hamilton of JP Morgan. The Workstream is working closely with AFME and ECSDA and its outputs are intended to complement the existing initiatives of these associations.

Any member firms interested in participating in the CSDR Penalty Workstream should contact Mathilde Babel.

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## A SEBI consultation on corporate bond market making

On 15 December 2021, ICMA and ASIFMA responded jointly to the Securities and Exchange Board of India (SEBI) consultation paper for market making in corporate bonds. The intent of SEBI is to facilitate liquidity in the secondary market for corporate bonds, which it views as an essential ingredient for the overall growth and development of the bond market. SEBI is seeking to address this issue through a multi-pronged strategy including the introduction of market making, along with facilitating an active corporate bond repo market, and facilitating a backstop facility.

The ICMA and ASIFMA response is broadly supportive of the proposals for the development of an India corporate bond market, and draws on the experience of more established market structures to advise on a number of the key elements. In particular, the response recommends that issuer involvement in supporting the market making function should be minimal, and cannot be compared with the relationship between a sovereign debt management office and primary dealers. It also makes suggestions related to the proposed post-trade transparency regime, explaining the role and economic incentives for market makers and the risks that arise from information leakage. It also stresses the importance of a vibrant credit repo market.

ICMA and ASIFMA look forward to engaging with SEBI more closely as it develops its strategies to grow and energise the India corporate bond market.

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## F ETD secondary market directory

In the last quarter of 2021, ICMA updated its mapping of solutions available for electronic cash bond trading. The Electronic Trading Directory (ETD) presents a consolidated overview of capabilities and services provided by trading venues, order and execution management systems (OMS/EMS) and bulletin boards. In parallel with the review, ICMA has gathered the views of the Electronic Trading Council (ETC) on the direction of travel, recent market developments and horizon scanning, which will be published in Q1 2022.

Key observations:

- The directory now includes over 55 technology solutions, up from 49 in the December 2020 publication.
- The latest review brings an increased coverage to order and execution management systems (OMS/EMS), with 19 solutions listed to assist with the aggregation of market data, quotes, and trade orders.
- Several venues are no longer available for trading cash bonds and have been delisted.
- Additional information includes supported communication protocols & standards, delivery method (ie managed, licensed, hosted software) and market data services available.

This unique resource is one of several ICMA technology directories available to members, contributing non-member providers and regulators through the ICMA webpage.

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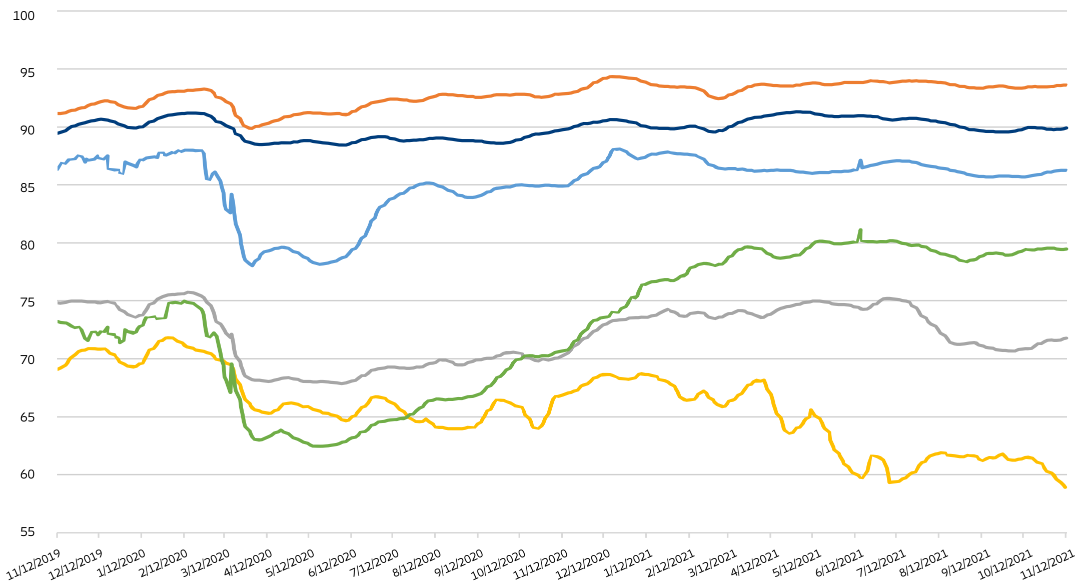
## Corporate Bond Market Liquidity Indicators™

Tracker shows steady IG market liquidity conditions, while GBP HY liquidity hits new low.

### Liquidity Tracker




*Source: ICE Data Services*

## *Commentary*

IG credit market liquidity generally remained stable throughout the last quarter of 2021 (until mid-December). While liquidity in USD and EUR HY followed a similar pattern and showed signs of improvement, GBP HY liquidity dropped markedly, hitting an all-time low towards the end of the quarter. Generally, these developments appear to be in line with the broader trajectory observed throughout 2021.

The markets' response to the prospect of rising interest rates, phasing out of quantitative easing, and growing inflation across major economies appears to have been muted. Benign market conditions seem to have been supported by a broader economic recovery despite supply chain issues in the second half of 2021 as COVID-19 restrictions have been gradually lifted. In the UK, higher-than-expected inflation figures may have contributed to the decline in HY market liquidity. As concerns over the spread of the Omicron variant heightened and restrictions were re-introduced over year-end in Europe and beyond, it remains to be seen whether monetary policy may need to be recalibrated and to what extent credit market liquidity will be impacted going forward.

More secondary bond market data and analysis can be found in ICMA's secondary market data webpage.



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ICE Liquidity Indicators™ are designed to reflect average liquidity across global markets. The ICE Liquidity Indicators™ are bounded from 0 to 100, with 0 reflecting a weighted-average liquidity cost estimate of 10% and 100 reflecting a liquidity cost estimate of 0%. The ICE Liquidity Indicators™ are directly relatable to each other, and therefore, the higher the level of the ICE Liquidity Tracker the higher the projected liquidity of that portfolio of securities at that point in time, as compared with a lower level. Statistical methods are employed to measure liquidity dynamics at the security level (including estimating projected trade volume capacity, projected volatility, projected time to liquidate and projected liquidation costs) which are then aggregated at the portfolio level to form the ICE Liquidity Indicators™ by asset class and sector. ICE Data Services incorporates a combination of publicly available data sets from trade repositories as well as proprietary and non-public sources of market colour and transactional data across global markets, along with evaluated pricing information and reference data to support statistical calibrations.

# Repo and Collateral Markets




by **Andy Hill, Alexander Westphal, Zhan Chen and Lisa Cleary**

## The repo market at 2021 year-end

In January 2022, ICMA will publish its now customary analysis of how the repo market performed over the recent year-end. Historically, calendar year-end, which is also financial year-end for many institutions, can see liquidity reduce significantly as firms look to square-up their books and reduce activity. Year-ends can also be prone to episodes of extreme volatility and even market stress; with 2016 year-end being a particular case in point. The following is a preview of the 2021 analysis with a recap of how the euro repo market performed. The analysis is based on market data as well as detailed qualitative input from members of ICMA's ERCC.

### *Alarm bells*

There had been a lot of focus on the 2021 three-day "turn" from as early as November, in particular with concerns about the prospect of a collateral shortage. The key considerations were: positioning, with a substantive short base in sovereign debt in the anticipation of higher yields; the amount of bonds swallowed up in the ECB Public Sector Purchase Programme (PSPP) and Pandemic Emergency Purchase Programme (PEPP); an abundance of euro cash in the system, which was becoming ever cheaper through the USD-swap, and the usual concerns of reduced bank balance sheets and limited capacity for intermediation. Further worries had been raised with respect to the various Eurosystem lending programmes, in particular a lack of widespread accessibility and limited credit lines. Already, year-end general collateral (GC) was being priced expensively, none more so than Germany, with implied rates between -4.50% and -5.00%.

### *Core: expensive, but orderly*

In the days leading up to year-end, market participants report that liquidity felt thin, but trading was orderly and, in the case of Germany, levels were in line with those anticipated throughout December, averaging -4.50% for GC in the interbank market, and -4.67% for specifics. France surprised slightly, averaging -4.28% for GC and -4.82% for specifics, making French specials more expensive than German.

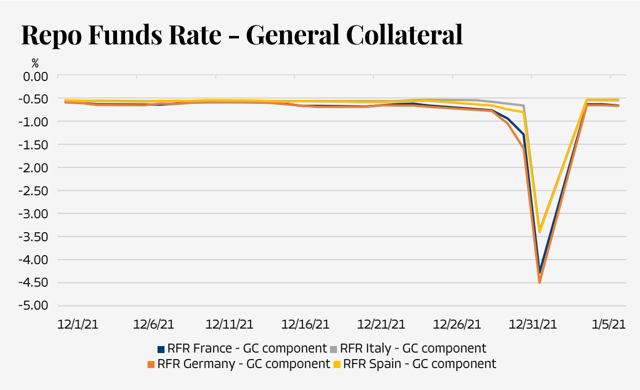
Many attribute the orderly trading of core repo to a mixture of pre-positioning (with some buy sides locking in funding or short-covering several weeks in advance) and improved accessibility to the NCB lending programmes, such as the increase in the ECB lending facility against cash from €75bn to €150bn. However, while the ECB lending data for December has yet to be published, some doubt whether the increase in the lending versus cash facility made much of an impact, noting that balances up until November were well below the €75bn limit, and borrowing against cash is expensive for banks' limited balance sheets. More likely, an increase in the relevant NCB credit lines helped to ease any potential bottlenecks. That said, this was still the most expensive year-end for core repo since 2016.

### *Non-core: una sorpresa desagradable*

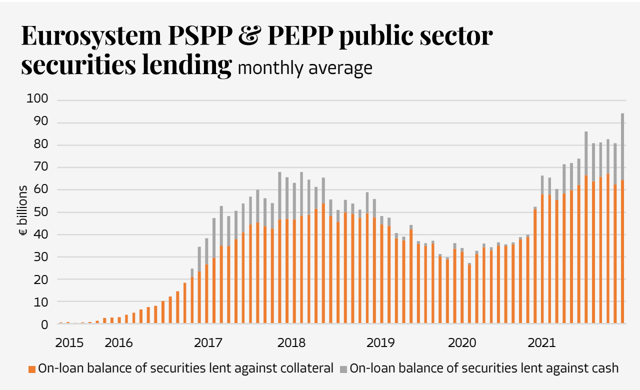
It was the periphery segment that seems to have caught the market off guard. Participants report that liquidity became very patchy leading up to year-end, but few expected a sudden tightening of more than 100bp to previously implied rates. Italian GC averaged -3.37% in the interbank market, with specifics averaging -4.19%. Some specials were reported trading as low as -5%. Meanwhile, Spanish GC averaged -3.41% and specifics -5.02%, with some reported prints for specials as tight as -10%, albeit in small size.

This unexpected and sudden tightening of periphery rates is attributed largely to collateral scarcity, perhaps as a consequence of bonds being used in the ECB Targeted Longer-term Refinancing Operations (TLTROs), and limited access to the underlying central bank lending programmes. This may have been further hampered by a lack of intermediation capacity by local banks. The result was that non-core repo rates were even tighter than 2016, making this the most expensive turn since the euro was launched.

Some participants have expressed concern at the extreme levels observed over year-end, the relative lack of liquidity, and the fact that participants were pre-positioning actively, and expensively, from as early as October. They question whether this is reflective of a healthy, functional repo market.




*Source: ICMA analysis using CME data*




*Source: ICMA analysis using ECB data*

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## ERCC initiative on settlement efficiency

As reported in previous editions of the ICMA Quarterly Report, a key focus for the ERCC in 2021 has been settlement efficiency. In early 2021, the ERCC launched an initiative to support the industry's effort to optimise and improve settlement efficiency in Europe. While the primary focus has been on repo, the topic and related findings are equally relevant for other markets and product types. The initiative aims to complement ongoing preparations for the upcoming implementation of CSDR settlement discipline measures in February 2022.

Over the course of the year, the ERCC held a series of workshops to focus on existing settlement optimisation tools available to firms with the aim of better understanding their current usage and remaining obstacles, as well as to explore ways to optimise the current set-up through best practice and other means. The workshops focused mainly on three key tools: (i) the shaping of settlement instructions, (ii) the use of partial settlement and auto-partialling, as well as (iii) automatic borrowing and lending programmes offered by a number of (I)CSDs. All three tools are thought to be critical to help the industry to further reduce settlement fails, mitigate their economic impacts and support market liquidity. Based on the outcome of the workshops, the ERCC has put together a white paper on settlement efficiency which has already been shared with members and which will be published in the next two weeks. The paper consists of two main parts. A first part takes stock of the current state of settlement efficiency in Europe and a second part which focuses on the key opportunities in relation to each of the tools mentioned above, including key issues and a number of suggested next steps. Once published, we very much welcome feedback on the paper and look forward to further discussions with industry stakeholders, regulators and central banks.

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## Repo and sustainability

Following the publication of the consultation summary report in September 2021, ICMA has established a new Taskforce on Repo and Sustainability, which is set up as a joint group with representatives from both the European Repo and Collateral Council (ERCC) and Members and Observers of the Principles. The proposed objectives of the group are to promote dialogue around repo and sustainability and to develop guidance or market best practices as needed. Currently, over 40 member firms have registered their interest. A kick-off meeting is scheduled for January 2022, with the main focus to discuss the scope, structure, governance and immediate deliverables of the Taskforce. For further information, please email us.

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## SFTR reporting

### *Latest regulatory updates*

In July 2021, ESMA released a number of important updates to the SFTR reporting logic set out in the so-called Level 3 guidance. This included an updated version of the validation rules as well as the related XML reporting schemas. A UK version of the new validation rules was issued by the FCA in October mirroring the changes to EU SFTR. Since then, the ERCC's SFTR Task Force has been focused on the implementation of those updates and the associated timeline. While the substance of the changes is largely the same across the EU and the UK, the implementation timeline differs. For EU SFTR, ESMA rejected a joint ICMA-ISLA request for a delay, insisting on 31 January 2022 as the relevant application date. The FCA has given UK firms until 11 April 2022 to implement the updates. This divergence creates practical challenges for firms that are reporting in both jurisdictions who have to bifurcate their reporting flows earlier than initially expected.

## *Updated version of the ICMA SFTR Recommendations published*

On 21 October 2021, the ICMA ERCC released an updated edition of the *ICMA Recommendation for Reporting under SFTR*. This is the seventh update to the public version of the guide since its initial release in February 2020. The latest version reflects the recent updates to the SFTR validation rules and reporting schemas published by both ESMA and the FCA, other official guidance that has been released, in particular ESMA's Q&As, but also many lessons learned during the first year of SFTR reporting. For ease of comparison, a blackline version has been published alongside the guide itself which highlights all the changes compared to the previous public edition released in February 2021. The SFTR Recommendations will continue to evolve to reflect ongoing discussions within the ERCC's SFTR Task Force as well as any further requirements published by regulators.

## *Reporting of SFTs with central banks*

The reporting of SFTs concluded with central banks has been a contentious issue since the early days of SFTR. While SFTs concluded with EU central banks have been exempt from reporting under SFTR, they were brought into scope of MiFIR reporting, an outcome that continues to create significant practical challenges as MiFIR is not designed for the reporting of SFTs. ICMA has raised these concerns repeatedly with EU and, post-Brexit, also with UK regulators. On 3 December 2021, the FCA issued some proposed changes to UK MiFIR that aim to rectify the issue. Under the new proposal, SFTs concluded with the Bank of England would not have to be reported under either UK SFTR or UK MiFIR, while SFTs with third country central banks (EU and non-EU) would be consistently reported under UK SFTR. ICMA welcomes these proposals which are in line with our comments made in response to the HMT Wholesale Markets Review (see question 94) and which have also been previously shared with EU co-legislators.

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## LCR and open SFTs

On 7 January 2022, the ERCC wrote to the ECB, drawing their attention to an important netting treatment applied by banks under the Liquidity Coverage Ratio (LCR).

It is standard practice for supervised banks to net open reverse repos or securities borrowing with open repos or securities lending for the purposes of LCR. The basis for this is the fact that open SFTs are effectively treated as rolling short-term SFTs, based on the relevant notification period of the transaction (which in most cases is 24 or 48 hours). This is consistent with the EBA Guidelines on the handling of open-SFTs, which states: "open repos or reverse repos and similar transactions which can be terminated by either party on any day shall be considered to mature overnight unless the notice period is longer than one day in which case they shall be reported in the relevant time bucket according to the notice period."

It has been brought to the attention of the ERCC that there have been discussions within the ECB's Capital Markets and Treasury Experts Group (CME) as to whether open-SFTs could be considered as "contingent inflows" or "outflows" from the perspective of the LCR calculation, rather than as overnight or very short-dated SFTs, with possible implications for the ability of supervised banks to net open-SFTs. This could in effect result in an asymmetrical treatment of open-SFTs, depending on whether they generate inflows or outflows, with potentially adverse consequences for banks' ability to manage their LCR. In a worst-case scenario, banks would record no inflow value from their open-repos/loans while reporting a full outflow for their open-reverses/borrows.

