THE INTERNATIONAL DEBT CAPITAL MARKETS REVIEW 2021/22

Beaumont Capital Markets

The International Debt Capital Markets Reviews 2021/22

Content

THE CAPITAL MARKETS' KEY ROLE IN FINANCING A POST PANDEMIC GLOBAL "SUSTAINABLE RECOVERY"

A highly contagious respiratory virus has been endangering humanity and in our fight against an invisible enemy solidarity and concerted global action should continue to guide us as we try to recover from this global emergency. The damage from the COVID-19 pandemic is becoming apparent, but one aspect is already clear – the important role played by capital markets in intermediating capital to rebuild shattered economies.

Vaccination campaigns, fiscal stimulus and a widespread recovery in the service sector should support growth this year but vaccination rates, which differ from one zone to another, explain the growing gap between the US and that of continental Europe. This gap is reflected in the financial markets, in particular with the divergence of the US and European yield curves.

Since the central bank measures at the start of the pandemic, the primary markets have been wide open and extraordinarily active with record new issuance, ICMA continues to focus on the robustness of processes in this sector. Secondary markets were significantly challenged during the depths of the crisis, reinforcing our ongoing message that the ability of market makers to hold inventory is a central plank of secondary liquidity.

The pandemic has served as an accelerant for growth in the global green, social, and sustainable bond markets. In the first quarter of 2021, sustainable bond issuance amounted to USD172 billion nearly a 150% increase over the same period in 2020. On the green bond market front, sovereign issuance continues to grow, especially in Europe. Social bonds have also emerged as a key instrument in financing a post pandemic "sustainable recovery", a remarkable development since their creation with the first IFFIm Vaccine bond in 2006.

For ICMA, sustainability is a crosscutting theme and an agenda item for all our committees and councils. More than 90% of the sustainable bonds issued last year reference the Green and Social Bond Principles, which are managed by ICMA.

The year also proved to be a period of remarkable innovation with the launch of the Sustainability-Linked Bond Principles last June, followed by the launch of the Climate Transition Finance Handbook in December. The focus of sustainability linked bonds on an entity meeting defined and ambitious sustainability performance targets fits well with the growing interest in transition finance, while the Handbook provides context and guidance to issuers as to what the markets will view as a credible transition strategy.

Looking to the future, the other main theme now driving the shape of the capital markets alongside sustainable finance is the FinTech/digitisation agenda. This cuts across the entire value chain of bond markets and a key consideration for ICMA and its members is how to leverage FinTech to further sustainability in the international debt capital markets.

A striking commonality between FinTech and sustainability is the need for common standards and harmonisation. FinTech could be used to develop common platforms particularly in the sustainable finance sector for oversight, facilitate comparability and provide dynamic insights into ESG performance. For data providers, regular, and more frequent ESG reporting is paramount to harness analytics and create greater transparency and resilience which ICMA will continue to promote.

René Karsenti
Senior Adviser
International Capital Market Association (ICMA)

E: rene.karsenti@icmagroup.org

René Karsenti, Senior Adviser to the International Capital Market Association (ICMA), served as ICMA President from May 2006 to May 2019.

The mission of ICMA is to promote well-functioning cross-border capital markets, which are essential to fund sustainable economic growth. It is a not-for-profit membership association serving around 600 member firms in 60 countries. Among its members are private and official sector issuers, banks, broker-dealers, asset managers, pension funds, insurance companies, market infrastructure providers, central banks & law firms. It provides industry-driven standards and recommendations, prioritising four core fixed income market areas, primary, secondary, repo & collateral and sustainable finance. ICMA works with regulatory and governmental authorities, helping to ensure that financial regulation supports stable and efficient capital markets.

From 2009 to 2011, Mr. Karsenti was also Chairman of the International Council of Securities Associations (ICSA), and from 2008 to 2014, Chairman of the European Capital Market Institute (ECMI).

From 1995 until joining ICMA in 2006, he was Director General of Finance at the European Investment Bank (EIB) in Luxembourg, having previously served as Treasurer of the European Bank for Reconstruction and Development (EBRD) in London from its inception in May 1991 to 1995. Prior to joining EBRD, from 1979 he held a variety of senior positions in the treasury organisations of the World Bank Group (IBRD & IFC), including as IFC Treasurer. From 1976 to 1979 he was a securities analyst and portfolio manager at Caisse des Depots, Paris.

Mr. Karsenti holds an engineering degree from ESCIL, Lyon and a PhD in Economics from the Sorbonne University in Paris. He has also carried out research in finance and economics at the University of California, Berkeley. He has been awarded the French Légion d' Honneur.

Other non-executive functions

- Member of the Strategic Committee of the French Debt Management Office (Agence France Trésor)
- Member of the Advisory Committee on Investments of the Food and Agriculture Organisation (FAO)
- Member of the Governing Council of the Centre for the Study of Financial Innovation (CSFI)
- Chairman of the Board of the International Finance Facility for Immunisation (IFFIm) from 2011 to 2017. IFFIm is a multilateral development institution created to accelerate the availability of predictable, long-term funds for health and immunisation to programmes through GAVI, The Vaccine Alliance (a public private partnership with the Gates Foundation and other vaccines stakeholders) for children in the poorest countries.
- Member of the Securities and Markets Stakeholders Group (SMSG) of the European Securities and Markets Authority (ESMA) from 2013 to 2018
- Member of the Manager Selection Committee of the French Public Pensions Reserve Fund (FRR) from its inception in 2002 to 2010
- Member of the Investment Committee of the Fonds de Compensation, Luxembourg from 2004 to 2009

TRENDS AND DEVELOPMENTS – IRELAND 2021

A&L Goodbody

The economic forecast for the debt capital markets in Ireland during the next 12 months is considerably more positive than it has been since the COVID-19 outbreak escalated to become a global pandemic in the early months of 2020. We have seen a significant upturn in activity since the final quarter of last year and expect this positive trajectory to continue as the vaccine rollout continues to gather pace leading to greater certainty amongst market participants both domestically and internationally.