The ERCC notes that the likely behavioural impact of this would be for supervised banks to no longer transact open-SFTs and instead transact overnight or very short-dated SFTs on a rolling basis. Apart from the associated efficiency loss and increased settlement risk, this presents a more fundamental issue for many buy-side firms, including pension funds and asset managers, that are restricted from lending securities on a fixed-term basis. This would potentially cut off an important source of collateral supply to the market and would come at a time when there are growing concerns around the availability of certain classes of high-quality liquid assets, as well as the ability for certain fund types to access the repo and securities lending market. A further unintended consequence of a revised treatment of open-SFTs could be a migration of repo activity to jurisdictions that take a less restrictive view.

The ERCC looks forward to engaging with the ECB further on this issue and will keep members updated of any further developments.

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## LCR and triparty

On 5 January 2022, ICMA submitted a formal Q&A to the European Banking Authority related to the calculation of the Liquidity Coverage Ratio (LCR) and triparty repo.

Basel FAQ 27-d406 (now Basel CF LCR40.79) Paragraph 146 states that there is an inflow rate of 0% when collateral received through a secured lending transaction is reused to cover a short position, including matched repo books where the collateral reuse transaction has a longer maturity than the secured lending transaction. This rule reflects the risk that it may not be possible to roll over the shorter-term transaction at maturity in order to continue borrowing the collateral reused in the longer-term transaction.

The rule overlooks the fact that, in the case of a tripary allocation, the triparty agent would automatically substitute the collateral being reused in the longer-term transaction were it no longer available to the party reusing it (because the short-term transaction supplying the collateral had not been rolled over). This substitution involves no action by either counterparty to the triparty transaction. Furthermore, triparty allocation logic cannot distinguish between long-term and short-term sources or uses, so inadvertently creates inflow reuse (such reuse can be prevented where collateral can be directed bilaterally). Any such reuse is automatically resolved by the triparty agent upon the unwind of short-dated transactions.

The ERCC has proposed that the EBA clarify that where the collateral given in a reverse repo with a residual maturity of up to 30 days is being funded in a repo with a residual maturity of more than 30 days, and where the collateral is allocated on an automated basis and managed by a third-party agent, the bank can report an inflow in respect of the reverse repo for the purpose of LCR, so long as the repo has automatic rights of substitution for collateral of the same or better HQLA classification.

In previous discussions with the EBA on this issue, it has been suggested that the rule is intended to apply in the case of triparty, even where that allocation of collateral is automated and managed through a third party, and where there are full rights of substitution.

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## ERCC buy-side repo workshop

ICMA will be holding a buy-side repo workshop on 9 February 2022. The invitation only workshop is intended to bring together a range of different buy-side participants in the European repo market to discuss how they use the repo market and potential challenges related to market access, particularly in times of illiquidity, such as calendar year-end or other reporting periods, or market stress, as in the case of the COVID-19 related turmoil in early 2020.

The workshop will look to cover the following themes:

- What is the buy-side profile of the market? What types of investors access the market and for what purpose (short-covering, leverage, yield enhancement, margin or liquidity management, etc)?
- How important is repo market access for different investor types?
- What are the challenges different investor types face accessing the market?
- What approaches are firms taking to manage these challenges?
- What could help improve access and liquidity, particularly in times of stress or heightened volatility?

The aim of the workshop is to identify the various challenges that different buy-side types face. This will set the scene for a potential second workshop which is intended to include both buy-side and sell-side stakeholders and to broaden the discussion to the challenges facing liquidity providers.

Based on the discussions and identified challenges, ICMA intends to produce a white paper that can be used to help inform policy makers, regulators, and other market stakeholders.

ICMA would strongly encourage buy-side firms active in the European repo market to participate in this workshop to ensure that the broadest range of views and experiences are represented, and that this is reflected in the resulting white paper and any associated advocacy. This may be particularly important as regulators intensify their focus on the role of non-bank financial intermediaries in various markets and seek to address any perceived vulnerabilities or systemic risks.

Any firms interested in participating in this workshop should contact Leonie Scott. More details will be made available in January 2022.

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## Legal developments

### *GMRA Clause Library & Taxonomy Project*

On 13 October, ICMA launched a four-month initiative with global lawtech and legal data consulting firm, D2 Legal Technology (D2LT), to develop ICMA's Global Master Repurchase Agreement (GMRA) Clause Taxonomy and Library. This is aimed at standardising and improving efficiencies in the process of negotiating and managing repo transaction documentation. The primary objective of the ICMA Clause Taxonomy and Library Project is to build an industry-wide, foundational clause taxonomy that - through digitisation - will further support ICMA's primary goal of promoting resilient well-functioning international and globally coherent cross-border debt securities markets, essential to fund sustainable economic growth and development. Following the launch, ICMA established an ERCC Clause Library & Taxonomy Working Group to support the project. The group has been meeting on a weekly basis to review examples of market variants of specified GMRA clauses provided by members. The work is scheduled to continue until the end of January 2022.

### *Initiatives with Frontclear*

As part of ICMA's ongoing collaboration with Frontclear, we hosted a series of webinars highlighting how coordinated, cross agency efforts can drive legislative reform to develop repo markets. Previous episodes focused on Ghana, Uganda and Nigeria. Recordings of these webinars are available on the ICMA media library. Further to these discussions we are pleased to note positive developments in each of these jurisdictions, in particular in Uganda where legislative amendments have improved the environment for netting enforceability. More information about this is available via a recent ENS client memo.

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## Repo market data

### *European repo market survey*

On 30 November 2021, ICMA released the results of its 41st semi-annual survey of the European repo market. The survey, which calculated the amount of repo business outstanding on 9 June 2021, from the returns of 59 financial institutions sets the baseline figure for European market size at a record high of €8,726 billion, up by 5.3% from €8,285 billion in the December 2020 survey. Besides the usual data points, the report includes a detailed additional section looking more closely at the European tri-party repo market, based on data reported directly by the triparty agents over the past years as part of the ICMA survey. ICMA is currently in the process of reviewing the methodology of the repo survey to assess possible synergies from aligning the survey more closely with SFTR reporting.

### *APAC repo markets*

On 14 December 2021, ICMA's ERCC and ASIFMA published the results of the latest survey of the Asia-Pacific (APAC) repo market. The APAC survey was developed using similar methodology to the established European repo market survey. It reports the outstanding value of repos and reverse repo on 9 June 2021, and a detailed breakdown of those positions. The report splits the APAC survey into two parallel surveys, one for trading repo in Japan and the other for rest of the region. The main focus of the business surveyed is cross-border transactions by global and regional banks, rather than domestic activity. The ICMA/ASIFMA survey is the only source of data on this business.

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## Other repo and collateral market developments

*Increase in ECB limit for PSPP and public sector PEPP securities lending against cash collateral*: On 15 November, the ECB increased the limit from €75 billion to €150 billion, among other things to reflect the increase in the stock of acquired assets over time.

*SEC proposal to increase transparency in securities lending:* On 18 November, the Securities and Exchange Commission (SEC) published a proposal for a rule to increase transparency in the US securities lending market. Under the proposed rule securities lenders would be required to report the material terms of their transactions to a registered national securities association which would then make the information available to the public. The proposal is open for public comments.

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## ERCC General Meetings

On 13 October 2021, the ERCC held its autumn General Meeting. A focus of the virtual event was sustainability with a keynote address by ECB Deputy Director General Torsti Silvonen on the ECB's climate change roadmap, followed by a panel discussion with market practitioners on the role of repo in sustainable finance. Another important topic was the ongoing industry work on settlement efficiency in preparation for the upcoming go-live of CSDR settlement discipline which was covered in a second panel. A recording of the full event is available here, along with a series of pre-recorded updates on other important ERCC initiatives and topics.

The ERCC's next AGM is scheduled for 22 April 2022 and will be held in the margins of Euroclear's annual collateral conference in Brussels. Further details will be announced in due course.

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# Sustainable Finance

by **Nicholas Pfaff, Valérie Guillaumin, Simone Utermarck, Ozgur Altun** and **Julia Rodkiewicz**





## Introduction

We provide in this update key takeaways from the recent COP26 meetings in Glasgow. Along with market developments, we highlight an important joint publication with UN Women and the IFC in the form of *A Practitioner's Guide to Using Sustainable Debt for Gender Equality.* On the regulatory front, we analyse the wider social agenda of the European Union in relation to sustainability regulation and provide an update on the status of the EuGB draft legislation. We also report on the efforts to engage with the official sector in Asia to promote consistency between emerging regulations and market guidance represented by the Principles.

## Takeaways from COP26

On 12 November 2021, the latest Conference of the Parties (COP26) ended with the signing of the Glasgow Climate Pact. With current emission cuts not being sufficient to reach the 2°C goal of the Paris Agreement, let alone the aim of 1.5°C, the Pact sets a challenge for nations to come back this year in Egypt with improved 2030 targets. Assessing progress on nations' climate plans then will be helped by an agreement for new rules on transparency and emissions reporting as well as standardised emissions reporting practices from 2024. One of the most interesting developments, especially in light of the recent IEA report, is the agreement made to accelerate efforts towards the phase down of unabated coal power as well as the phase-out of inefficient fossil fuel subsidies and recognition of support for a just transition. While this does not signal a comprehensive phasing out of fossil fuels, it marks the first time they have been explicitly included in a UN climate agreement.

In another first, an agency has been established to consider the request from poorer nations for a dedicated fund compensating them for the damage caused by historical emissions of rich nations. Moreover, the pact commits rich nations to deliver on their promises to mobilise $100 billion a year in climate finance through to 2025 and to agree on a new goal beyond that point. A further positive outcome was that rich nations agreed to double the funding available for climate change adaptation by 2025, as the focus to date had mainly been on mitigation. Finally, progress was made regarding the rules governing international carbon markets as the risk of double counting carbon credits has now been addressed.

While the Glasgow Pact was the major outcome of COP26, we also saw several important announcements made during Finance Day. Representing the UK as host of the conference, Chancellor Rishi Sunak confirmed London's plans to become the world's first Net Zero-aligned Financial Centre which will include new requirements for UK financial institutions and listed companies to publish net zero transition plans that detail how they will adapt and decarbonise. Further announcements from the UK came from the FCA which stated support for a market-led transition to a more sustainable economy and that it would embed climate and wider ESG considerations as a golden thread through everything it does. Finally, the Bank of England's Governor Andrew Bailey announced a shift in the Bank of England's approach to ensure its supervisory expectations on climate are met through the Corporate Bond Purchase Scheme (CBPS) by using its role as an investor for monetary policy purposes to incentivise firms to take meaningful actions in support of climate transition.

In a wider global context, IFRS Trustees announced the formation of the International Sustainability Standards Board (ISSB) to develop sustainability disclosure standards which will be similar but not as comprehensive yet as what the European Financial Reporting Advisory Group (EFRAG) is doing under the Corporate Sustainability Reporting Directive (CSRD) in the European Union (EU). For that purpose the Technical Readiness Working Group (TRWG) has developed prototype climate and general disclosure requirements which consolidate key aspects of different reporting standards from the Climate Disclosure Standards Board (CDSB), the Value Reporting Foundation (consisting of the Integrated Reporting

Framework and the Sustainability Accounting Standards Board (SASB) Standards), the International Accounting Standards Board (IASB), the Financial Stability Board's Task Force on Climate-related Financial Disclosures (TCFD) and the World Economic Forum (WFE) supported by the International Organization of Securities Commissions (IOSCO) and its Technical Expert Group of securities regulators.

Importantly, the International Platform on Sustainable Finance (IPSF) announced three major milestones at COP26 of which the most notable was the publication of a draft Common Ground Taxonomy (CGT) which compares the EU Taxonomy with China's Taxonomy (the Green Bond Endorsed Projects Catalogue 2021). It also published the report on Environmental, Social and Governance (ESG) disclosure which provides the state of play and trends of ESG disclosure policy measures across IPSF membership.

The Glasgow Financial Alliance for Net Zero (GFANZ) which comprises firms with over $130 trillion of private capital (including the Net-Zero Banking Alliance, the Net Zero Asset Managers initiative, the Net-Zero Asset Owner Alliance, the Paris Aligned Investment Initiative, the Net-Zero Insurance Alliance, the Net Zero Financial Service Providers Alliance and the Net Zero Investment Consultants Initiative) stated its commitment to transforming the economy for net zero. Lastly, US Secretary of the Treasury Janet Yellen announced that the US would join Britain in backing the Climate Investment Funds' (CIF) new Capital Market Mechanism. The CIF will focus on bonds to "help narrow the clean infrastructure gap" in developing countries by issuing investment-grade bonds and raising significant new finance for scaling clean energy and sustainable infrastructure in emerging economies.

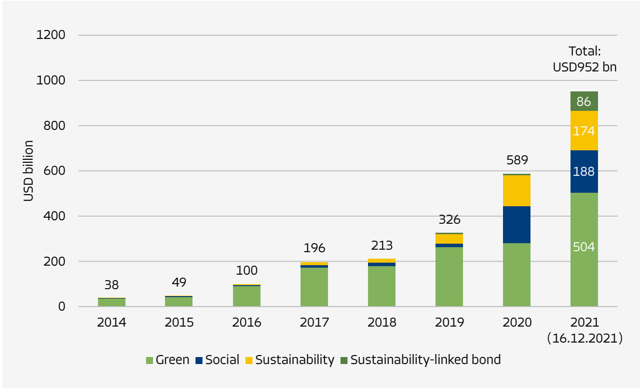
### *ICMA event on role of sustainable bonds in financing the transition*

ICMA organised in the aftermath of COP26 an online event on 30 November 2021 on the topic of the role of sustainable bonds in financing the transition. Prominent issuers including Iberdrola, Enel, Repsol, Atlas and NRG talked about their climate roadmaps, decarbonization strategies and how they are financing their pathways to transition using green and sustainability-linked bonds, as well as additional guidance and recommendations from the Climate Transition Finance Handbook.

The discussion was complemented by the views of key investors, BlackRock and Pimco. The event was moderated by HSBC and Natixis representing the Executive Committee of the Principles.

## Progress in the sustainable bond market in 2021

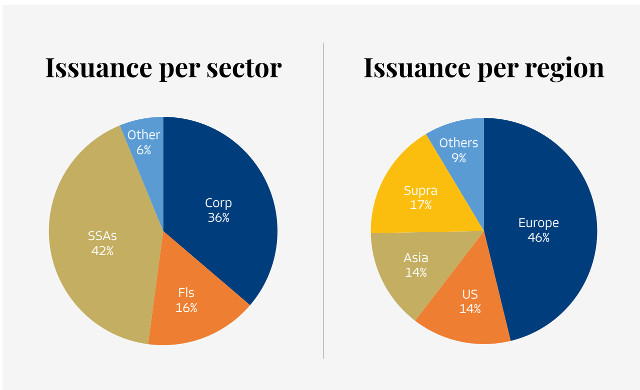
As of 16 December 2021, the sustainable bond market reached USD952 billion, close to a USD1 trillion annual benchmark. Green bonds represented the bulk of this volume with USD504 billion issued, followed by social and sustainability issuance, standing at USD188 billion and USD174 billion, respectively. Sustainability-linked bonds have also emerged as an important segment of the sustainable bond market and at USD86 billion now represent just under 10% of overall issuance




*ICMA analysis based on Environmental Finance Database (as of 16.12.2021) (EF data contact: phil.manley@fieldgibsonmedia.com)*

Looking at issuer categories, SSAs continue to lead with a volume of USD397 billion. A recent major development was the inaugural issuance of an EUR12 billion 15-year green bond by the European Commission under its (up to) EUR250 billion issuance programme of NGEU Green Bonds. Corporates followed closely with sustainable bond issuance of USD345 billion while Financial Institutions reached USD151 billion.

Geographically, the bulk of sustainable bond issuance continues to come from European issuers (USD441 billion, 46% of total issuance), followed by supranationals (USD159 billion, 17%), Asia (USD136 billion, 14%), US (USD135 billion, 14%), and other regions (USD81 billion, 9%).




*ICMA analysis based on Environmental Finance Database (as of 16.12.2021) (EF data contact: phil.manley@fieldgibsonmedia.com)*

Focusing on SLBs, corporate issuers represented over 95% of the total volume (USD86 billion) while over 60% of this came from European issuers. Notable sustainable bond transactions in the last quarter of 2021 included: Teva Pharmaceutical's issuance of the largest SLB to date of USD5 billion equivalent (with multiple tenors and currencies), the Italian motorways and infrastructure firm ASTM's issuance of EUR3 billion SLB (with multiple tenors), a EUR500 million 10-year green bond by the Danish shipping company Maersk, and the issuance of USD3 billion worth of green bonds by the Government of Hong Kong (source: Environmental Finance).

On the investment side, we have also seen important initiatives that signal increasing interest in issuance from emerging markets:

- In October, the Bank for International Settlements announced that it will launch an Asian Green Bond Fund in early 2022, in collaboration with the development financing community, to channel global central bank reserves to green projects in the Asia Pacific Region.
- In November, KfW launched a new fund for green bond investment in Latin America.
- Also in November, Amundi and IFC launched their Build-Back-Better Emerging Markets Sustainable Transaction (BEST) initiative for sustainable bond investments in corporates and financial institutions.