We have summarised below a selection of topics currently relevant in the Irish market and which we expect will continue to be an area of focus in the short-to-medium term.

Brexit

The Brexit transition period ended with effect from midnight on 31 December 2020. At the end of the transition period, EU legislation that was already directly applicable to the UK prior to that date was "onshored" under the United Kingdom's (UK) withdrawal legislation. Notwithstanding this onshoring process, parties to new and existing structured finance transactions need to be conscious that the regulatory landscape post-Brexit may be quite different and the EU and UK financial services regimes will likely diverge in the months and years ahead.

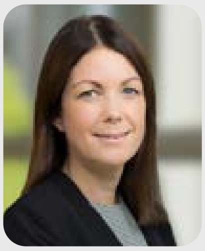
Of immediate relevance are the EU Securitisation Regulation and the UK Securitisation Regulation which, while very similar, are not identical and are distinct regimes. For example, as at the date of writing, the definition of "sponsor" under the EU Securitisation Regulation captures (i) both EU and third country credit institutions; and (ii) EU investment firms however it is unclear if the definition extends to capture third country investment managers. Under the equivalent UK legislation, the definition of "sponsor" covers UK as well as third country investment firms. This divergence will impact on which entities can act as an eligible risk retention holder under the different regimes and is of particular relevance where a transaction is designed to comply with both the EU Securitisation Regulation and the UK Securitisation Regulation (and we have already seen this as a live issue on a number of transactions involving Irish issuers and originators). Further divergences of interpretation and implementation can be expected in the years ahead.

Another hot topic in the run-up to and following Brexit is the ability of UK situate "investment firms" to continue to provide certain investment services to Irish customers post-Brexit. In its legislation implementing the Markets in Financial Instruments Directive (MiFID II), Ireland retained the so-called "overseas-person exemption" (the OPE) from its original MIFID legislation (and the old Irish Investment Intermediaries Act). The OPE continues to apply post-Brexit so that where an investment firm which (i) has no branch in Ireland and (ii) only provides investment services to professional clients/eligible counterparties in Ireland, it should not require an authorisation in Ireland under MiFID II. Many UK based entities that provide regulated services in Ireland have been able to rely on this exemption to continue their usual business functions post-Brexit (in particular where they are providing discretionary investment management services to certain Irish customers (such funds or structured finance vehicles)).

Jack Sheehy
Partner, A&L Goodbody

E: jsheehy@algoodbody.com

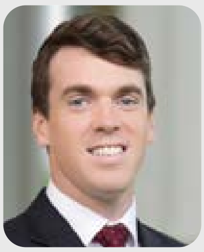
Jack is a Partner in A&L Goodbody's Finance Department. His principal practice areas are debt capital markets (including structured finance and securitisation), private equity finance and general banking. Jack has acted for international and domestic banks, originators, private investors and corporate entities across a wide range of financial transactions. Jack's other areas of expertise include loan portfolio acquisitions, and the establishment of asset acquisition and loan origination platforms.



Sinéad O'Connor
Partner, A&L Goodbody

E: soconnor@algoodbody.com

Sinéad is a Partner in A&L Goodbody's Finance Group. Sinéad's main practice areas are structured finance, securitisations and capital markets. Sinéad has acted for banks, originators, private investors and corporate entities (both International and Irish) across a wide range of banking, securitisation and financial markets transactions. She has broad experience in a range of asset classes including RMBS, trade receivables, consumer loans and auto loans and leases.



Neal Breslin
Associate, A&L Goodbody

E: nbreslin@algoodbody.com

Neal is an Associate in A&L Goodbody's Finance Group, specialising in debt capital markets, structured products and general financing transactions. Neal has acted for banks, private investors, arrangers, fund managers and corporate entities (both international and domestic) across a wide range of banking, securitisation and financial markets transactions.

Neal has broad experience in CLO, ABS and RMBS securitisation transactions and has worked on a number of repackaging programmes. As well as securitisations and structured products, Neal has experience in general group financing transactions (both secured and unsecured) and advising on general lending, guarantee and security arrangements.

As a result of Brexit, many UK based financial institutions migrated a number of their business lines to Ireland. More recently we have seen a number of account banks migrate their accounts from London to Dublin. Many structured finance transactions involving Irish issuers have had to be amended to facilitate these migrations and we now regularly see Irish law account bank agreements (and related Irish law account security) where the market standard previously would have been for those documents to be governed by the laws of England and Wales (on the basis that the relevant accounts were located in London).

COVID-19

As has been the case globally, the Irish economy has felt the impact of the COVID-19 pandemic and this has had ramifications in the debt capital markets, particularly residential mortgage backed securitisations.