### *Bridging the Gap for Gender Equality: A Practitioner's Guide to Using Sustainable Debt for Gender Equality.*

On 16 November 2021, UN Women, IFC and ICMA launched a new practical guide to using sustainable bond issuances to advance gender equality, entitled *Bonds to Bridge the Gender Gap: A Practitioner's Guide to Using Sustainable Debt for Gender Equality*. Bryan Pascoe, ICMA Chief Executive, together with representatives from IFC, UN Women, Citi and Morgan Stanley discussed the benefits of social, sustainability, and sustainability-linked bonds for channelling more capital toward efforts to achieve gender equality, during an event that ended with the closing remarks of Marta Lucia Ramirez, Vice President of Colombia.

The information provided in this guide is meant to aid the ecosystem of the debt market including new and existing bond issuers, borrowers, underwriters, arrangers, and external reviewers to take action to integrate gender equality objectives into sustainable debt products. The guide complements and supports the implementation of the Social Bond Principles and the Sustainability Linked Bond Principles. It includes practical examples of gender activities that could be considered for use of proceeds, as well as gender commitments and resources that could be relevant for SLB benchmarking. It is agnostic as geography so can applies to issuers located in developed countries or EMs. Please also see in this edition of the Quarterly Report the related feature article from IFC's Denise Odaro.

## S Regulatory developments and dialogue

### *Existing and future social dimensions of EU sustainability regulations*

While the EU Taxonomy focuses on environmental objectives, the fact that it also already incorporates social and governance aspects through the Minimum Safeguards (MS) seems to be less well understood. Compliance with MS had initially been added as a condition for economic activities to qualify as environmentally sustainable by the European Parliament and Council in order to pursue the principles enshrined in the European Pillar of Social Rights in support of sustainable and inclusive growth and recognising the relevance of international minimum human and labour rights and standards.

Concretely, Article 3 of the TR states that economic activities should be carried out "in compliance with the minimum safeguards laid down in Article 18". These are the OECD Guidelines for Multinational Enterprises and UN Guiding Principles on Business and Human Rights, including the International Labour Organisation's (ILO) declaration on Fundamental Rights and Principles at Work, the eight ILO core conventions and the International Bill of Human Rights. The EU PSF has been mandated to advise the European Commission (EC) on the functioning of these MS which will have to be considered whenever any EU regulations mention "Taxonomy alignment".

ICMA has expressed its concerns with MS (as well as DNSH) in relation to the green bond market with respect to, for example, data availability (see EU GBS Consultation October 2020). That said, the principles covered in the MS are not just part of the TR. Looking at other existing and in progress EU sustainability legislation, it is noticeable that they all reflect social and governance in addition to environmental aspects. The principle adverse impact (PAI) indicators under the Sustainable Finance Disclosure Regulation (SFDR), for example, also contain most of the principles listed under the MS.

Furthermore, the proposed Corporate Sustainability Reporting Directive (CSRD) will require reporting on certain ESG aspects including Taxonomy alignment. (ICMA published an update on the EU Disclosure Regime in September 2021.) This could be extended to include a social taxonomy in the future. The EU Platform on Sustainable Finance (EU PSF), of which ICMA is a member, will notably publish a Social Taxonomy Report in early 2022.

Finally, another initiative resulting from the EU Action Plan 2018 to be aware of is the Sustainable Corporate Governance Initiative (SCGI). The overall aim of the initiative is to better align the interests of companies, their shareholders, managers, stakeholders and society while helping companies to manage sustainability-related matters in their own operations and value chains with regards to human rights, climate change and the environment. It will potentially go even further than just the MS by introducing mandatory environmental and human rights due diligence legislation. Relatedly, several European countries, notably France, Germany, the Netherlands and Norway, already have due diligence laws in place that look at social factors within an organisation and its supply chain. A proposal for the SCGI is expected in early 2022.

## *Update on the EuGB Regulation*

In parallel with the progress of the roll-out of the EU Taxonomy with the European Council's approval in December 2021 of the EU Taxonomy climate Delegated Act (DA) including Technical Screening Criteria (TSC) for climate change mitigation and adaptation activities, the legislative process on the proposed Regulation for European green bonds is now well under way. As background, the European Commission published its proposal to establish a voluntary standard for green bonds in July 2021. ICMA commented on the proposed EuGB Regulation shortly after its release. We have also been engaging with the co-legislators to provide feedback directly on the proposal.

On 5 November 2021, the European Central Bank issued an Opinion to the European Parliament recommending among other that the standard become mandatory for newly issued green bonds, "within a reasonable time frame, eg 3 to 5 years". The ECB argued that it would: (i) make it the prime standard in the EU and would lead to a European green bond market consistent with the Taxonomy; (ii) mitigate greenwashing concerns; (iii) create certainty for markets; and (iv) incentivise issuers to apply the EU GBS (before it becomes mandatory). However, the ECB warned against possible unintended consequences in its Opinion.

As the most recent development, the *Rapporteur* of the file in the EU Parliament published its proposed amendments to the draft Regulation ("*Rapporteur* Amendments"). The *Rapporteur* Amendments reflect a fundamental shift from the Commission's original proposal and intention. They add new requirements for the European green bond designation and propose that it become mandatory for all green bonds between 2025 and 2028. They also introduce comprehensive mandatory requirements for all new sustainable bonds, aiming to regulate the entire European sustainable bond market via the EuGB Regulation. They would lead to the imposition of a host of additions relating to disclosures, reporting and external verification at both the product and issuer level. We believe that collectively these measures would fundamentally change the liability and costs incurred by issuers in the European sustainable bond market.

The potential unintended consequences of the *Rapporteur* Amendments include fragmentation of the international sustainable bond market that overwhelmingly follows the voluntary standards represented by the Principles and supported by ICMA, potential migration of European sustainable bond issuers to other jurisdictions, and contraction of the European sustainable bond market. We have summarised our concerns in a recently published update.

## *Engagement with regulators in Asia*

In China, we continue to work closely with NAFMII on sustainable finance and to promote alignment with the Principles. Following the success of NAFMII's Q&A on sustainability linked bonds published in April (which reflected substantive advice by ICMA and explicitly references the SLBP), NAFMII released the Q&A on *Pilot Program of Social Bonds and Sustainability Bonds* (English version) in November 2021. This is based on the SBP and SBG and is another effort by NAFMII to align with the Principles and signals the official launch of the concepts of social and sustainability bonds in China onshore.

In Japan, we were closely involved in the discussion with the Financial Services Agency of Japan (FSA) early in their process of developing Japan's Social Bond Guidelines. With ICMA's feedback incorporated, the FSA published in October 2021 its Social Bond Guidelines, consistent with the SBP and intended for use as reference when considering specific measures regarding Social Bonds issued by ordinary companies in the private sector. In May 2021, Japan's METI, FSA, and Ministry of Environment jointly published the Basic Guidelines on Climate Transition Finance to which ICMA also provided its input and which explicitly confirms alignment with the Climate Transition Finance Handbook.

In Southeast Asia, we continue to engage with the ASEAN Capital Markets Forum (ACMF) and have been appointed to the Industry Advisory Panel established by the ACMF and the ASEAN Working Committee on Capital Market Development. Through our representation at the Industry Advisory Panel, which serves as their core industry interaction point on the ASEAN sustainable finance initiatives, we have provided feedback to the design of the ASEAN Taxonomy. In November 2021, the ASEAN Taxonomy for Sustainable Finance (ASEAN Taxonomy) – Version 1 was released by the ASEAN Taxonomy Board. We will continue to work with the regulatory authorities on the further development and application of the ASEAN Taxonomy. We are also advising other regulators and infrastructures in the region, such as Malaysia, Taiwan, and Thailand, on their proposed rules to recognize and promote Sustainability Linked Bonds.

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# Asset Management


by **Arthur Carabia and Irene Rey**

## AIFMD and ELTIF reviews

The European Commission (EC) published on 25 November 2021 its long awaited proposals to review the Alternative Investment Fund Managers Directive (AIFMD) and the European Long-Term Investment Funds (ELTIF) Regulation, as part of a series of measures to bolster the Capital Markets Union (CMU).

Before going into the details of the two proposals, it is important to put these two texts into perspective. On the one hand, the AIFMD review, which also amends the UCITS Directive, will impact the entire EU fund industry (ie AIFs with €7.7 trillion in AUM and UCITS with €13.1 trillion in AUM). On the other hand, the ELTIF review remains an optional label available to AIFs following specific investment and risk management rules. (So far ELTIFs have managed only €2.4 billion in AUM).

### *Key amendments to the AIFMD and the UCITS Directive*

The AIFMD review has potentially far reaching consequences for the asset management industry. Both the AIFMD and the UCITS Directive will be amended in accordance with four core objectives :

- *Enhance supervisory data:* The EC proposes to "improve access to relevant data collection for both national and EU authorities and remove inefficient reporting duplications". The change in the scope of supervisory reporting is not yet clear as ESMA is tasked to propose new supervisory reporting templates (not in place yet for UCITS). Undoubtedly, a change in requirements will necessarily imply a modification of firms' reporting systems and another operational challenge is cost. It is worth remembering that there are currently around 300 data fields reported by AIFs (eg characteristics of the AIF, detailed information on assets, several risk features). This comes on top of other reporting requirements such as those under the Liquidity Stress Testing Guidelines, SFTR, EMIR and MiFID.
- *Harmonise Liquidity Management Tools (LMTs):* The proposed amendments would require open-ended funds to choose, on top of suspension, one type of LMT (among a harmonised list) and notify NCAs when using such tools. Implementation measures developed by ESMA will specify the details of LMTs and the selection and use of suitable LMTs. NCAs would also be empowered to require fund managers to activate or desactivate LMTs. Although the fact that LMTs will now be available on a pan-European basis is welcome, it is worrying that the use of LMTs could be complicated by detailed provisions and that, if they were mandated by NCAs according to certain market parameters, this could actually generate procyclical behaviour. Ultimately, AMIC firmly believes that the deployment of LMTs should remain at the discretion of fund managers.
- *Delegation:* The delegation allowed under the UCITS Directive and AIFMD enables asset managers to set up a fund in the EU and carry out portfolio management or risk management activities from other jurisdictions. The EC proposes to specify that AIFMs and UCITS management companies should employ at least two persons resident in the EU on a full-time basis as a minimum and that they must demonstrate that they have appropriate technical and human resources to supervise delegates. ESMA should be provided with delegation notifications where more than half of the portfolio management, or risk management functions, are delegated to entities located in third countries. A notification form with data fields will be developed by ESMA which will also be mandated to conduct peer reviews on the enforcement of delegation rules and in particular the prevention of letter-box entities (subject to a future delegated act for UCITS). While AMIC appreciates the EC's targeted approach, the co-decision process and Level 2 mandates mean that the delegation model, which is crucial to global investors, is still at risk.

- *Post-trade:* The EC proposes to (i) improve the availability of depositaries in concentrated markets with few depositaries (by enabling NCAs to allow the AIFs concerned to appoint a depository situated in another Member State) and (ii) smooth the functioning of the custody chain (by enabling the depositories to obtain the necessary information on portfolio movements and to perform their oversight duties where the fund's assets are kept by a Central Securities Depository).

## *Loan originating funds*

The amendments to AIFMD also introduce common minimum rules regarding loan originating funds to operate on a cross-border basis. At the same time, the proposed rules address potential risks related to this type of fund. For instance, it must be closed-ended where the notional value of its loan origination is over 60% of its NAV; and it has to retain 5% of the notional value of loans it has originated and subsequently sold on the secondary market. Although AMIC understands the risks that these provisions are trying to mitigate, it believes there are more efficient ways to tackle them (ie lock-up periods and redemption windows in the case of fund liquidity risk or a minimum holding period in the case of moral hazard).

## *ELTIF Regulation review*

Despite being less strategic for the industry, the ELTIF review proposal is positive. The EC has left no stone unturned to facilitate the uptake of these vehicles. The main features of the review could be described as follows :

- *Distinction between professional and retail investors:* Under the proposed framework, ELTIFs distributed to professional investors will be exempted from portfolio diversification and concentration rules and will be able to increase cash borrowings up to 100%. These amendments are needed, otherwise professional investors would continue to opt for AIFs or a bespoke portfolio within an individual mandate for which there are no such restrictions.
- *Broadening of eligible assets*: The proposal broadens the list of eligible assets, notably by clarifiying the scope of real assets, allowing investment in UCITS and EU AIFs (provided that they invest in eligible assets) and certain STS securitisations, raising the market capitalisation for listed companies from €500 million to €1 billion. The EC also suggests lowering the minimum proportion of eligible assets to 60% (instead of 70%). Having both a restrictive definition of "eligible investment assets" and a high mandatory threshold certainly helps explain the lack of success enjoyed by the label so far. AMIC therefore welcomes the changes introduced by the EC.
- *Simplifying retail distribution rules*: The EC proposes to facilitate retail distribution by deleting the minimum entry ticket of €10,000 and the 10% investment limit in ELTIFs and simplifying the suitability test requirements and avoid duplications. (Currently, both MiFID and ELTIF apply but under the review only MiFID will apply). AMIC welcomes these changes but is concerned that ELTIFs would still qualifiy as complex products under MiFID suitability requirements. Although it is not a ban, it creates hurdles for asset managers and makes ELTIFs unattractive for distribution to retail investors.
- *Fund liquidity:* The EC proposal allows for the possibility of an early exit of ELTIF investors (where the manager of the ELTIF has put in place a policy for matching potential investors and exit requests). ESMA is also tasked to develop RTS to further specify the circumstances for redemptions. This is welcome as some investors may indeed value the ability to redeem at some periodic interval (in accordance with the nature of the fund's assets). AMIC would also suggest leaving the option to have a defined or non-defined lifetime at the discretion of the asset manager. The current Regulation and review require to define the fund's life-cycle based on the asset with the longest life-cycle. This makes ELTIFs less attractive when compared to other *vehicles.*

## *What is ICMA's AMIC doing about this?*

AMIC organised a session on 8 December 2021 with its Risk Management Working Group and European Commission representatives who presented their two proposals. In 2022, AMIC intends to build on its previous work (see below) to engage with the European Parliament and the Council (which are now reviewing and amending these two proposals).

### AMIC papers

January 2021 AMIC EC AIFMD consultation response

October 2020 AMIC position on
ESMA letter on AIFMD review

January 2021 AMIC EC ELTIF consultation response

January 2020 AMIC ELTIF discussion paper

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## The SFDR RTS

The Sustainable Finance Disclosure Regulation (SFDR) is one the first initiatives launched under the EU Sustainable Finance Action Plan and a key regulatory development for investors. The SFDR mainly intends to enhance sustainability and transparency of financial products, such as investment funds, mandates, pension funds/products and certain insurance products, and those who issue/sell them (asset managers, asset owners and financial advisers) through website and pre-contractual disclosures as well as periodic reports.

Whilst market participants were required to apply most of the high-level, entity-level and product-level provisions as of 10 March 2021, they have been waiting for the finalisation of more granular implementation and reporting measures. In October 2021, the ESAs finally published their long awaited RTS for Taxonomy product alignment disclosures and in November 2021, the European Commission clarified the implementation timeline in a letter to the European Parliament and the Council indicating a further delay the application of the SFDR RTS to 1 January 2023.

### *Key provisions in the final SFDR RTS*

- *Taxonomy-aligned investment will no longer automatically be an SFDR compliant "sustainable investment".* SFDR and the Taxonomy have their own Do No Significant Harm (DNSH) test. The ESAs had originally proposed to exempt Taxonomy-aligned investment from the SFDR DNSH test. But for legal reasons this is not possible any more. As a result, Taxonomy-aligned investments will no longer automatically be an SFDR compliant "sustainable investment" and will have to pass the SFDR DNSH test, which requires among other to consider a broad list of KPIs listed in the draft RTS related to climate and social aspects such as greenhouse gas emissions, biodiversity, water, waste and social and employee matters.
- *Sovereign exposure:* As highlighted in ICMA's position paper in the context of the Delegated Act supplementing Taxonomy Article 8 published in July, there are unintended negative consequences of excluding sovereigns in the calculation of the Taxonomy KPI. The ESAs have addressed this issue in the context of Article 5 and 6 as asset managers will now have to disclose again two KPIs: one including sovereign exposures (it includes any investment that results in an exposure to central governments, central banks and supranational issuers) and one excluding them. This addresses the concern of products ending up with low Taxonomy alignment figures where they have high sovereign exposures given that there is no methodology for determining Taxonomy alignment for sovereign exposures. The EC is only expected to come up with a methodology for sovereigns by 30 June 2024 at the earliest.
- *Turnover, CapEx, OpEx:* Updated pre-contractual and periodic SFDR templates for product disclosures. For pre-contractual disclosures, FMPs need to show their Taxonomy alignment by using turnover as the default KPI for non-financial investee companies (CapEx or OpEx can be used instead in the case they can demonstrate them to be more representative KPIs for Taxonomy alignment). For periodic disclosures, FMPs need to show their Taxonomy alignment against all three KPIs on non-financial investee companies.
- *Data:* Products will have to disclose their level of Taxonomy alignment. For this purpose the use of third party data providers may be relied on. This goes against the Article 8 entity rule, which rules out the use of estimates for Taxonomy reporting, requiring the use of Taxonomy data reported by investee companies exclusively.

### *Timeline*

In November 2021, the European Commission wrote to the European Parliament and the Council to indicate its intention to further delay the application of the SFDR RTS to 1 January 2023.

It is important to note that the EC has the power to amend the text while the European Parliament and the Council can only veto the text. Therefore, while the delay provides additional time for managers to comply, uncertainty remains as to what these final rules will look like.

Furthermore, the delay does not address all the timeline mismatches:

- *Legal mismatches:* The Level 1 Taxonomy product disclosures deadline of 1 January 2022 remains despite the letter from the EC on the delay of the SFDR RTS. Likewise the Level 2 amendments to MiFID on sustainability preferences requiring distributors to ask clients if they would like a Taxonomy-aligned product will apply as of August 2022. It is unclear whether firms still have to comply with these two requirements despite the fact that the RTS containing the product taxonomy methodology will not apply until 1 January 2023.
- *Issuer mismatch:* Issuers will only start disclosing their Taxonomy alignment *from* January 2023, whereas financial products need to start disclosing their taxonomy alignment as of January 2022 before the reported data from the companies is available.

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## MiFID sustainability preferences

In an effort to promote the green agenda, MiFID suitability assessments will from 2 August 2022 include the consideration of clients' sustainability preferences. When undertaking the suitability assessment and after assessing clients' investment objectives and time horizon etc, the financial adviser will have first to explain whether the distinction between products which are aligned to the EU Taxonomy are sustainable as defined under SFDR, and to consider principal adverse impacts and products which do not include any of these features. Clients would then have to respond to a questionnaire in order to determine their sustainability preferences where they will be asked whether they want their products to have a minimum proportion of investments to align with the EU Taxonomy, and be sustainable as defined under SFDR or consider principal adverse impacts (PAI).

AMIC has started to engage with members on this subject as it is anticipated that, by end of January 2022, ESMA will issue a consultation paper on revised suitability guidelines to reflect the amendments to MiFID. The key issue expressed by members is the 2 August 2022 deadline where the necessary data will still be unavailable as the SFDR RTS containing both the product Taxonomy methodology and the list of PAI on sustainability factors have been postponed to 1 January 2023 and the full data set related to climate change mitigation and adaptation activities will only be available by 2024. There is a concerning discrepancy between the implementation deadlines and firms will have to rely heavily on the use of estimates when offering products to their clients which could lead to reputational and liability risks. It is also critical to match the regulatory definitions with current market practices and to provide as much clarity as possible in order to make the concepts (Taxonomy aligned, sustainable investment, PAI) understandable and easily digestible by end-retail investors and ensure they pick the most appropriate products.

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# FinTech in International Capital Markets

by **Gabriel Callsen and Rowan Varrall**

## ICMA FinTech Advisory Committee

ICMA's FinTech Advisory Committee (FinAC) reconvened on 23 September and 1 December 2021. In September, FinAC discussed latest developments in relation to digital currencies and implications for the international debt capital markets, as well as FinTech and sustainability.

The spectrum of digital currencies is broad, ranging from cryptocurrencies such as Bitcoin, which are not backed by any underlying asset, to stablecoins, pegged to a fiat currency, for instance, and central bank digital currencies, which constitute a direct liability of a central bank. Use cases vary and it is important to distinguish implementation in wholesale markets such as intragroup or interbank payments, foreign exchange, and delivery-versus-payment (DvP) transactions from retail use, for example, to promote financial inclusion or enable "programmable money" for tax collection purposes. While the key features and benefits are broadly understood, the key risks, such as disintermediation of the existing payment systems and market infrastructure, are less so and warrant further scrutiny.

The role of FinTech to support sustainable bond markets continues to be a growing area of interest, following a previous roundtable discussion. ICMA staff provided a *tour d'horizon* of latest developments in Asia-Pacific, including official sector as well as private sector initiatives. Data management capabilities will be of critical importance to meet forthcoming ESG disclosure obligations in the EU, which are summarised in a recent ICMA publication. To increase transparency and promote best practices, the Executive Committee of the Principles issued in June 2021 *Guidelines for Impact Reporting Database Providers* alongside a mapping of such providers that ICMA keeps updated. The annual consultation, conducted in Q4 2021 by ICMA on behalf of the Executive Committee, sought feedback on usage and potential expansion, amongst other considerations.

In December, the agenda featured a presentation on Project Genesis on green bond tokenisation: a joint initiative between the HKMA and the BIS Innovation Hub Hong Kong. Members furthermore exchanged views on ICMA initiatives, including the proposal for a common data dictionary for primary bond markets.

Further information on the FinAC can be found on ICMA's dedicated FinTech webpage.

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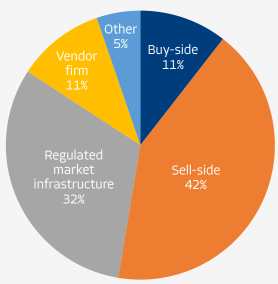
## Common Domain Model for repo and bonds: ERCC survey results and next steps

Following completion of phase 1 of the CDM for repo and bonds, ICMA conducted a survey amongst the ERCC community to help determine next steps, understand member firms' priorities, considerations for implementation, as well as IT budget allocation in the next five years. 19 organisations took part in the survey, including a variety of stakeholders which is reflective of the ERCC's composition.

**Survey Participants**



## *Key take-aways*

Participants unanimously agreed that they saw merit in further extending the CDM from a repo perspective. According to 75% of participants, a key priority going forward should be to support further transaction management in the CDM, including processes related to settlement, but also confirmations and affirmations. Nearly 50% indicated that processing other repo structures by the CDM, notably floating-rate and open repos, as well as "evergreens" (ie open or fixed-term repos with an extended termination notice period), should be prioritised. Collateral baskets as well as collateral-focused processes, such as income payments or margining, were of equal importance for approx. 50% of survey respondents. For more than a third of respondents, supporting regulatory reporting by the CDM is considered a priority: for example, to harmonise reporting across SFTR, EMIR and MIFD II/R, or to facilitate the translation of transaction data into ISO20022, which is a common format for regulatory reporting.

Following completion of phase 1, around 75% indicated they would raise awareness internally while roughly a third of respondents said they would conduct an internal proof of concept. In addition, 6% intend to implement the CDM in a production environment. Implementation of new IT applications such as the CDM is generally not expected to be a short-term process. Indeed, according to 95% of respondents, integration of the CDM within the existing IT infrastructure such as trading systems, position keeping, risk management and other systems would require more than one year. Finally, while the CDM as a standardised model is expected to drive down operational costs by fostering automation, there is an initial cost of implementation. It is therefore important to understand member firms' IT budget allocation. Over the next five years, regulatory reporting and compliance are key priorities in terms of IT expenditures for 71%, while developing new products and services are IT budget priorities for nearly 60% of survey respondents.

## *Next steps*

Based on the feedback received through the survey, ICMA is preparing a roadmap for a potential future development phase of the CDM for repo and bonds, including lessons learned from the first phase, and proposed specifications for review by the ERCC. In parallel, ICMA will continue to raise awareness with a view to promoting adoption. At the same time, ICMA will continue to work closely with ISDA and ISLA in the spirit of the MoU signed in August 2021, in particular on governance arrangements and the potential involvement of a neutral third party to host the CDM going forward.

ICMA members can access the CDM for repo and bonds as well as recordings and further materials via ICMA's website.

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by **Jane Duscherer**

# Common Domain Model: a bond market perspective

Electronic trading of fixed income has grown rapidly in recent years, and we see this trend continuing globally, as developed markets mature and emerging markets electronify. As a result, ever more data related trade events and processes are becoming available. This points to a compelling case for standardising bond market data representation to reconcile trades, to tackle data quality issues related to market transparency, and to foster greater automation through the use of blockchain and artificial intelligence/machine learning. The Common Domain Model (CDM) proposes to lay the foundation for this, and ICMA, in collaboration with ISDA and ISLA, and in partnership with REGnosys, have completed the first phase in its initiative to extend the CDM to repo and bonds.

CDM provides the single common digital representation of trade events and actions across the lifecycle of repo and bonds, securities lending, and derivatives. It is now being considered for wider adoption by the corporate bond market in light of the many perceived benefits of improving internal efficiencies within firms, particularly around processes such as settlement, risk management, and regulatory reporting. It should also make it easier to build out a central hub of data which can be accessed by different areas of an institution, ensuring the consistency of data used across the firm. CDM also has the potential to drive greater interoperability between different trading venues, order/execution management systems, and CCPs. AxeTrading is a firm believer in interoperability and, as the adoption of electronic trading grows, we believe that the need and demand for this will become greater.

Given the continued growth of new technologies, such as distributed ledgers and cloud services, having consistent common datasets will be an essential building block.

That said, there still seems to be a reluctance to change. As we know, corporate bond markets have until recently lagged behind when it comes to electronification of trading. A lack of market liquidity could be one reason for this. However, recent reports indicate that this could be changing, with increased volumes being traded electronically, and potentially we may be on the cusp of a new revolution and a shake-up of the corporate bond market.[1]

Data is key, and the ability to enshrine consistent data representation for securities across a firm, or to share between organisations, is a potential game changer. As more and more data are produced, becoming essential to trading, and as analytics evolve to enable better transparency and trading decisions, it is vital that there are better efficiencies within a firm's processes in order to ensure that the same data are being used consistently and effectively throughout these workflows. Furthermore, as technologies such as machine learning and artificial intelligence continue to develop and are utilised in financial markets, standardised data within the corporate bond market becomes even more important. Having openness, flexibility, and inter-operability between systems is the route to cleaner and more transparent workflows, with key information that can easily be used and shared internally, as well as externally, both with counterparties and vendors.

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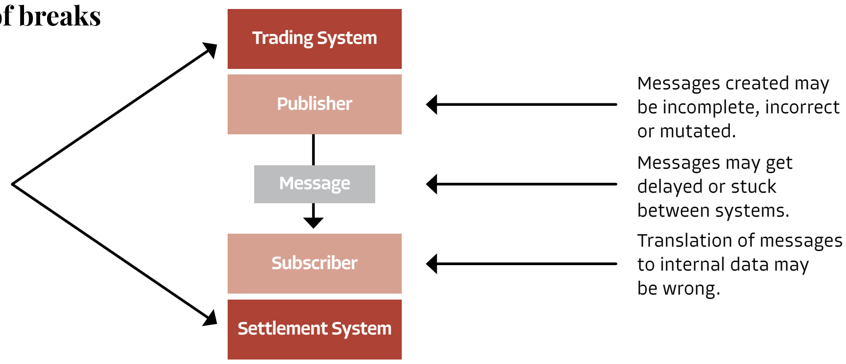
1. Financial Times: "The Big Read Corporate bonds: The next quant revolution: shaking up the corporate bond market" by Robin Wigglesworth and Laurence Fletcher, 7 December 2021.

### Exhibit 1: Source of breaks

- Systems separately enrich trades with data such as security and counterparty data.
- Two systems will use different data models for trades.
- Settlement system may recalculate values already calculated in trading system.




*Source: 'Front-to-Back: Designing and Changing Trade Processing Infrastructure' by Martin Walker, published by Risk Books*

The above diagram[2] illustrates a few of the many different parts of the workflow where using a CDM could help to reduce inconsistent data and help make electronic trading, clearing, settlement, amongst other areas, more efficient while reducing costs for the end-user.

We know that in some quarters there is a strong appetite for a consolidated tape for bonds. Here, the current lack of standards and gaps in the data is giving technology vendors pause for thought. While users and trading venues continue to report using mismatched formats, differing data conventions, and even trade fields completed in differing sequences, it will remain a significant challenge for anyone looking to offer a consolidated tape solution[3]. Perhaps another good reason to look at the CDM.

As more banks and financial institutions look to use blockchain in their processes, a CDM will help to accelerate this technology by standardising the data model and processes that create actionable events and transactions[4].

If we look back to the 1990s, when FIX was first introduced to the fixed income markets to support electronic communication, we can see an example of similar significant change. Initially there was pushback, but over time the market became more accepting and began to realise the commercial benefits of having a common communications standard. Today, the FIX Protocol is widely accepted as the standard for electronic transaction communication by both buy and sell-side firms, trading platforms, and regulators. It uses open standards, with no priority rights belonging to a single entity as to how the FIX protocol is structured, composed, and applied[5]. This has the potential to lead to issues downstream, and as electronic trading becomes more commonplace, this will mean more work for firms' IT teams to ensure that the right data is being captured correctly.

When there is a significant opportunity to reduce errors and reconciliation breaks, allow greater transparency around data, and foster automation, change, in this case the adoption of the CDM, should be embraced.

***Jane Duscherer is a Fixed Income Product Specialist, AxeTrading***

2. "Front-to-Back: Designing and changing Trade Processing Infrastructure" by Martin Walker, published by Risk Books, 24 October 2018.

3. Waters Technology: "Patchy data thwarts consolidated tape hopefuls in Europe" by Josephine Gallagher, 17 November 2021.

4. Finadium: "Common Domain Models: Going Beyond Taxonomies" by Thomas Healey, 19 October 2021.

5. FIX Trading Community: What is FIX? Financial Information eXchange (FIX) Protocol.

# FinTech regulatory developments

## *BIS, Banque de France and Swiss National Bank: successful cross-border wholesale CBDC experiment*

On 8 December 2021, BIS, Banque de France and Swiss National Bank successfully completed *Project Jura*, a cross-border wholesale CBDC experiment. Project Jura explored settlement of tokenised euro commercial paper and foreign exchange transactions. Tests were conducted in a near real-life setting and met current regulatory requirements. Jura studied a new approach for central banks to allow access to CBDCs for regulated non-resident financial institutions.

## *IOSCO GEMC: consultation on its recommendations related to the use of innovation facilitators*

On 7 December 2021, the IOSCO Growth and Emerging Markets Committee (GEMC) requested feedback on proposed recommendations related to the use of innovation facilitators in growth and emerging markets. The consultation report proposes four recommendations for emerging market member jurisdictions to consider when setting up innovation facilitators. The consultation is open until 6 February 2022.

## *BIS FSI: suptech tools for prudential supervision and their use during the pandemic*

On 2 December 2021, the BIS Financial Stability Institute (FSI) issued a report on *Suptech Tools for Prudential Supervision and their Use during the Pandemic*. The Covid-19 pandemic has prompted authorities to rely on virtual inspections, including the increased use of suptech tools to support supervisory risk assessments. As more tools become operational, a critical consideration is to ensure that the tools' outputs support, rather than replace, supervisory judgment. In this context, a comprehensive suptech strategy – that addresses many of these challenges – becomes indispensable, particularly as more supervisory activities migrate to a virtual setting.

## *ECB: CBDC functional scope, pricing and controls*

On 1 December 2021, the ECB published a report on *Functional Scope, Pricing and Controls of CBDC*. Even before their deployment in major economies, one of the concerns that has been voiced about CBDC is that it might be too successful and lead to bank disintermediation, which could intensify further in the case of a banking crisis. After examining ways to prevent excessive use as a store of value, the study emphasises the importance of the functional scope of CBDC for the payment functions of money. The paper also recalls the risks that use could be too low if functional scope, convenience or reachability are unattractive for users.

## *ECB: opinion in relation to crypto-assets*

On 30 November 2021, the ECB issued an *Opinion on a Proposal for a Regulation to Extend Traceability Requirements to Transfers of Crypto-assets (CON/2021/37)*. Regarding the scope of the proposed regulation, the ECB understands that, like that of the proposed MiCA regulation, it is not intended to cover crypto-assets issued by central banks acting in their monetary authority capacity. However, for the sake of legal certainty and in order to fully align the scope of the proposed regulation with that of the proposed MiCA regulation, the ECB proposes to explicitly indicate this in the recitals and provisions of the proposed regulation, amongst others.

## *European Parliament and Council: deal struck on DLT pilot regime*

On 24 November 2021, the European Parliament and Council reached a provisional agreement on the proposal for a Regulation on a pilot regime for market infrastructures based on distributed ledger technology (DLT). Negotiators looked for a balance between allowing innovation and experimentation while preserving financial stability. They therefore decided that financial instruments services provided using the DLT market should be limited and subject to value thresholds, as follows: Shares (EUR 500 million), Bonds (EUR 1 billion), Corporate bonds (EUR 200 million), Units of collective investment undertakings (UCITS) (EUR 500 million). Additionally, operators of DLT can admit new financial instruments only until their total market value reaches EUR 6 billion.

## *ECB: the expanding uses and functions of stablecoins*

On 17 November 2021, the ECB released a report on the *Expanding Functions and Uses of Stablecoins*. The market capitalisation of stablecoins has increased from USD 5 billion to USD 120 billion since 2020. The report concludes that while stablecoins currently pose limited financial stability risks in the euro area, their growing size, usage and connected infrastructure may alter this assessment in the future. Nevertheless, it highlights that the global reach of this market underscores the need for global standard-setting bodies to further assess the extent to which existing standards are appropriate for, and applicable to, stablecoins and close any gaps as necessary.