Since the outset of the pandemic, the Central Bank of Ireland (CBI) has focussed on protecting consumers and supporting individuals and firms experiencing financial difficulties due to the exceptional circumstances of COVID-19. The Banking & Payments Federation Ireland (BPFI) (which includes all the main Irish retails banks) supported the introduction of payment breaks for affected customers since March 2020 and, while the banking sector is not currently accepting applications for new COVID-19 payment breaks, they continue to actively engage with affected customers on a case-by-case basis to find workable solutions.

The Residential Tenancies Act 2021 was also recently signed into law to extend the applicability of the pandemic related protections initially implemented under the Planning and Development, and Residential Tenancies Act 2020. These protections include extended notice periods for lease terminations and the restriction of rent increases during stated emergency period. As at the date of writing, it is expected that these protections will stay in place until mid-July 2021.

The above measures were necessary to mitigate the significant consequences of the COVID-19 pandemic on the wider economy. However they have also, by their very nature, affected cash flows on RMBS deals as well as other related matters (such as enforcement procedures). More generally, we have also seen a number of waivers and amendments to structured finance transactions during the past twelve months as market participants deal with the financial challenges of the pandemic.

Money Laundering

The Criminal Justice (Money Laundering and Terrorist Financing), (Amendment) Act 2018 introduced a requirement for certain firms (so called “schedule 2 firms”) to register, for anti-money laundering purposes, with the CBI. As at the date of writing, there is some uncertainty in the Irish market as to who the registration requirements will apply to and, although it is not expected to apply too broadly, it could be relevant to special purpose companies that are undertaking activities such as financial leasing or lending. It is anticipated that the CBI will publish specific guidance during the course of this year that will provide greater certainty to market participants on the scope and application of the legislation.

Tax Developments

While in 2020 there were a few tax related developments affecting securitisation transactions including the introduction of anti-hybrid rules as required under the EU Anti-Tax Avoidance Directive (ATAD), the introduction of some domestic anti-avoidance rules requiring more scrutiny of the tax status of certain investors in securitisation companies that had significant interests in the company and an ability to influence policy decisions of the securitisation company, and some transfer pricing related changes, there have not been any material tax changes in 2021.

Ireland is to introduce the interest limitation provisions of ATAD with effect from 1 January 2022 and there is a consultation exercise ongoing in respect of this currently. These rules will in certain circumstances restrict the ability of Irish companies to take a deduction for tax purposes for interest expenses that exceed interest receipts by more than 30% ATAD does give a degree of flexibility to member states in respect of their implementation of these rules. It is anticipated that most securitisation transactions will not be adversely affected by these changes, but there may be certain types of structure that might be more impacted.

> “The Central Bank of Ireland (CBI) has focussed on protecting consumers and supporting individuals and firms experiencing financial difficulties

DEBT FINANCIAL MARKETS TRENDS IN ITALY FOR THE YEARS 2020 / 2021

Marco Zaccagnini
Partner
Debt Financial Markets
London

E: mzaccagnini@gop.it
T: +44 20 7397 1700

Marco is the Head of the Debt Financial Markets Department at Gianni & Origoni. He specialises in capital markets and financial markets' regulations, with a focus on debt issues and restructurings, structured finance and derivative transactions (with a particular emphasis on credit derivatives and regulatory capital-driven structures). He assists premier investment banks, insurance companies, local authorities as well as other issuers and institutional investors.
Having graduated in Law from the University of Milan, Marco joined the firm in 1996 after completing his LL.M. at University of London, Queen Mary and Westfield College.
In addition to his legal practice, Marco writes and speaks about legal issues in the financial markets. He is regularly invited as a speaker at conferences organised by International organisations and bodies such as the ICMA (International Capital Markets Association).
He is a member of the Milan Bar and is admitted to practice as a Solicitor in England & Wales.

Elena Cirillo
Managing Associate
Debt Financial Markets
London

E: ecirillo@gop.it
T: +44 20 7397 1700

Having worked with Gianni & Origoni for 20 years, Elena specialises in a range of debt issuances and restructurings, structured finance, derivative and financial-insurance transactions. She has solid experience in the debt financial markets' regulatory field and provides legal assistance to banks, investment firms, insurance undertakings, local entities and other issuers and institutional investors, both Italian and foreign.
Elena has a significant industry knowledge, having spent about one year on secondment at two primary investment banks in London at the legal departments of the Investment Banking and European Equity Derivatives Divisions of such banks, respectively.
After graduating in Law, she obtained an LL.M in Corporate and Securities Law from the University of London, London School of Economics and Political Science and a PHD in Business Law from the University of Rome "Luiss Guido Carli".
She was admitted to the Italian Bar in 2004 and she is a Solicitor of England & Wales.

In March 2020 a lockdown was declared in Italy, the first country after China experiencing an out of control outbreak of COVID-19. The wealthier and more industrially advanced northern part of the Country was the most critically affected area by what had by then been declared a world pandemic.
The unprecedented health crisis in post-world wars times determined a total halt in all economic productive activities, with the Italian government busy to issue measure after measure to contain the spread of the virus and all-size companies trying to quickly scale-up their IT infrastructures so to allow their workforce to work from home.