### *BCBS: work on addressing climate-related financial risks, specifying crypto-assets prudential treatment and reviewing G-SIB assessment methodology*

On 9 November 2021, the Basel Committee on Banking Supervision (BCBS) announced updates on its work regarding climate-related financial risks, crypto-assets, the G-SIB assessment methodology and disclosure standards. Amongst others, members of the Committee reiterated the importance of developing a conservative risk-based global minimum standard to mitigate prospective risks from crypto-assets to the banking system, consistent with the general principles set out in the consultative document. Accordingly, the Committee will further specify a proposed prudential treatment, with a view to issuing a further consultative document by mid-2022.

### *Banque de France: report on its experiments with wholesale CBDC conducted in 2020 and 2021*

On 8 November 2021, Banque de France published a report on its *Experiments with CBDC, conducted in 2020 and 2021*. The tests focused on ways of integrating a CBDC into innovative procedures for the exchange and settlement of financial assets, based on new technologies such as Distributed Ledger Technology (DLT), and in a multi-currency and cross-border setting. The programme complements and builds on the investigation phase for a retail CBDC (digital euro) launched in July by the Governing Council of the ECB, and in which the Banque de France is actively participating.

### *BIS and HKMA: Project Genesis*

On 4 November 2021, the BIS Innovation Hub Hong Kong and HKMA concluded a project to build prototype digital platforms that aim to enable green bond issuance with higher transparency and greater access to retail investors. Project Genesis allows retail investors to buy and sell tokenised green bonds and see the positive environmental impact that the financed projects achieve on an app. The two prototypes show that technologies, including distributed ledger technology (DLT), can be used to streamline the green bond issuance process, while making it easier to track projects' positive environmental impact.

### *US: President's Working Group on Financial Markets report and recommendations on stablecoins*

On 1 November 2021, the President's Working Group on Financial Markets (PWG), joined by the Federal Deposit Insurance Corporation (FDIC) and the Office of the Comptroller of the Currency (OCC), released a report on stablecoins. To address the risks of payment stablecoins, the agencies recommend that Congress act promptly to enact legislation to ensure that payment stablecoins and payment stablecoin arrangements are subject to a federal framework on a consistent and comprehensive basis. Such legislation would complement existing authorities with respect to market integrity, investor protection, and illicit finance, and would address key concerns.

### *BIS: what does digital money mean for emerging market and developing economies?*

On 29 October 2021, the BIS released the paper *What does Digital Money Mean for Emerging Market and Developing Economies?* Proposals for global stablecoins have put a much-needed spotlight on deficiencies in financial inclusion and cross-border payments and remittances in emerging market and developing economies (EMDEs). The paper argues that the distinction between token-based and account-based money matters less than the distinction between central bank and non-central bank money. Fast-moving fintech innovations that are built on or improve the existing financial plumbing may address many of the issues in EMDEs that both private stablecoins and CBDCs aim to tackle.

### *Bank of England: software validation and artificial intelligence in finance – a primer*

On 29 October 2021, the Bank of England issued a paper on *Software Validation and Artificial Intelligence in Finance – a Primer*. The use of machine learning and artificial intelligence (AI) in finance poses growing risks for software validation to financial institutions, markets, and decision makers, making it a key priority for regulators. This paper discusses accepted software validation practices; highlights challenges to those practices introduced by AI; and suggests areas of focus for developers when creating AI-based solutions for the finance industry. The paper discusses how practices may need to evolve to respond to these new challenges.

### *IOSCO: updates of outsourcing principles to ensure operational resilience*

On 27 October 2021, the Board of IOSCO published a set of updated outsourcing principles for regulated entities that outsource tasks to service providers. The updated principles on outsourcing are based on the earlier Outsourcing Principles for Market Intermediaries and for Markets, but their application has been expanded and now includes trading venues, intermediaries market participants acting on a proprietary basis and credit rating agencies. While financial market infrastructures (FMIs) are outside the scope of the Principles, FMIs may consider applying the Principles. IOSCO will be engaging with the CPMI on these outsourcing issues as part of the future joint CPMI-IOSCO work programme.

## *FSB: cyber incident reporting: existing approaches and next steps for broader convergence*

On 19 October 2021, the FSB released a report on cyber incident reporting which explores whether greater convergence in the reporting of cyber incidents could be achieved in light of increasing financial stability concerns, especially given the digitalisation of financial services and increased use of third-party service providers. By end-2021, the FSB will develop a detailed plan for taking this work forward.

## *FSB: regulation, supervision and oversight of "global stablecoin" arrangements*

On 7 October 2021, the FSB published a *Progress Report on the Implementation of the FSB High-level Recommendations.* This report discusses key market and regulatory developments since the publication of the FSB high-level recommendations in October 2020; takes stock of the implementation of the FSB high-level recommendations across jurisdictions; describes the status of the review of the existing standard-setting body (SSB) frameworks, standards, guidelines and principles in light of the FSB high-level recommendations, and identifies areas for consideration for potential further international work.

## *BIS: Project Ellipse: regulatory reporting and data analytics platform*

On 5 October 2021, the BIS Innovation Hub, in collaboration with MAS, BoE and ISDA published an overview of Project Ellipse, how supervision could become insights based and data driven using an integrated regulatory data and analytics platform, utilising the Common Domain Model (CDM). Project Ellipse would enable regulatory authorities, as the ultimate end users of the platform, to digitally extract, query and analyse a large quantity of data from diverse sources. These data could then be relevant to current events in real time and visible via dashboards, informing authorities of early supervisory actions that may need to be taken.

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# Transition from LIBOR to Risk-Free Rates

 

by **Katie Kelly and Charlotte Bellamy**

## "Tough legacy" bonds

### *Introduction*

The end of 2021 was a particularly significant milestone in the long-running transition away from LIBOR. The most commonly-used sterling and yen LIBOR settings (namely the one, three and six month settings) were transitioned to a new "synthetic" methodology[1]; restrictions were placed upon certain entities using five US dollar LIBOR settings[2] in certain new contracts or arrangements[3]; and the remaining 24 LIBOR settings (including all euro and Swiss franc LIBOR settings) ceased to be published[4].

Tough legacy contracts are defined by the Financial Stability Board as "contracts that have no or inappropriate fallbacks, and [which] cannot realistically be renegotiated or amended."[5] This article follows several other articles in ICMA Quarterly Reports documenting the transition away from LIBOR and focusing on the question of "tough legacy" LIBOR bonds[6].

As outlined in those articles, there is considered to be a tough legacy problem in the legacy LIBOR bond market due to a combination of circumstances. These circumstances include the large number and volume of bonds with maturities beyond the end of 2021 with no or inappropriate fallbacks catering for LIBOR cessation; and the challenges for market participants in transitioning those legacy bonds to alternative rates.[7]

Authorities, legislators and official sector-sponsored working groups in different jurisdictions have taken or are taking a number of steps to try to address the challenges of tough legacy contracts.

- In the US, legislation has been introduced in New York and Alabama[8] and is being discussed at a Federal level[9]. The legislation would deem certain contractual references to US dollar LIBOR as referring to a replacement benchmark rate upon the occurrence of certain events affecting LIBOR.
- In the EU, the EU Benchmarks Regulation was amended to allow the European Commission to designate statutory replacement rates for benchmarks such as LIBOR in contracts governed by an EU law or another law that does not provide for an orderly wind-down of the benchmark and where all parties are located in the EU. The European Commission exercised its powers in respect of CHF LIBOR[10] in October 2021.

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1. *Further Arrangements for the Orderly Wind-down of LIBOR at End-2021*, FCA, September 2021.

2. The overnight, one month, three month, six month and 12 month US dollar LIBOR settings.

3. *US Interagency Statement on LIBOR Transition,* November 2021 and FCA *Article 21A Benchmarks Regulation – Notice of Prohibition on New Use of a Critical Benchmark*, which took effect from 1 January 2022 at 00:01.

4. *Announcement on Future Cessation and Loss of Representativeness of the LIBOR Benchmarks,* 5 March 2021.

5. FSB, *Reforming Major Interest Rate Benchmarks,* 20 November 2020.

6. See, for example, *The Transition from LIBOR: "Tough Legacy" Bonds,* Paul Richards, ICMA Quarterly Report, Fourth Quarter 2021.

7. *The Transition from LIBOR: "Tough Legacy" Bonds,* Paul Richards, ICMA Quarterly Report, Fourth Quarter 2021.

8. *ARRC FAQs Regarding State LIBOR Legislation,* December 2021.

9. *ARRC Welcomes Passage of LIBOR Transition Bill by U.S. House of Representatives,* December 2021.

10. Commission Implementing Regulation (EU) 2021/1847 of 14 October 2021 on the designation of a statutory replacement for certain settings of CHF LIBOR. The European Commission also exercised its powers in relation to EONIA: Commission Implementing Regulation (EU) 2021/1848 of 21 October 2021 on the designation of a replacement for the benchmark Euro overnight index average.

- The UK took a different approach by amending the UK Benchmarks Regulation to give the FCA new powers to require continued publication of LIBOR by IBA on a different basis following the FCA determination that panel bank LIBOR is no longer representative of its underlying market. This is known as "synthetic LIBOR".

## Synthetic LIBOR

Synthetic LIBOR was introduced for the one, three and six month sterling and yen LIBOR settings at the beginning of 2022. It is based upon:

- the relevant risk-free rate (ie the ICE Term SONIA Reference Rates provided by ICE Benchmark Administration for sterling, and the Tokyo Term Risk Free Rates (TORF) provided by QUICK Benchmarks Inc., adjusted to be on a 360 day count basis, for Japanese yen); plus
- the respective ISDA fixed spread adjustment (that is published for the purpose of ISDA's IBOR Fallbacks for the six LIBOR settings)[11].

Synthetic LIBOR is available on the same screens and at the same time that LIBOR was historically published[12], which is important from a practical and legal perspective.

Authorities and official sector-sponsored working groups have been clear that synthetic LIBOR is not to be used in new transactions[13], and UK supervised entities are restricted from using it in new transactions under the UK Benchmarks Regulation[14]. Synthetic LIBOR does, however, provide a temporary bridging solution for tough legacy contracts, including in the bond market[15].

The key issues for the bond market concerning the introduction of synthetic LIBOR related to (a) contract continuity; (b) restrictions upon use of synthetic LIBOR; and (c) the interaction of synthetic LIBOR with fallbacks for typical floating rate notes. Looking ahead, there is a remaining question on the length of time that synthetic sterling LIBOR will be available.

## Contract continuity

On the first question of contract continuity, the issues for bond market participants surrounded whether or not synthetic LIBOR would fit with all the different types of LIBOR references that are seen in legacy LIBOR bond contracts; and whether parties would seek to argue that synthetic LIBOR was not the rate they agreed to reference when they entered into their contract and that contractual fallbacks have been triggered.[16]

In the UK, the Critical Benchmarks (References and Administrators' Liability) Act 2021 was passed in December 2021 with the aim of addressing these issues. The Government stated in Explanatory Notes that the legislation will "provide certainty that contractual references to LIBOR should continue to be treated as references to that benchmark where the FCA has directed a change in how LIBOR is calculated, ie synthetic LIBOR".

Outside of the UK, the Cross-Industry Committee on Japanese Yen Interest Rate Benchmarks published a *Final Report on the Results of the Public Consultation on the Treatment of Tough Legacy Contracts in Japan* in November 2021 setting out, among other things, information for market participants relating to questions of contract continuity and litigation risks. In the EU, the Chair of the Euro Risk Free Rates Working Group wrote a letter to the European Commission on a possible designation of a statutory replacement rate for sterling and yen LIBOR under the EU Benchmarks Regulation, which is addressed in a subsequent section of this Quarterly Report.

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11. *Further Arrangements for the Orderly Wind-down of LIBOR at End-2021,* FCA, September 2021.

12. FCA *Q&A on LIBOR and the FCA's Powers under the UK Benchmarks Regulation*: "We welcome communication from Bloomberg and Refinitiv that all continuing LIBOR settings (including the 6 settings under a 'synthetic' methodology) will continue to be available on the same screens from the start of 2022 as they will at the end of 2021. We also welcome confirmation from IBA that it expects to make all continuing LIBOR settings (including the 6 settings under a 'synthetic' methodology) available to licensees through existing IBA licensee distribution services, as is the case for all current LIBOR settings."

13. See, for example, *Further Arrangements for the Orderly Wind-down of LIBOR at End-2021,* FCA, September 2021: "These 6 LIBOR settings will be available only for use in some legacy contracts, and are not for use in new business" and Working Group on Euro Risk Free Rates' Statement, December 2021: "the Working group on euro risk-free rates ("WGRFR") reminds market participants to cease entering into new contracts that use EONIA and EUR, GBP, CHF, JPY and USD LIBORs as soon as practicable and in general terms by 31 December 2021."

14. UK Benchmarks Regulation, Article 23B.

15. See, for example, FCA *Q&A on LIBOR and the FCA's Powers under the UK Benchmarks Regulation*: "[Synthetic LIBOR] should be viewed as providing a further period to complete transition of legacy contracts, rather than an alternative."

16. See ICMA's response to HM Treasury's *Consultation on Supporting the Wind-down of Critical Benchmarks,* March 2021 for further details.

## *Restrictions on use of synthetic LIBOR*

As noted above, authorities have been clear that synthetic LIBOR is not to be used in new transactions, and UK supervised entities are restricted from using it in new transactions under the UK Benchmarks Regulation.

The UK Benchmarks Regulation also restricts UK supervised entities from using synthetic LIBOR in *legacy* transactions, unless the FCA grants them permission to do so[17]. The FCA decided in November 2021 to permit, at least for the duration of 2022, use of synthetic sterling and yen LIBOR in all contracts except cleared derivatives[18].

This broad permission is welcome for the bond market. It is likely that there would be significant legal and practical issues if synthetic LIBOR is published on a relevant screen page but UK supervised entities are restricted from using it for certain legacy bonds. Many bond contracts were not drafted with this scenario in mind, and so it is likely that there would be uncertainty as to whether fallbacks are triggered or not. In some cases, there might be other, quite significant, implications, such as events of default being triggered or mandatory redemption of legacy securitisations at par. From a practical perspective, it would be challenging to determine which bonds are able to use synthetic LIBOR and which are not.[19]

## *Interaction of synthetic LIBOR with bond market fallbacks*

The approach taken with respect to fallbacks in more recent LIBOR bonds has differed between the floating rate note and securitisation markets.

For floating rate notes, the precise formulation of fallback language varies but can be broadly categorised into three broad types:

- *Type 1 fallbacks.* These are traditional bond fallbacks triggered when the reference rate does not appear on the relevant screen page or the relevant screen page is unavailable. They are likely to provide for a "dealer poll" (see further below) before an ultimate fallback of applying the rate from the previous interest period. Type 1 fallbacks are therefore expected to result in floating rate notes becoming fixed rate notes in the event of LIBOR cessation.
- *Type 2 fallbacks.* These provide for the issuer to appoint an independent agent to select an alternative rate and appropriate credit adjustment spread following certain trigger events, typically the permanent cessation of LIBOR and other events such as a prohibition or restriction on use.
- *Type 3 fallbacks.* These are the same as Type 2 fallbacks but have an additional trigger event based on an announcement that the reference rate is or will no longer be representative.[20]

In the securitisation market, Type 2 and Type 3 fallbacks were considered less appropriate for many sections of the securitisation market for ratings and other reasons. The large majority of legacy LIBOR securitisations are likely to include Type 1 fallbacks. This includes securitisations issued after July 2017[21] that include AFME's Model Benchmark Rate Modification Language allowing for a streamlined process for modifying references to LIBOR.[22]

Overall, bonds (including securitisations) with Type 1 fallbacks are likely to account for the large majority of legacy sterling LIBOR bonds with a maturity beyond the end of 2021 – probably in the region of 70%[23].

For bonds and other contracts and arrangements governed by English law or another law of the UK, the Critical Benchmarks (References and Administrators' Liability) Act 2021 is designed not to prevent or affect the operation of fallback provisions. However, the Act clarifies that where a contract or arrangement has a fallback clause that is triggered by the cessation or unavailability of the benchmark in question, those clauses would *not* be triggered by the introduction of synthetic LIBOR[24].

This, together with the FCA's permission to use synthetic LIBOR, means that typical Type 1 and Type 2 fallbacks in English law-governed floating rate notes are *not* expected to have been triggered by the introduction of synthetic LIBOR[25], although legal analysis of the precise bond provisions in each case is required.

17. UK Benchmarks Regulation, Article 23B.

18. *FCA Confirms Rules for Legacy Use of Synthetic LIBOR Rates and no New Use of US dollar LIBOR*, FCA, November 2021.

19. See *ICMA Response to FCA Consultation Paper CP21/29 on Proposed Decisions on Use of LIBOR,* October 2021 for further information.

20. *ICMA Response to FCA Consultation Paper 21/15,* June 2021, paragraph 4 on pages 4 – 5.

21. In July 2017, the Chief Executive of the FCA, the regulator and supervisor of the IBA, the administrator of LIBOR, announced that the FCA would no longer persuade or compel banks to submit quotations for LIBOR after the end of 2021.

22. *ICMA Response to FCA Consultation Paper 21/15,* June 2021, paragraph 6 on page 5.

23. *ICMA Response to FCA Consultation Paper 21/15,* June 2021, paragraph 5 on page 5.

24. Critical Benchmarks (References and Administrators' Liability) Bill Explanatory Notes, paragraph 30.

25. Clifford Chance, *Synthetic LIBOR and the UK Critical Benchmarks (References and Administrators' Liability) Act 2021: 10 Things That You Need to Know*, December 2021.

In relation to Type 3 fallbacks, the FCA has issued announcements related to the non-representativeness of the synthetic LIBOR settings[26]. As such, it seems likely that many Type 3 fallbacks in floating rate notes will have been triggered[27], although legal analysis of the precise bond provisions in each case is required.

For securitisations that contain AFME's Model Benchmark Rate Modification Language, it may be possible for the parties to adopt the streamlined process for transitioning away from LIBOR set out in those provisions. Legal analysis of the precise bond provisions in each case is required.

## *Length of availability of synthetic LIBOR*

Synthetic yen LIBOR will be available until the end of 2022[28]. It is currently unclear when synthetic sterling LIBOR will cease to be published. The UK Benchmarks Regulation allows the FCA to compel IBA to publish synthetic LIBOR for up to ten years, but the FCA must review its decision to compel IBA to continue to publish it at least annually[29].

The FCA has been clear that users of LIBOR should continue to focus on active transition rather than relying on synthetic LIBOR, and that the FCA may consider progressively restricting continued permission to use synthetic LIBOR in legacy contracts if this would help to maintain progress towards an orderly cessation[30]. The minutes of the Working Group on Sterling Risk-Free Reference Rates meeting in November 2021 state: "The FCA noted that, although the case for publishing synthetic LIBOR was strong, the scale of outstanding contracts varied across settings and tenors. The FCA will consider whether certain synthetic settings could be retired more rapidly than others." And in a speech in December 2021, Edwin Schooling Latter of the FCA noted: "Based on the data for [2021], we concluded the case for continuing all three of these sterling tenors for 2022 was made. But it is worth noting that the case for 3-month sterling LIBOR was stronger than for 1-month and 6-month. When outstanding contracts that still reference a particular LIBOR setting have reduced significantly, it may no longer be proportionate for the FCA to require continued publication of that setting on a synthetic basis."

ICMA outlined the implications for the bond market of the withdrawal of synthetic sterling LIBOR in its response to FCA consultation CP 21/29 on proposed decisions on the use of LIBOR; and noted that, for all legacy sterling LIBOR bonds referencing synthetic LIBOR, it will be important that the FCA engages with the market and gives market participants sufficient notice (at least one year) before synthetic sterling LIBOR ceases to be published.

## *Bonds referencing LIBOR settings that have ceased to be published: dealer polls*

The majority of legacy LIBOR bonds are understood to reference LIBOR settings that continue to be published after the end of 2021, either on a representative, panel-bank basis (ie overnight, one month, three month, six month or 12 month US dollar LIBOR settings) or a non-representative, synthetic basis (ie one month, three month or six month sterling or yen settings).

A relatively small number of bonds were understood to reference one of the LIBOR settings that ceased to be published at the end of 2021. For those bonds that are still outstanding and that have not been actively transitioned to an alternative rate, it is likely that the relevant fallback provisions (if any) have needed to be, or will need to be, applied in respect of the next interest determination following 31 December 2021.

Where the fallback provision is a Type 1 fallback, this will typically involve the operation of a "dealer poll" in which quotes for borrowing rates are collected from a range of dealers, in lieu of LIBOR itself.

Leading up to the cessation of the less frequently-used LIBOR settings at the end of 2021, some market participants queried how Type 1 fallbacks involving "dealer polls" were expected to operate.

Edwin Schooling Latter of the FCA provided clarification in a speech in December 2021, noting: "…it seems rather optimistic to think [dealer polls] will work given that a principal reason for the end of LIBOR is banks' unwillingness to continue to provide such quotes for LIBOR itself. And we are now hearing exactly that prediction from various market participants – ie they won't work because quotes will not in practice be offered. Although we have asked for any information that suggests otherwise, we are not aware at this point of any firm that has confirmed a willingness to provide rates in response to such a poll after the relevant LIBOR setting is no longer published, other than where they have a contractual commitment to do so."

26. See, for example, *FCA Announcement on Future Cessation and Loss of Representativeness of the LIBOR Benchmarks,* 5 March 2021 and *FCA Notice of First Decision under Article 21(3) UK Benchmarks Regulation,* 10 September 2021.

27. Clifford Chance, *Synthetic LIBOR and the UK Critical Benchmarks (References and Administrators' Liability) Act 2021: 10 Things That You Need to Know,* December 2021.

28. *FCA Announcement on Future Cessation and Loss of Representativeness of the LIBOR Benchmarks,* 5 March 2021.

29. UK Benchmarks Regulation, Article 21(3).

30. *Further Arrangements for the Orderly Wind-down of LIBOR at End-2021,* FCA, September 2021.

"We do not think it would be appropriate or reasonable for us to put regulatory pressure on firms to respond to such polls. We understand that this would create a variety of conduct and other risks."

"However, it is helpful if market participants are able to assess and conclude at appropriate speed whether such dealer polls will work, and thus whether they must proceed to the next step in the waterfall, or contact the counterparty to agree alternative arrangements. Banks that might receive such requests may wish to consider setting up a centralised point to receive and make clear if any response will be provided to such requests. They may wish to consider being clear in their client or other communications where they have policies to decline to respond."

This position was also reflected in the minutes of the Working Group on Sterling Risk-Free Reference Rates meeting in November 2021.

### *Conclusion*

It is clear that synthetic LIBOR is not a permanent solution for tough legacy sterling and yen LIBOR bonds. Market participants will therefore need to continue to prioritise active transition away from legacy LIBOR bonds where that is feasible.

The approach taken to the operation of bond fallbacks that have been triggered due to cessation of publication or loss of representativeness of the relevant LIBOR setting at the end of 2021 could provide useful background and practical lessons for the time that other LIBOR settings cease to be published or lose representativeness in the future. However, bond fallback provisions vary in their general approach and precise drafting, and a careful legal analysis on a case-by-case basis will always be needed.

ICMA will continue to engage with members and the official sector, as appropriate, on the issue of tough legacy LIBOR bonds across the remaining LIBOR currencies.

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## Continued active transition of sterling LIBOR-linked legacy bonds

The consistent message from regulatory authorities globally has been, first, to cease new issuance of LIBOR-linked bonds, and second, to encourage the active transition of any instruments that already link to LIBOR. Aligning with this messaging, market-led developments in terms of SONIA conventions over the last number of months have helped to ensure that conditions for issuance of, and transition to, SONIA are optimal.

In the sterling market, over 90 sterling LIBOR-linked legacy bonds have already successfully transitioned to a SONIA basis using consent solicitation, a process which facilitates the amendment of bond terms. But while this represents roughly two thirds by value, the FCA estimates that there are 480 outstanding sterling LIBOR-linked legacy bonds. There are some challenges associated with consent solicitation: quorum and voting thresholds are high, and it can be hard to identify all investors and ensure their engagement. The cascade of information and communications between the parties is cumbersome, and may be compounded if there are different ownership structures in place, in particular as much of the operations process is conducted manually. Consent solicitations can be costly, time consuming and potentially complex. And some transactions may be too difficult to amend, such as securitisations where parties may be absent and there are complexities in the structure itself.

The FCA has confirmed that it will "allow the temporary use of synthetic sterling and yen LIBOR rates in all legacy LIBOR contracts, other than cleared derivatives, that have not been changed at or ahead of the end of December 2021". But in its associated questions and answers (FCA Q&A), the FCA also states that "the ongoing availability of synthetic LIBOR beyond 2022 cannot be assured. The availability of synthetic LIBOR rates will be subject to annual review, so active transition will provide more certainty for the future".

So, although synthetic sterling LIBOR provides a pathway for transition for sterling LIBOR-linked legacy bonds, it is only temporary. This means that, notwithstanding the challenges already highlighted, the focus should remain on active transition, even when synthetic sterling LIBOR is published, for those longer-dated or perpetual bonds which may not be able to avail of it. The FCA Q&A also suggests that "in many cases there will also be advantages to moving to use of compounded risk-free rates at an earlier stage. It has the most robust underlying markets, and as the new market standard for most products, it will benefit from the greatest liquidity in hedging products".

The end date for the availability of synthetic yen LIBOR will be the end of 2022. Convening bondholder meetings to amend the terms of bonds is not a common process in Japan, and is not likely to be familiar to many Japanese market participants. However, according to the results of a survey on the use of JPY LIBOR conducted by the Financial Services Agency in Japan and the Bank of Japan, many of the 27 financial institutions surveyed replied that, for a large number of contracts that were not amended yet, they had already agreed with contracting parties on terms and conditions such as alternative interest rate benchmarks and the spread adjustment methodology.

US dollar LIBOR settings will cease at the end of June 2023, allowing more time for transition of US dollar LIBOR-linked legacy bonds. However, as under New York law amendments to interest rate provisions typically require the consent of 100% of holders of the outstanding principal amount of bonds, the consent solicitation process is uncommon and relatively impractical, so the New York law statutory override of LIBOR in certain legacy contracts is helpful.

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## EU designation of synthetic LIBOR

In November 2021, the Chairman of the Euro Risk-Free Rates Working Group (EUR RFR WG) wrote to Tilman Lueder, Head of Securities Markets at the European Commission, suggesting alignment for tough legacy contracts *under EU law* with the approach taken by the UK *under English law*, ie synthetic LIBOR for sterling and Japanese yen LIBOR-referencing contracts. In order to achieve this, it suggests the adoption of specific legislation by way of designation of a statutory *replacement rate* under the EU Benchmarks Regulation referencing the underlying components of synthetic LIBOR (ie term risk-free rate plus spread). According to the letter, this designation would provide legal certainty for contracts linked to synthetic LIBOR and a consistent approach for all tough legacy contracts. However, the letter also acknowledges certain challenges with full alignment with the UK approach and with other operational aspects, and it invites further discussion on the most appropriate approach.

The European Commission has since published details of a planned initiative for each of sterling and Japanese yen LIBOR stating (a) that adoption of implementing regulations to designate statutory replacement rates is planned for the first quarter of 2022 and (b) that the statutory replacement rates will replace contractual references to certain sterling and Japanese yen LIBOR rates (as applicable) in the EU by operation of law from the date on which the implementing act applies.

As a non-voting member of the EUR RGR WG, ICMA will monitor developments to seek to ensure that any efforts to designate a statutory replacement rate do not undermine or adversely affect the work done to ensure the contractual continuity between sterling and Japanese yen LIBOR and synthetic LIBOR under English law by way of the Critical Benchmarks Act 2021.

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## Completion of SARON transition

The National Working Group on Swiss Franc Reference Rates (NWG) met on 9 November to discuss the progress of the LIBOR transition in Switzerland. At the meeting, FINMA (the Swiss financial market supervisory authority) provided an update on its self-assessment survey, according to which those firms that were closely monitored had made strong progress and largely adhered to the milestones of the roadmap set out in FINMA Guidance 10/2020. The transition from CHF LIBOR to SARON has been largely successful with a 97% reduction of contract volumes without robust fallbacks since mid-2020. Given the progress made, FINMA no longer considers a disorderly and disruptive LIBOR transition as one of the main risks for Switzerland, but stressed that a lot of work remains to be done, in particular with regards to the US dollar LIBOR transition.

Members concluded that the transition to SARON is conceptually completed in Switzerland, and the operational transition to SARON is on track. Consequently, in line with its statutes, there is no further NWG meeting planned and the NWG and its sub-groups will cease to exist after the end of Q1 2022.

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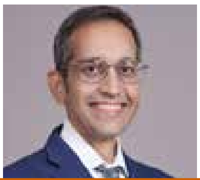
# Asian Market Developments



by **Mushtaq Kapasi, Ricco Zhang and Yanqing Jia**

## A Capital market regulatory developments in China

### *Common Ground Taxonomy*

On 4 November 2021, the International Platform on Sustainable Finance (IPSF) Taxonomy Working Group, co-chaired by the EU and China, released the Common Ground Taxonomy (CGT). It provides an in-depth comparison and puts forward areas of commonality between the EU Taxonomy and China's Green Bond Endorsed Project Catalogue. The CGT publication covers the initial phase of work and will be expanded over time.

### *Social and sustainability bonds*

On 11 November 2021, NAFMII released its Q&A on *Pilot Program of Social Bonds and Sustainability Bonds (English version),* based on the Social Bond Principles and Sustainability Bond Guidelines. With ICMA's support, it is another effort by NAFMII to align with ICMA's international standards and expand the products from only green to sustainability after NAFMII's SLB Q&A in April 2021. It signalled the official launch of the concepts of social and sustainability bonds in China onshore. Overseas issuers may now issue social bonds and sustainability bonds in China's interbank market under NAFMII's pilot programme.

### *Carbon Emission Reduction Facility*

PBOC launched on 8 November 2021 a Carbon Emission Reduction Facility under which it will provide refinancing with preferential interest rate to financial institutions for their loans that support carbon emission reduction, refinancing up to 60% of the loan principal amount.

### *Tax relief for bond investments by foreign investors*

In November 2021, the Ministry of Finance and the State Taxation Administration announced (in Chinese) the extension of the preferential tax policy for foreign investors till the end of 2025. Under this policy, foreign institutions' interest income from their bond investment in the Chinese domestic markets is exempt from corporate income tax and value-added tax.

### *Index inclusion*

Chinese Government Bonds have been included in the FTSE World Government Bond Index (WGBI) and its derived indexes since the end of October 2021, with an implementation period of 36 months.

### *Easing rating requirements for insurance companies to invest in bonds*

CBIRC issued a notice (in Chinese) in November 2021 to relax the credit rating requirements of bond investment by insurance companies. It echoes the previous efforts of the Chinese regulators to repeal the requirements on credit rating for bond issuance and carry out the reform from mandatory credit ratings to a market-based approach in credit risk assessment.

### *Rules for managing funds raised by panda bonds*

PBOC and SAFE published (in Chinese) the draft rules on the *Management of Funds of Bond Issued by Overseas Institutions in China*, seeking comments from the public.

### *Netting for counterparty default risk calculation*

CBIRC issued a notice (in Chinese) in November 2021 clarifying that banks can net derivative transactions as well as repos when calculating counterparty credit exposure if the counterparty is established with the approval of the Chinese financial regulators and the transactions are conducted under master netting agreements recognised by CBIRC.

### *Cross-border FinTech regulatory cooperation*

PBOC and HKMA signed an MoU on 21 October 2021 that they will link up the PBOC's FinTech Innovation Regulatory Facility with the HKMA's Fintech Supervisory Sandbox, to support FinTech innovation in the Greater Bay Area.

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# India's US dollar corporate bond market: an unexplored asset class

by **Ashwin Jolly,** ICICI Bank UK plc

A International investor flows into a buoyant Indian equity market have catapulted India into becoming one of the top five largest stock markets in the world with about 25% international ownership of stocks. In contrast, the local currency Indian fixed income market is uncharted with less than 2% of local denominated government and corporate bonds owned by international investors. In advance of the inclusion of local currency Indian bonds in global benchmark indices, USD denominated Indian corporate credit continues to attract substantive interest as an affirmation of the creditworthiness of the corporate market.

USD-denominated Indian corporate credit, otherwise known as "hard currency" credit, trades overseas. This sub-asset class has about 45 issuers (at parent entity level) and, including convertible bonds and perpetual bonds, close to 300 issues in the market with total outstanding issuance of approximately $60 billion. There have been 16 primary issues and corporate issuers (non-financials and non-state-backed) have raised $9.5 billion to October 2021, which exceeds the $9.3 billion for the whole of 2020. High-yield issuance has gravitated towards renewables and infrastructure given decades of abject underinvestment, growing population and industrial demand.

In early November 2021, average BBB-rated spreads for Indian corporates and quasi-sovereigns were in the region of 150 basis points, having tightened by about 20 basis points year-to-date. This was amongst the tightest for BBB-rated bonds in the top 20-country [emerging market] space. Spreads for BB-rated bonds in India were in the 320 basis point range and were in the middle in comparison. This divergence between BBB's and lower rated Indian issuers is due to the large number of quasi-sovereign, government backed, and government-related issuers in the BBB space (BBB- is the Indian sovereign rating too). The percentage of such issuers is comparatively higher than most EM's and hence the BBB bucket trades like the sovereign/quasi-sovereign, unlike lower rating bands.

HCL's US entity issued an A- rated bond in early March, with the proceeds earmarked for an acquisition. Indian airports including GMR Hyderabad Airport and GMR Delhi Airport also issued bonds, the latter being a green bond. Adani Group entities have taken the lion's share of issuance as they make new acquisitions, win tenders and expand operations. Greenko and Goldman Sachs-backed ReNew Power were also amongst the renewable energy issuers in hard currency. Investor demand has gravitated towards renewable energy producers, with solar producer Azure Power's $414 million 2026 issue that was brought to market by a number of joint bookrunners including ICICI Bank in August.