The Italian Government was relatively quick to set-up extraordinary measures to help companies facing an unprecedented economic shock, including in the debt financial markets sector. Most notably, by means of Law No. 40 of 5 June 2020, converting into law with amendments Law Decree No. 23 of 8 April 2020 (the so called "Decreto Liquidità"), the so called "Garanzia Italia" by SACE S.p.A. ("SACE"), the Italian export credit agency wholly owned by Cassa Depositi e Prestiti S.p.A. ("CDP", which in turn is State owned), was extended from bank lending to the underwriting of bonds and other debt instruments. In particular, in order to ensure liquidity to Italian companies affected by the pandemic (other than banks and other credit institutions), SACE was permitted to issue guarantees in compliance with the EU temporary framework for State aid measures to support the economy in the current COVID-19 outbreak (the "EU Temporary Framework"), in favour of entities (including banks and national and international financial institutions) underwriting bonds or other debt instruments issued by Italian corporates which were not in distress as of 31 December 2019. Depending on the size of the Italian issuer, the guarantee can cover up to 90% of the issued amount and the proceeds thereof must be used for the greatest part to fund employees costs, rents, investments or working capital for factories and enterprises based in Italy. The guarantee by SACE is irrevocable and first demand and by law it is itself covered by a first demand and without recourse State guarantee. Apart from instances requiring an *ad hoc* procedure, and subject to certain individual thresholds applicable to each issuer, it can guarantee issuances up to €99 million.
Being the targets of the "Garanzia Italia" mostly medium and small companies issuing the so called "mini-bonds", it is doubtful how successful this Governmental endeavour can actually become. In fact, in addition to the condition that the guarantee can be granted only if the Italian issuer obtains a rating at least equal to BB- or equivalent by a leading rating agency[1] (which could indeed be quite burdensome for some smaller issuers), the application procedure to obtain the guarantee by SACE is quite complex, many pre-conditions must be met and it must include the appointment of an arranger in

[1] Where the rating granted is lower than BBB- or equivalent, the initial underwriters of the bonds or other debt instruments are required to keep at least 30% of the aggregate nominal value of the issued bonds until maturity.

charge of structuring and managing the relevant issuance. It involves a due diligence by both the arranger and SACE. Additionally, given the extraordinary nature of the measure, the possibility to apply to obtain the guarantee by SACE is quite limited in time: it was initially granted only until 31 December 2020 and subsequently (actually - due firstly to a legislative hitch and second to the political standstill caused by the resignation of the Italian Prime Minister at the beginning of 2021 - only after such deadline expired), extended until 30 June 2021[2]. At the time of writing, based on the publicly available data and information, it appears that only a handful of debt issuers have availed themselves of the "Garanzia Italia", against a much more widespread use of the "Garanzia Italia" to secure bank lending.

Not quite equally so prompt, but possibly justified by the scale of the commitment at stake, was the establishment by the Italian Government of a segregated pool of assets (the so called "Patrimonio Rilancio") by CDP, aimed at supporting and restarting the Italian economic and productive sectors affected by the pandemic. Firstly envisaged by Article 27 of Law Decree No. 34 of 19 May 2020 (the so called "Decreto Rilancio"), as converted into law with amendments by Law No. 77 of 17 July 2020, it was not until the enactment of the Decree by the Ministry of Economy and Finance No. 26 of 3 February 2021, which entered into force on 25 March 2021, that the procedural terms and conditions for the set-up of the "Patrimonio Rilancio" were set out. €44 billion have been granted to the "Patrimonio Rilancio", for CDP to invest in the real economy, also by means of (i) underwriting subordinated convertible, non-convertible or mandatory convertible bonds in the context of the EU Temporary Framework, and (ii) underwriting or purchasing on the secondary market unsubordinated convertible bonds at market conditions. The investments by the "Patrimonio Rilancio" are targeted to listed or unlisted Italian joint stock companies (*società per azioni*) registering yearly revenues of more than €50 million, with the exclusion of banks, insurance companies and other financial intermediaries. Each investment by the "Patrimonio Rilancio" is, subject to individual requirements, capped at €2 billion. A State guarantee will cover the obligations undertaken by the "Patrimonio Rilancio", which can fund its investments also by means of issuance of bonds or other debt financial instruments (but without being required to comply with (a) most of the provisions of the Italian Civil Code setting out to the rules for the issuance of bonds by Italian joint stock companies and (b) the limits on deposit taking set out by Legislative Decree No. 385 of 1 September 1993, as amended, i.e., the so called Italian Banking Act).

At the time of writing, the "Patrimonio Rilancio" is still not completely up and running, as its terms and conditions are still due to be approved. What is clear is that its investments are aimed at supporting strategically important corporates in the Italian landscape, also taking into account their occupational levels. But also that some measures, namely the investments in subordinated convertible, non-convertible or mandatory convertible bonds carried out in the context of the EU Temporary Framework are quite short lived, as they must be completed by 30 June or 30 September 2021, as the case may be. Unless, of course, such measures are extended along the lines anticipated for the EU Temporary Framework itself[3].