Despite US Federal Reserve tapering commencing in November 2021, sovereign bond yields across EM remain relatively low with the 10-year Indian government bond offering 6.35% (as of 30 November 2021). The demand for [emerging market] funds tends to correlate with their target duration (relative to benchmark) which is typically in the mid-single digits. Demand is predisposed towards the 3-6 year duration space for EM credit with a preponderance of Indian USD corporate issuance maturing before 2027. For balance sheet portfolios of insurance companies and pension funds seeking liability-matching investments with the same currency and country of risk, longer dated credit issuance is a rarity with sparse trading. Outliers include Reliance with a handful of issues in the 2040's (and a 2097) and Adani Ports.

The cost of hedging Indian Rupee (INR) denominated credit is high (currently about 4.7% in 1-year premium) and hence the USD credit of the Indian corporate is the more rational choice for investors seeking fixed income exposure to India. On the issuer front, the types of issuers are predisposed to state-backed names, which have substantive funding requirements that warrant an investor base beyond the local market. Newer issuers like renewables have attracted a premia with the global theme of climate change, as have perpetuals that have a greater affinity to international investors/lenders.

ESG credentials of an issuer are an integral requirement for investment and lending, even in non-ESG labelled portfolios. Issuers like NTPC have attracted demand from energy transition funds as India moves from a 65% dependence on coal-generated electricity to a target of 500 GW of renewable energy by 2030. The issuances listed as green bonds attract demand from the fast-growing ESG labelled funds, which have experienced exceptional performance and inflows of assets since the start of the pandemic.

A precis on the Indian hard currency credit market for 2021 highlights it as a major regional outperformer. Investors and lenders are monitoring green bond primary issuance and we note that the $15bn of all-time green bond issuance for India is (regionally) behind only China and Korea. Aggregate Indian USD bond issues have crossed $20 billion to end October compared to $13.3 billion for 2020. In 2015, there were just two new issues, which raised $850 million. Investment grade has delivered a positive absolute return of 0.6% to end October and high-yield is just over 6%, a rare feat in an inflationary and rising interest rate expectation environment.

The 21st century has been characterised as the century for emerging markets and India's economy has been among the top performers. Expectations of GDP growth stand at about. 10% per annum in a $3 trillion economy. The currency market is often most affected by idiosyncratic national stress, so the Indian USD credit market offers significant opportunities to access lower risk investment in a less indebted country without currency risk.

***Ashwin Jolly is Senior Dealer at ICICI Bank UK Plc (the UK subsidiary of India's second largest private sector bank).***

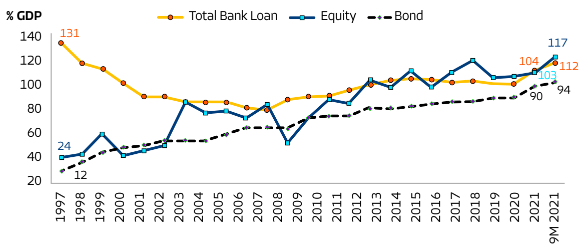
# Thailand's corporate bond market: towards digitalization and sustainability

by **Tada Phutthitada,** The Thai Bond Market Association

A The Thai Bond Market Association is a securities business-related association and self-regulatory organization (SRO) under the Securities and Exchange Commission Act. Our main purposes are to promote fair and efficient operation of the bond market and to be an information center for the Thai bond market. We are focused on working with dealers, issuers, investors, regulators, and market stakeholders to promote market development and standards.

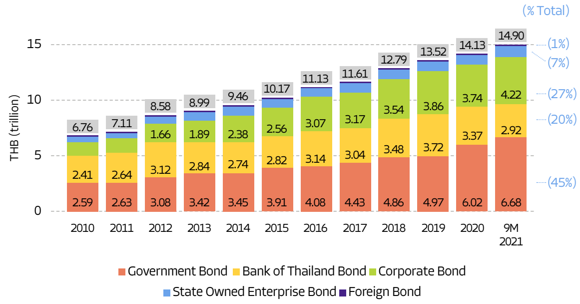
Back in 1997, before the Asian financial crisis, Thai bond market issuance outstanding was only 12% of GDP, while other sources of funding, bank loans and equity, were at 131% and 24% of GDP, respectively. Since 1998, the Government has been working closely with the private sector to develop the Thai bond market for sustainable growth. After years of effort, the size of Thai bond market has increased significantly reaching 94% of GDP after the first 9 months of 2021 with figures for bank loan and equity at 112% and 117% per GDP respectively. The main three pillars of Thailand's funding sources, bank loans, equity and bonds are now equally balanced.

**Figure 1. The Outstanding Value of Thailand's Financial Market since 1997**




Government bonds continue to dominate the Thai bond market with a 45% share of the total outstanding value in the first 9 months of 2021. Corporate bonds ranked second accounting for 27% share, followed by Bank of Thailand bonds which took a 20% share. One noteworthy fact is that the outstanding value of corporate bonds has surpassed the outstanding value of Bank of Thailand bonds in recent years, demonstrating that corporates in Thailand are tending to diversify their sources of funding into bond market activity.

**Figure 2. The Outstanding Value of the Thai Bond Market classified by Type**




With rapid growth in the corporate bond market, it is essential to enhance the infrastructure to allow for steady development. Unlike government bonds, corporate bonds are largely held by individual investors who prefer to hold bonds in physical form or scrip format. Therefore, trading and settlement processes can take time as registrar verification and physical transfer are required for each transaction. Moreover, information is fragmented as there are many registrars and no consolidated set of holder information.

To address this shortfall, ThaiBMA has collaborated with market stakeholders such as registrars, underwriters, issuers and related parties to initiate the *"Registrar service platform (RSP) phase 1"* using Distributed Ledger Technology (DLT). The objective was to enhance the efficiency of the corporate bond issuance process by shortening the subscription process to just three days from seven days, reducing data entry redundancy and creating a single source of bondholder's information.

The *"RSP1"* was approved under the regulatory sandbox by the Thai Securities and Exchange Commission (SEC) on 11 December 11 2019. The first DLT corporate bond was then issued by Toyota Leasing (Thailand) Co. Ltd on 17 December 2019 with an issue size of THB 500 million and tenor of 11 months and 29 days. KBANK was the second issuer on the RSP1 platform, launching 3-month bonds which totalled 17 million euros.

This DLT corporate bond *"RSP1"*, the first of its kind in Thailand, has shown how technology can deliver faster, more efficient transactions for bond issuers, underwriters and investors. It has served as a major step towards Thailand's capital market digital infrastructure initiative.

In addition to the first DLT corporate bond in Thailand, ThaiBMA has continued to move towards digitalization of the bond market ecosystem, applying technology to improve market efficiency.

As COVID-19 spread around the world, we accelerated our digital transformation projects to support key bond market stakeholders. During 2020 and 2021, we launched and continued to enhance three digitalized platforms for use by investors, underwriters and issuers.

The first platform, targeted at individual investors, is a mobile application called *MeBond.* It works as an electronic bond passbook assisting individual investors to centralize information on their bond investment into one place. Investors are able to monitor their bond portfolio with regards to periodic cash flows, interest payments, maturity profile, average yield and maturity of investment.

The second platform *"E-Book Building"* is the web-based platform designed to enhance the book building process. Normally the process of book building and price discovery takes weeks due to the manual processes involved. The E-Book Building helps by reducing inconvenience on input operation and information reconciliation, shortening the duration of the process and presenting virtual allocation in many dimensions. It also provides order confirmations and an audit trail to help clarifying any misunderstandings for users.

The third platform, *"Smart Funding Solution",* targeted at issuers, is a web-based application designed for corporate bond issuers to efficiently monitor and manage their cashflows of ongoing bond payment obligations.

In the official sector, Thailand's Ministry of Finance has been the leader on digital bond issuance using blockchain technology. In June 2020, The Public Debt Management Office (PDMO) offered the first digital saving bond through digital wallet provided by Krung Thai Bank (KTB), the largest Government subsidiary bank. Until September 2021, PDMO has issued digital saving bonds totaled THB 20,200 million.

Apart from the acceleration to digital transformation, the COVID-19 crisis has highlighted the importance of sustainability or ESG finance. In the nine months to end of September 2021, despite the exceptional economic slowdown due to the pandemic, the issuance of ESG bonds in Thailand recorded a new historical high by rising 35% to THB 116.6 billion or USD 3.5 billion compared to 2020. Now the accumulated outstanding value of ESG bonds in Thailand is at THB 225 billion or USD 6.7 billion. Thailand's Ministry of Finance (MOF) has become the first and the largest issuer of an ESG sustainability bond, the first of its kind in ASEAN. The proceeds from the MOF sustainability bond were used for two Government projects - the MRT Mass transit orange line and COVID-19 relief package. ESG bond variety in Thailand has expanded in 2021 as the first Sustainability-Linked Bond (SLB) was issued by Thai Union Group PCL. The issue size was 5,000 MB THB and interest rate is linked to Sustainable Performance Targets (SPTs) to reduce carbon intensity of finished products.

***Tada Phutthitada is President, The Thai Bond Market Association.***

2021

ICMA Capital Market Research

# ICMA Capital Market Research

*ICMA Position Paper: Proposal for a New Post-Trade Transparency Regime for the EU Corporate Bond Market*
Published: 8 December 2021
Author: Elizabeth Callaghan, ICMA

*Bonds to Bridge the Gender Gap: A Practitioner's Guide to Using Sustainable Debt for Gender Equality*
Published: 16 November 2021
Author: ICMA/UN Women/IFC Joint Report

*ICMA CPC White Paper: The European Commercial Paper and Certificates of Deposit Market*
Published: 29 September 2021
Author: Andy Hill, ICMA

*The First Year of SFTR Public Data on Repo*
Published: 28 September 2021
Author: Richard Comotto

*Investing in China's Interbank Bond Market: A Handbook*
Published: September 2021
Authors: Ricco Zhang and Yanqing Jia, ICMA; Jianjian Yang and Fangzhu Li, NAFMII

*The Sustainability Disclosure Regime of the European Union*
Published: 22 September 2021
Authors: Nicholas Pfaff, Simone Utermarck, Arthur Carabia, and Ozgur Altun, ICMA

*ICMA ERCC Consultation on the Role of Repo in Green and Sustainable Finance: Summary Report*
Published: 20 September 2021
Author: Zhan Chen, ICMA

*Guide to Tough Legacy Bonds in Asia-Pacific*
Published: 25 May 2021
Authors: Mushtaq Kapasi and Katie Kelly, ICMA; Justin Kesheneff and Dennis To, Bloomberg

*Overview and Recommendations for Sustainable Finance Taxonomies*
Published: 18 May 2021
Authors: Nicholas Pfaff, Ozgur Altun, and Yanqing Jia, ICMA

*ICMA AMIC Discussion Paper: ESG KPIs for Auto-loans/leases ABS*
Published: 17 May 2021
Author: Arthur Carabia, ICMA

*Industry Guide to Definitions and Best Practice for Bond Pricing Distribution*
Published: 17 May 2021
Author: Elizabeth Callaghan, ICMA

*ICMA ERCC Consultation Paper: Green and Sustainable Finance: What is the Role of the Repo Market?*
Published: 22 April 2021
Author: Zhan Chen, ICMA

*The Asian International Bond Markets: Development and Trends*
Published: 3 March 2021
Authors: Andy Hill, Mushtaq Kapasi, Yanqing Jia, and Keiko Nakada, ICMA, supported by the Hong Kong Monetary Authority (HKMA)

*The Internationalization of the China Corporate Bond Market*
Published: 14 January 2021
Authors: Andy Hill and Yanqing Jia, ICMA

*ICMA ERCC Briefing Note: The European Repo Market at 2020 Year-End*
Published: 13 January 2021
Author: Andy Hill, ICMA

*ICMA ETC paper: Axe Distribution Best Practice Standards*
Published: 3 November 2020
Author: Elizabeth Callaghan, ICMA

*Transparency and Liquidity in the European Bond Markets*
Published: 29 September 2020
Author: Andy Hill, ICMA

*ICMA SMPC Market Report: The European Investment Grade Corporate Bond Secondary Market & the COVID-19 Crisis*
Published: 28 May 2020
Author: Andy Hill, ICMA

*Sustainable Finance: High-level Definitions*
Published: 11 May 2020
Author: Simone Utermarck, ICMA

*EU Consolidated Tape for Bond Markets: Final Report for the European Commission*
Published: 29 April 2020
Author: Elizabeth Callaghan, ICMA

*ICMA ERCC Market Report: The European Repo Market and the COVID-19 Crisis*
Published: 21 April 2020
Author: Andy Hill, ICMA

*Time to Act: ICMA's Third Study into the State and Evolution of the European Investment Grade Corporate Bond Secondary Market*
Published: 4 March 2020
Author: Andy Hill, ICMA

*A Quick Guide to the Transition to Risk-Free Rates in the International Bond Market*
Published: 24 February 2020
Author: Charlotte Bellamy and Katie Kelly, ICMA

*Sustainable Finance: Compendium of International Policy Initiatives & Best Market Practice*
Published: 20 February 2020
Author: Nicholas Pfaff, ICMA

# ICMA Events

In 2021, over 20,000 delegates from around the world registered to attend our global virtual event offering, where we discussed key themes in the international debt capital markets. Over the course of the year we delivered 60 events on topics as diverse as: the EU Taxonomy; ESG disclosure rules; financing climate transition; opening up of China's bond markets; digitisation and the asset management industry; central bank digital currencies and their potential impact on bond markets; and the global transition from LIBOR to risk free rates. We also delivered a range of regionally focused events looking at developments in the markets of Latin America, Africa, MENA and across Asia.

**ICMA events 2022**

We are looking forward to seeing you at annual events in 2022 and a host of other focused webinars on current topics.

**FinTech Forum / European Repo and Collateral Council (ERCC) General Meeting / Secondary Market Forum / Green Bond and Social Bond Principles AGM and Conference / Primary Market Forum**


if you would like to sponsor a future ICMA event, including the ICMA AGM & Conference 2022, contact: shannelle.rose@icmagroup.org

We also will be making advertising opportunities available in future editions of the Quarterly Report. To discuss the options, contact: margaret.wilkinson@icmagroup.org


## ICMA podcast

The ICMA podcast features interviews with market stakeholders sharing their insights on a variety of current issues relating to capital markets. Here are the top 10 episodes from 2021 - listen to them and many more from thought leaders across the global capital markets on our media player.

- Enel's Sustainability Strategy and the Role of Sustainability-Linked Bonds
- ICMA Briefing on the Global Transition from LIBOR to Risk-Free Rates in the Bond Market
- Whatever Happened to Underwriting?
- IFC's Green Bond Technical Assistance Programme
- Euronext in the European fixed income space
- A Buy-side View - Bond Pricing Distribution Today
- Taxonomies in Sustainable Finance – Why are they Important?
- The Future of Electronic Trading in Bond Markets with Neptune Networks Ltd
- The Human Side of Finance: Is the Grass Greener on the Other Side?
- Fintech Innovation Revolutionising Capital Markets

# ICMA Education

In 2021 ICMA Education trained over 1,200 market professionals from banks (including investment banks, development banks and central banks), regulators, infrastructure providers and more, across six continents, incorporating developed, emerging and frontier markets on topics that span the capital markets including primary, secondary, repo and sustainable finance.

## New sustainable finance courses in 2022

Sustainable bonds, which focus on providing financing for environmental and social objectives and advancement, surpassed the USD2 trillion-dollar milestone in September 2021, 14 years after the first green bond in 2007. The various sustainable bond principles, for which ICMA provides the Secretariat, remain the foundation of the global marketplace and practices.

ICMA Education has been helping the market build capacity in this asset class with our Introduction to Green, Social and Sustainability Bonds course for some years now, and we are excited to announce the launch of a new advanced course in March 2022 – the Sustainable Bond Certificate.

This course is designed for professionals who already have a reasonable understanding of fixed income but need to know more about the theory and real market application of sustainable bonds and all the ICMA principles (green, social, sustainability and sustainability linked), coupled with rapidly evolving global policy, taxonomies, and other relevant regulation. We will be using practical examples and case studies throughout the course to enrich learning. The Sustainable Bond Certificate will be further enhanced with presentations from leading market participants including investors, external reviewers and issuers.

We are also working on a number of other new courses which will be launched in 2022 including a course on Sustainability-Linked Bonds – a rapidly growing non-use of proceeds bond with huge market potential – as well as specialist courses which we will be presenting with external partners.

# Livestreamed courses in 2022

**Introduction to Green, Social and Sustainability (GSS) Bonds**
Livestreamed, 3-4 March 2022

**Understanding the GMRA**
Livestreamed, 9-18 March 2022]

**Collateral Management**
Livestreamed, 14-22 March 2022

**Primary Market Financial Technology**
Livestreamed, 16-25 March 2022

**ICMA Certificate in Sustainable Bonds**
Livestreamed, 21 March-5 April 2022

**Securities Operations Foundation Qualification (SOFQ)**
Livestreamed, 23 March-1 April 2022

**Inflation-Linked Bonds and Derivatives**
Livestreamed, 7-14 April 2022

**Inflation-Linked Bonds and Derivatives**
Livestreamed, 7-15 April 2022

**Bond Syndication for Compliance and Middle Office Professionals**
Livestreamed, 11-12 April 2022

**Introduction to Bond Markets Qualification (IBMQ)**
Livestreamed, 20-29 April 2022

**Credit Derivatives: Trading, Investing and Structured Solutions**
Livestreamed, 26 April-4 May 2022

Many of our qualifications are available for self-study at your own pace. Find out more at: www.icmagroup.org/education

Our People

International Capital Market Association (ICMA) – our people. With offices in Brussels, Hong Kong, London, Paris and Zurich ICMA is a diverse community of 50 individuals, 56% of our staff are female, 20 different nationalities are represented, with a range of different ethnicities, religions, orientations and ages ranging from 20s to 60s.