The economic downturn already quite prominent in the Italian

> €44 billion have been granted to the "Patrimonio Rilancio", for CDP to invest in the real economy.

debt financial markets landscape at the beginning of 2020, which was aggravated by the extraordinary events linked to the pandemic outbreak (and mostly driven by the persisting lack of liquidity in the real economy), continued to translate into requests by corporate issuers for waivers of financial covenants set out in debt instruments or, more broadly, restructuring agreements or composition plans with creditors. The rules relating to the call of bondholders meetings set out in many euro-bonds by Italian corporates, often governed by English or U.S. law, were put to the test to an extent not really experienced before. In particular, the voting mechanics, often involving multiple clearing systems and Italian rules not always compatible with the technical functioning thereof, created quite significant complications in terms of procedural steps to ensure that all bondholders, especially in case of widely spread bonds, were given the opportunity to express their vote. The appointment of tabulation agents was often necessary to reach out to bondholders and assist them to untangle themselves from the procedural complications (often not really understandable to non-experts) relating to the provisions of voting instructions or the requests of voting certificates. Italian consent solicitation rules, addressed to listed companies and corporates having bonds listed on regulated markets, were at times used on a voluntary basis by issuers of unlisted bonds (or bonds only traded on other platforms, such as multi trading facilities) in order to make the voting process at bondholders meetings smoother and more successful. Issuers were given the option - by extraordinary measures enacted as early as March 2020 (and which continued to be extended in the course of the months) in relation to the health emergency arising from COVID-19 to limit the spread of the contagion - for bondholders meetings to be held exclusively by telecommunication means, provided that all participants could be identified, attend the meeting and exercise their voting rights. Although necessary, the set-up of audio-video conference tools and distance voting systems potentially involving hundreds of participants was an additional hurdle for corporate issuers. The overall complications relating to voting at bondholders meetings often caused worries that possible objections from bondholders on the manner such meetings had taken place and the vote expressed could have a disastrous chain effect on the success of restructuring agreements or composition plans involving a wider mass of corporate creditors.

On the other hand, this provided a unique opportunity for lawyers

[2] Just before going to print, on 30 April 2021 a draft legislative decree (the so called "Decreto Sostegni Bis") was published envisaging an extension to 31 December 2021 of the possibility to apply for the "Garanzia Italia" by SACE, including in relation to the underwriting of debt instruments.

[3] The same draft Decreto Sostegni Bis mentioned in footnote (2) above envisages the extension of the possibility for the "Patrimonio Destinato" to make investments under the EU Temporary Framework until 31 December 2021.

and advisors assisting corporate issuers to grasp the "real world" of technical mechanics that had often been written in corporate bonds documentation without ever being tested in practice. And it will certainly prove to be a useful added know-how for years to come, given the expectation that quite a few more of such restructurings will have to be implemented.

Despite the economic downturn, the years 2020/2021 have seen a steady interest in sustainable bonds (and green bonds in particular), mostly issued by leading Italian utilities corporations (Terna S.p.A. and Iren S.p.A., to name some). Notwithstanding (i) the lack of a binding harmonised European legal framework; (ii) the absence of any tax benefits and (iii) the well-known concerns due to the lack of issuers' accountability, the interest by investors has remained high, especially for listed debt instruments. Several bonds were admitted to listing on the Green and Social Segment of Borsa Italiana S.p.A. ("Borsa Italiana"), created in 2017. Along the lines of initiatives undertaken by several stock exchanges throughout Europe, and in compliance with the proposed and currently non-binding Green Bond Standards issued by the EU Technical Expert Group on Sustainable Finance, Borsa Italiana's Green and Social Segment rules require issuers to set out (pre-issuance) a framework relating to the use of proceeds, which must be accompanied by an independent external certification, and to publish ongoing annual updates relating to the use of proceeds (until such proceeds are fully allocated). Borsa Italiana is a member of the Sustainable Stock Exchanges Initiative promoted by the United Nations and is one of the observers of the Green Bonds Principles by the International Capital Markets Association. These procedures and credentials certainly represent a reassurance for investors in the Italian debt financial markets in terms of issuers' accountability.
Some sustainability-linked bonds (i.e., those in relation with payouts can vary depending on whether the issuer achieves pre-defined Environmental Social and Governance ("ESG") objectives within the terms set out therein) and transition bonds (i.e., e. those issued by companies operating in the sectors that support the transition to a low-environmental impact economy) were also issued during the period and listed on the Green and Social Segment by Borsa Italiana (e.g., bonds issued by Veritas S.p.A. and Snam S.p.A.).
As of March 2021, 151 green and social bonds are outstanding on the Fixed Income list of Borsa Italiana, worth €213 billion. There are 40 issuers in the Green and Social Segment, including corporate, supranational, government and banking issuers. In addition, proof of the fact that ESG issues are of interest not only for large listed issuers but also for small and medium companies that represent the Italian industrial backbone, from the launch of the Green and Social Segment 8 unlisted small and medium companies already issued listed "mini" green bonds, with a total of €111.4 million raised.
The first Italian green government bond ("BTP Green") ever saw its first tranche issued in March 2021, with demand exceeding €80 billion on an overall amount of €8.5 billion being issued. This was an absolute record on requests for inaugural green bond issuances by EU member States. On the primary market, the BTP Green was offered to institutional investors only, of which ESG institutional investors underwrote more than half of the issued amount. The BTP Green is aimed at financing governmental expenditures having positive environmental impact. On a yearly basis the Italian government will publish on their website a so called "Italian Sovereign Green Bond Allocation and Impact Report".

Despite the economic downturn, the years 2020/2021 have seen a steady interest in sustainable bonds.

The so called "basket bonds" deserve a final note in relation to recent market trends in the Italian debt financial markets landscape. "Basket bonds" made their first appearance by means of Law No. 145 of 30 December 2018 (the "2019 Budget Law"), which provided that some restrictions imposed by the Italian Civil Code to the issuance of bonds and other debt instruments made by Italian corporates (i.e., share capital and/or listing requirements and/or subscription and sale restrictions) may be overcome if such bonds are securitised and on-sold to professional investors by a special purpose vehicle ("SPV") as asset backed securities ("ABS") admitted to listing. In short, "basket bonds" typically involve the repackaging and listing of debt instruments (mostly "mini-bonds") issued by small and medium companies and initially underwritten by securitisation SPVs. The scope of the Italian legislator was to encourage small and medium Italian corporates, which would otherwise be unable to attract investments from qualified and institutional investors, to access the debt financial markets. This measure certainly contributed to broaden the range of financing instruments available to Italian small and medium companies in response to the shortage of lending by credit institutions of the last decade.
Although the issue and listing of "basket bonds" has not peaked during 2020/2021, there is growing interest by market participants and an expectation that more and more financial institutions will push for the use thereof, by carrying out an active role of attracting small and medium-sized issuers for the structuring and organisation of the basket.
Given the lack of consolidated market practice with respect to these structures, some grey areas remain. Among others, the practical difficulties for SPVs having listed their ABS to meet the obligations under the market abuse regulation (i.e. Regulation (EU) No 596/2014) and transparency regime (i.e. Directive 2004/109/EC) must be addressed at a contractual level. Especially so considering that the underlying debt instruments included in the basket are (i) unlisted, (ii) issued by corporate issuers unrelated with each other and with the SPV itself and (iii) issued by usually quite unsophisticated corporates. Cross collateralisation issues will also need to be resolved, considering that the different bonds included in the basket are to be secured by security packages of different nature and value, depending on the individual issuer.

GENERAL REGIME AND RECENT DEVELOPMENTS IN DEBT SECURITIES OFFERINGS IN JAPAN

General regime for debt securities offerings in Japan

The corporate law aspect of the issuance of debt securities in Japan is regulated by the Companies Act of Japan. One requirement is to appoint a bond administrator, which must be companies such as banks or trust banks and has a role similar to a trustee in other jurisdictions (although it is subject to more responsibilities), unless the denomination is JPY 100 million or more, or the number obtained by dividing the aggregate number of bonds by the amount of each bond is less than 50. Where bond administrators are not required for the offering of debt securities, usually a fiscal agent is appointed.

In March 2021, a new system using assistant bond administrators instead of bond administrators has been introduced by an amendment to the Companies Act of Japan. Assistant bond administrators were introduced since bond administrators were often avoided in practice for reasons such as the heavy duty and responsibility and high cost. Assistant bond administrators' duties and responsibilities are more relaxed and in addition to banks and trust banks, persons such as lawyers can act in such role. The practice using assistant bond administrators are yet to be developed since this has just been introduced.

The Financial Instruments and Exchange Act of Japan (the "FIEA") regulates the securities law aspect of offering of debt securities in Japan. The Finance Services Agency of Japan (the "FSA") is the main government regulator that enforces the FIEA and the FSA delegates some of its power to the local finance bureaus.

An issuer is generally required to file a securities registration statement (a "SRS") to the local finance bureau when they conduct a public offering, the total amount of which is JPY100 million or more and a statutory prospectus will also be generally required. Public offerings in this context generally mean offerings that do not satisfy the requirements for any of the private placement exemptions. SRSs must be prepared in accordance with the forms prescribed under the FIEA for each type of offering. The filing of an SRS is made through an electronic filing system called EDINET, which is a system similar to EDGAR in the United States.

Shelf registration is also available for seasoned issuers who satisfy certain requirements such as making ongoing disclosures for one year or more, and is widely used in practice for offerings of debt securities. When the issuer conducts an offering of debt securities utilising shelf registration, it is required to submit a shelf registration statement first to provide ongoing disclosure about the issuer, and then a shelf registration supplement including pricing information upon the actual issuance of debt securities.

Atsushi Yamashita

E: atsushi_yamashita@noandt.com
T: +81-3-6889-7251

Atsushi Yamashita is a partner at Nagashima Ohno & Tsunematsu. For 20 years, he has been practicing in the capital markets area and has been providing advice relating to offering of equity and debt securities by Japanese and non-Japanese companies including major financial institutions in the Japanese market and overseas market, securities law related issues including disclosure related issues and insider trading issues. He also practices in areas such as financial regulations, corporate and M&A and corporate governance related matters. He is a graduate of University of Tokyo (LL.B. 2000) and Columbia Law School in New York (LL.M. 2007). He was admitted to the Japan bar in 2001. He also worked at Paul, Weiss, Rifkind, Wharton & Garrison LLP in New York from 2007 to 2008 and at Securities Business Division, Supervisory Bureau of Financial Services Agency from 2009 to 2010.

The practice using assistant bond administrators are yet to be developed since this has just been introduced.

If securities registration is required, the solicitation of the relevant securities is prohibited unless and until the SRS or the shelf registration statement is filed. Binding agreements to sell and purchase the relevant securities cannot be made unless and until (where an SRS is filed) the SRS becomes effective or (where a shelf registration statement is filed) the shelf registration statement becomes effective and a shelf registration supplement is filed. In general, the SRS becomes effective on the sixteenth calendar day from the date of filing. In the case where the issuer is using shelf registration, this waiting period can generally be shortened to the eighth day from the date of filing of the shelf registration statement. In the case where the SRS or shelf registration statement is amended, the waiting period may be extended.