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Chief Executive

**Martin Scheck**
President

**Caroline Caswell**
Assistant to the Chief Executive

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Senior Director, Market Practice and Regulatory Policy

**Katie Kelly**
Senior Director, Market Practice and Regulatory Policy

**Charlotte Bellamy**
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**Liz Callaghan**
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**Arthur Carabia**
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**Julia Rodkiewicz**
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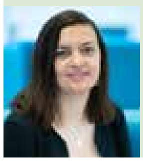
**Özgür Can Altun**
Associate, Sustainable Finance



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**Ricco Zhang**
Senior Director, ICMA Asia Pacific

# Our People

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**Wing Wong**
Assistant

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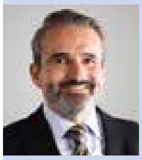
Managing Director, General Counsel; Member of the ICMA Executive Committee



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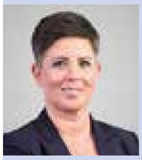
**Lisa Cleary**
Senior Director, Associate Counsel



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**Shannelle Rose**
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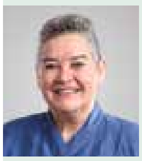

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**Beat Zenklusen**
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**Laura Casadei**
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**Lauren Bekavac**
Associate, Technical Administration, ICMA Education

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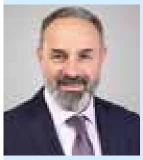
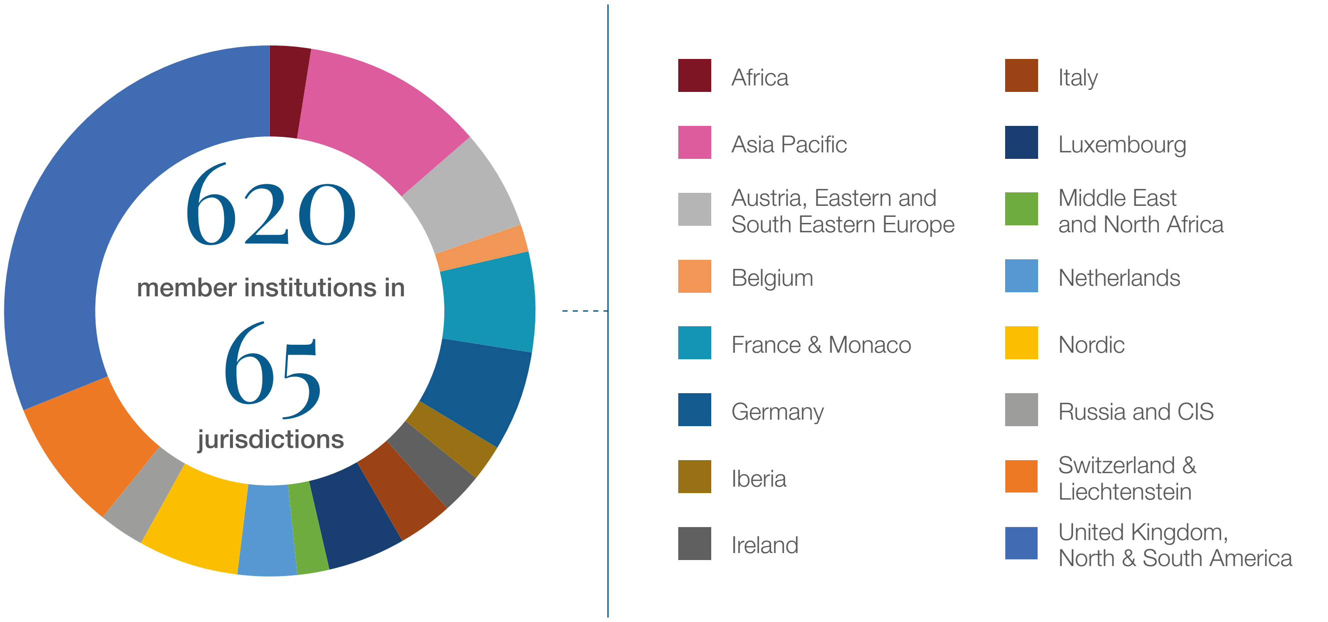


**Nico Barberio**
Director, Accounting

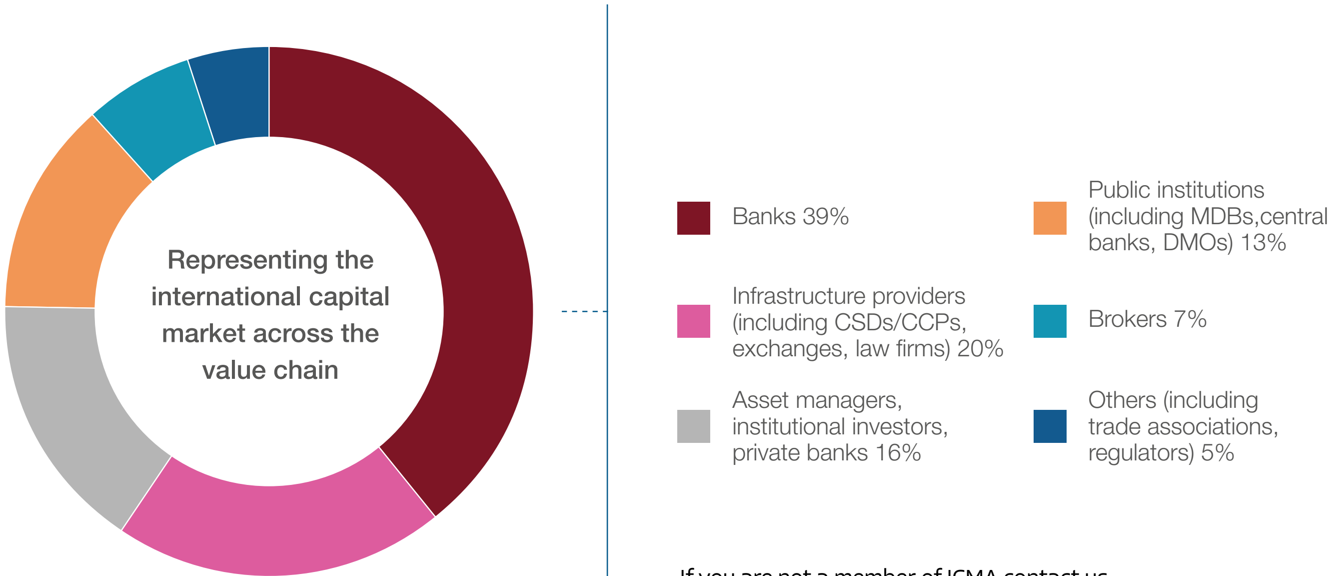
**Angela Turner**
Head of Administration UK

# Representing the international bond market

ICMA, a global association dedicated to promoting resilient and well-functioning cross-border debt securities markets,which are essential to fund sustainable economic growth and development.




ICMA membership includes public and private sector issuers, financial intermediaries, asset managers and other investors, capital market infrastructure providers, central banks, law firms. Working with its members and regulatory authorities, ICMA focuses on market practice and regulatory issues affecting the international debt capital market with emphasis on the cross cutting themes of sustainability and fintech.




If you are not a member of ICMA contact us to find out more: membership@icmagroup.org

# Glossary

| | |
|---|---|
| ABCP | Asset-Backed Commercial Paper |
| ABS | Asset-Backed Securities |
| ADB | Asian Development Bank |
| AFME | Association for Financial Markets in Europe |
| AI | Artificial intelligence |
| AIFMD | Alternative Investment Fund Managers Directive |
| AMF | Autorité des marchés financiers |
| AMIC | ICMA Asset Management and Investors Council |
| AMI-SeCo | Advisory Group on Market Infrastructure for Securities and Collateral |
| APA | Approved publication arrangements |
| APP | ECB Asset Purchase Programme |
| ASEAN | Association of Southeast Asian Nations |
| AUM | Assets under management |
| BCBS | Basel Committee on Banking Supervision |
| BIS | Bank for International Settlements |
| BMCG | ECB Bond Market Contact Group |
| BMR | EU Benchmarks Regulation |
| bp | Basis points |
| BRRD | Bank Recovery and Resolution Directive |
| CAC | Collective action clause |
| CBDC | Central bank digital currency |
| CBIC | ICMA Covered Bond Investor Council |
| CBIRC | China Banking and Insurance Regulatory Commission |
| CCBM2 | Collateral Central Bank Management |
| CCP | Central counterparty |
| CDM’ | Common Domain Model |
| CDS | Credit default swap |
| CFTC | US Commodity Futures Trading Commission |
| CGFS | Committee on the Global Financial System |
| CIF | ICMA Corporate Issuer Forum |
| CMU | Capital Markets Union |
| CoCo | Contingent convertible |
| COP21 | Paris Climate Conference |
| COREPER | Committee of Permanent Representatives (in the EU) |
| CPC | ICMA Commercial Paper Committee |
| CPMI | Committee on Payments and Market Infrastructures |
| CPSS | Committee on Payments and Settlement Systems |
| CRA | Credit rating agency |
| CRD | Capital Requirements Directive |
| CRR | Capital Requirements Regulation |
| CSD | Central Securities Depository |
| CSDR | Central Securities Depositories Regulation |
| CSPP | Corporate Sector Purchase Programme |
| CSRC | China Securities Regulatory Commission |
| DCM | Debt Capital Markets |
| DLT | Distributed ledger technology |
| DMO | Debt Management Office |
| DVP | Delivery-versus-payment |
| EACH | European Association of CCP Clearing Houses |
| EBA | European Banking Authority |
| EBRD | European Bank for Reconstruction and Redevelopment |
| EC | European Commission |
| ECB | European Central Bank |
| ECJ | European Court of Justice |
| ECOFIN | Economic and Financial Affairs Council (of the EU) |
| ECON | Economic and Monetary Affairs Committee of the European Parliament |
| ECP | Euro Commercial Paper |
| EDDI | European Distribution of Debt Instruments |
| EDGAR | US Electronic Data Gathering, Analysis and Retrieval |
| EEA | European Economic Area |
| EFAMA | European Fund and Asset Management Association |
| EFC | Economic and Financial Committee (of the EU) |
| EFTA | European Free Trade Area |
| EGMI | European Group on Market Infrastructures |
| EIB | European Investment Bank |
| EIOPA | European Insurance and Occupational Pensions Authority |
| ELTIFs | European Long-Term Investment Funds |
| EMDE | Emerging market and developing economies |
| EMIR | European Market Infrastructure Regulation |
| EMTN | Euro Medium-Term Note |
| EMU | Economic and Monetary Union |
| EP | European Parliament |
| ERCC | ICMA European Repo and Collateral Council |
| ESAs | European Supervisory Authorities |
| ESCB | European System of Central Banks |
| ESFS | European System of Financial Supervision |
| ESG | Environmental, social and governance |
| ESM | European Stability Mechanism |
| ESMA | European Securities and Markets Authority |
| ESRB | European Systemic Risk Board |
| ETF | Exchange-traded fund |
| ETP | Electronic trading platform |
| EU27 | European Union minus the UK |
| ESTER | Euro Short-Term Rate |
| ETD | Exchange-traded derivatives |
| EURIBOR | Euro Interbank Offered Rate |
| Eurosystem | ECB and participating national central banks in the euro area |
| FAQ | Frequently Asked Question |
| FASB | Financial Accounting Standards Board |
| FATCA | US Foreign Account Tax Compliance Act |
| FATF | Financial Action Task Force |
| FCA | UK Financial Conduct Authority |
| FEMR | Fair and Effective Markets Review |
| FICC | Fixed income, currency and commodity markets |
| FIIF | ICMA Financial Institution Issuer Forum |
| FMI | Financial market infrastructure |
| FMSB | FICC Markets Standards Board |
| FPC | UK Financial Policy Committee |
| FRN | Floating-rate note |
| FRTB | Fundamental Review of the Trading Book |
| FSB | Financial Stability Board |
| FSC | Financial Services Committee (of the EU) |
| FSOC | Financial Stability Oversight Council (of the US) |
| FTT | Financial Transaction Tax |
| G20 | Group of Twenty |
| GBP | Green Bond Principles |
| GDP | Gross Domestic Product |
| GFMA | Global Financial Markets Association |
| GHOS | Group of Central Bank Governors and Heads of Supervision |
| GMRA | Global Master Repurchase Agreement |
| G-SIBs | Global systemically important banks |
| G-SIFIs | Global systemically important financial institutions |
| G-SIIs | Global systemically important insurers |
| HFT | High frequency trading |
| HKMA | Hong Kong Monetary Authority |
| HMRC | HM Revenue and Customs |
| HMT | HM Treasury |
| HQLA | High Quality Liquid Assets |
| HY | High yield |
| IAIS | International Association of Insurance Supervisors |
| IASB | International Accounting Standards Board |
| IBA | ICE Benchmark Administration |
| ICMA | International Capital Market Association |
| ICSA | International Council of Securities Associations |
| ICSDs | International Central Securities Depositories |
| IFRS | International Financial Reporting Standards |
| IG | Investment grade |
| IIF | Institute of International Finance |
| IMMFA | International Money Market Funds Association |
| IMF | International Monetary Fund |
| IMFC | International Monetary and Financial Committee |
| IOSCO | International Organization of Securities Commissions |
| IRS | Interest rate swap |
| ISDA | International Swaps and Derivatives Association |
| ISLA | International Securities Lending Association |
| ITS | Implementing Technical Standards |
| KID | Key information document |
| KPI | Key performance indicator |
| LCR | Liquidity Coverage Ratio (or Requirement) |
| L&DC | ICMA Legal & Documentation Committee |
| LEI | Legal Entity Identifier |
| LIBOR | London Interbank Offered Rate |
| LTRO | Longer-Term Refinancing Operation |
| MAR | Market Abuse Regulation |
| MEP | Member of the European Parliament |
| MiFID | Markets in Financial Instruments Directive |
| MiFID II/R | Revision of MiFID (including MiFIR) |
| MiFIR | Markets in Financial Instruments Regulation |
| ML | Machine learning |
| MMF | Money market fund |
| MOU | Memorandum of Understanding |
| MREL | Minimum requirement for own funds and eligible liabilities |
| MTF | Multilateral Trading Facility |
| NAFMII | National Association of Financial Market Institutional Investors |
| NAV | Net asset value |
| NCA | National competent authority |
| NCB | National central bank |
| NPL | Non-performing loan |
| NSFR | Net Stable Funding Ratio (or Requirement) |
| OJ | Official Journal of the European Union |
| OMTs | Outright Monetary Transactions |
| OTC | Over-the-counter |
| OTF | Organised Trading Facility |
| PBOC | People’s Bank of China |
| PCS | Prime Collateralised Securities |
| PEPP | Pandemic Emergency Purchase Programme |
| PMPC | ICMA Primary Market Practices Committee |
| PRA | UK Prudential Regulation Authority |
| PRIIPs | Packaged Retail and Insurance-Based Investment Products |
| PSIF | Public Sector Issuer Forum |
| QE | Quantitative easing |
| QIS | Quantitative impact study |
| QMV | Qualified majority voting |
| RFQ | Request for quote |
| RFRs | Near risk-free rates |
| RM | Regulated Market |
| RMB | Chinese renminbi |
| RMO | Recognised Market Operator (in Singapore) |
| RPC | ICMA Regulatory Policy Committee |
| RSP | Retail structured products |
| RTS | Regulatory Technical Standards |
| RWA | Risk-weighted asset |
| SAFE | State Administration of Foreign Exchange |
| SBBS | Sovereign bond-backed securities |
| SEC | US Securities and Exchange Commission |
| SFC | Securities and Futures Commission |
| SFT | Securities financing transaction |
| SGP | Stability and Growth Pact |
| SI | Systematic Internaliser |
| SMEs | Small and medium-sized enterprises |
| SMPC | ICMA Secondary Market Practices Committee |
| SMSG | Securities and Markets Stakeholder Group (of ESMA) |
| SARON | Swiss Average Rate Overnight |
| SOFR | Secured Overnight Financing Rate |
| SONIA | Sterling Overnight Index Average |
| SPV | Special purpose vehicle |
| SRF | Single Resolution Fund |
| SRM | Single Resolution Mechanism |
| SRO | Self-regulatory organisation |
| SSAs | Sovereigns, supranationals and agencies |
| SSM | Single Supervisory Mechanism |
| SSR | EU Short Selling Regulation |
| STS | Simple, transparent and standardised |
| T+2 | Trade date plus two business days |
| T2S | TARGET2-Securities |
| TCFD | Task Force on Climate-related Disclosures |
| TD | EU Transparency Directive |
| TFEU | Treaty on the Functioning of the European Union |
| TLAC | Total Loss-Absorbing Capacity |
| TMA | Trade matching and affirmation |
| TONA | Tokyo Overnight Average rate |
| TR | Trade repository |
| VNAV | Variable net asset value |

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