Usually, the publicly offered bonds will be traded through the book-entry system operated by the Japan Securities Depository Centre Inc. (the "JASDEC"). The principle market is the Tokyo Stock Exchange (the "TSE"), however, only a small number of debt securities are listed in Japan and the vast majority of the debt securities are traded over the counter.

The requirement to file an SRS or a shelf registration statement only applies to public offerings and does not apply to private placements. There are three types of private placements for primary offerings of debt securities and these are:

- small-number private placements;
- qualified institutional investors' private placements; and
- specified investors' private placements (or the Japan professional securities market offerings).

A small-number private placement is a private placement that can be used when the solicitation of an offer to acquire a certain type of debt securities is made to less than 50 persons and certain other requirements are met. The qualified institutional investors' private placement is a private placement that can be used when the solicitation of an offer to acquire a certain type of debt securities is made only to qualified institutional investors ("QIIs") as defined under the FIEA and certain other requirements are met. The specified investors' private placement (or the Japan professional securities market offering) is a private placement that was introduced in 2008 to allow trading in a new professional securities market.

Debt securities issued in the Japanese market is called "Samurai Bonds" and the same rules that apply to Japanese companies for offering of debt securities generally apply to foreign companies offering debt securities in Japan. There are, however, certain rules that only apply to foreign companies. For example, foreign companies are allowed to prepare offering documents such as the SRS in English if they satisfy certain conditions, while this is not allowed for Japanese companies.

Once an issuer conducts a public offering of debt securities and submits an SRS, such issuer will be subject to certain continuous disclosure requirements and will be required to submit an annual report and, in general, a semi-annual report. Such issuer will also be required to submit an extraordinary report upon the occurrence of certain events that are prescribed in the FIEA. These reports are submitted electronically through the EDNET system.

The annual report must be prepared in accordance with the form prescribed in the FIEA, and its content is generally the same as that of the SRS, except that there is no information relating to any offering. The form of the annual report differs depending on the nature or type of issuer or security; for example, the form for foreign issuers differs from that for Japanese issuers. Generally speaking, the annual report will contain information relating to the issuer, including information regarding the business, its group companies, its officers and employees, its capital structure, its shareholders, its financial statements and other financial information, plus certain other information. Foreign issuers are required to include an outline of the legal system and certain other information regarding their home jurisdiction, and financial statements prepared under accounting principles or standards other than Japanese GAAP may be permitted under certain conditions. However, an explanation of the material differences between such accounting principle or standard and Japanese GAAP must be provided.

Recent activity and trends in Japan

According to the Japan Securities Dealers Association (the "JSDA"), the total amount raised by debt securities in fiscal year 2020 (the fiscal year ending March 2020) was JPY 253,115 billion, an increase from JPY174,024 billion in fiscal year 2019. A large part of the increase was due to the increase in the issuance of Japanese government bonds of JPY 221,415 billion in fiscal year 2020 from JPY 142,984 billion in fiscal year 2019 which seems to come from the need to obtain funding to take measures against Covid-19. The amount raised by corporate straight bonds issued by Japanese issuers was JPY 15,613 billion which was not so different from JPY 15,758 billion in fiscal 2019. The amount raised by foreign issuers decreased largely to JPY 466 billion in fiscal 2020 from JPY 1,092 billion in fiscal year 2019.

There is also a trend of the amount of SDG bonds increasing. According to the JSDA, over JPY 2,000 billion of SDG bonds were issued in fiscal 2020 compared to around JPY 1,200 billion in fiscal 2019. While there is a guideline for green bonds by the Ministry of the Environment of Japan which is generally in line with the ICMA guideline, there is no such guideline for social bonds in Japan. As such, the FSA stated that they have formed a study group to work on the creation of a guideline for the issuance of social bonds in Japan.

Another trend is the issuance of digital bonds and digital asset bonds using block chain technology in 2020. These allow the issuer to recognise the bond holders on a timely matter which is not necessarily possible for traditional bonds held through the book entry system operated by JASEC.

In addition, while there is no statutory covered bonds regime in Japan, a couple of Japanese banks issued structured covered bonds outside of Japan with a scheme to make it similar to covered bonds in other countries. Whether other banks will follow or not is yet to be seen.

DEBT CAPITAL MARKETS IN LUXEMBOURG: HIGHWAY TO SUSTAINABLE FINANCE

Luxembourg: a prime location for capital markets

The Grand Duchy of Luxembourg has for long been at the forefront of the trends and evolutions of the financial markets. It grew over the years to become a well-established financial centre in Europe with worldwide recognition, known as one of the world's safest and business friendly environment. Issuers, investors and other actors benefit in Luxembourg from comprehensive and stable regulatory and tax frameworks, within the environment shaped by European Union directives and regulations. Capital markets are no exception to this trend and Luxembourg is indubitably a go-to venue to structure all types of capital markets transactions, both on the debt and equity sides.

On the debt side, issuances having a nexus with Luxembourg are particularly common, either by reason of the issuance being structured through a Luxembourg issuing vehicle or the securities being admitted to trading on one of the markets operated by the Luxembourg Stock Exchange (the LuxSE) – Luxembourg being for years now among the leading European venues for the structuration and issuance of debt securities. Debt securities issued by Luxembourg issuers on capital markets are traditionally governed by foreign law, such as New York, English and German law. Recent trends indicate however that a growing number of transactions are structured around Luxembourg law as the law governing the debt securities. Such shift is true not only for corporate issuers but also for sovereign and international institutions. This is notably the case for the European Stability Mechanism that has issued debt securities governed by Luxembourg law rather than the law of England and Wales since October 2019, allegedly as a result of Brexit.

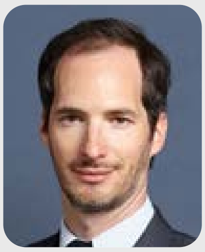
Public bodies and institutions have been also continuously working to promote the financial place and the Luxembourg financial environment in general. In addition, key actors and regulators are known for playing the game. This is particularly the case in the field of debt capital markets for the Luxembourg Supervisory Commission for the Financial Sector (the CSSF) and the LuxSE, which are praised for being business-minded and easy to communicate with.

Customary transactions over the last year include corporate bonds, high yield bonds and multiple green bonds issuances by sovereign and private issuers. The Luxembourg Government recently issued EUR 2.5 billion bonds with a negative interest rate averaging -0.035%, in response to the coronavirus pandemic. It has also issued in September 2020 EUR 1.5 billion sustainability bonds in view of financing and refinancing sustainable projects, becoming the first European State to issue sustainability bonds. Covered bonds (that is, debt securities guaranteed by cover assets specifically allocated to this purpose) can be issued by financial institutions under a specific Luxembourg-governed legal regime and are often followed by an admission to trading on the LuxSE.

Arnaud Barchman Wuytiers van Vliet
Counsel, Lawyer, Avocat à la Cour

E: abarchman@akd.eu
T: +352 26 7582 328
T: +352 6 91 55 88 42

Arnaud Barchman Wuytiers van Vliet is a lawyer at AKD. From our Luxembourg office, he advises multinational clients, including banks, private equity houses, public and private companies on all types of financing transactions, including secured lending, securitisations, high yield debt issuances, securities laws, financial regulatory and listing related matters. He has co-authored a number of legal guides on debt capital markets and securitisation in Luxembourg.
Arnaud has gained over the years a solid and specific experience on capital markets matters, including public and private debt issuances, initial public offerings, securitisations and listing of securities on the Luxembourg Stock Exchange.



Basile Fémelat
Partner, Lawyer

E: bfemelat@akd.eu
T:+352 26 75 82 320
T: +352 691 400 800

Basile is a banking and finance partner of AKD, based in Luxembourg.
His practice covers mainly secured lendings, structured finance, debt capital market and financial regulatory work. Amongst others, he has developped an in-depth knowledge and experience of securitization and alternative investements financing. He also has solid experience in private equity structuring and investment funds financing.
Basile advises a broad range of international and local clients composed of multinational financial groups, high wealth individuals and private equity houses.
Basile is recognised as an efficient Luxembourg finance lawyer in the main legal rankings with a strong client focus and has a track records of assisting numerous top tier clients.
He is a curent member of the Luxembourg bar and a former member of the Paris bar. Basile speaks French, English and German.

A leading listing venue

The Luxembourg capital markets environment is boosted by the very dynamic LuxSE. The LuxSE grew from its inception over 90 years ago to a global leader in the listing of securities, with nowadays over 36,000 quotation lines of securities, of which more than 28,000 are debt securities, from over 2,000 issuers spread over around 100 countries.

The LuxSE operates two markets:

- The regulated market Bourse de Luxembourg (a regulated market in the sense of MiFID II) which falls within the scope of the EU harmonised regime on prospectuses, transparency and market abuse rules and regulations. A listing on the regulated market requires the CSSF's or the foreign competent authority's prior approval of a Prospectus Regulation-compliant prospectus.

- The Euro MTF market, which is not a regulated market and therefore does not fall within the scope of application of the Prospectus Regulation or the harmonised EU transparency requirements. It is typically designed to offer issuers an alternative market with more flexibility and less stringent disclosure and reporting requirements. The Euro MTF is a popular listing venue for issuers of high yield bonds and debt securities restricted to qualified investors. Applications for trading on the Euro MTF are considered and approved only by the LuxSE, and the prospectus and listing application are only subject to the Rules and Regulations of the LuxSE.

Many international groups and banks customarily list their securities issued under their debt issuance programme on the LuxSE. The LuxSE is currently the listing venue for over 500 medium-term notes (MTN) programmes. Sovereign issuers also frequently list their debt securities in Luxembourg, with over 115 sovereign and quasi-sovereign issuers currently having their debt securities listed on the LuxSE.

The LuxSE has proven very proactive over the last decade in the area of listings but also by launching and promoting several green and sustainable initiatives, notably with the launch of the Luxembourg Green Exchange (LGX) in 2016, which is a platform (initially) dedicated to green securities.

The Rise of Sustainable Finance

The demand for sustainable finance sharply increased further to the COP 21 agreement (or the Paris Agreement, resulting from the Paris Climate Conference) and the ratification of the UN Sustainable Development Goals (a collection of 17 interlinked global goals designed to be a "blueprint to achieve a better and more sustainable future for all"). With many other actors, the LuxSE has spared no efforts to try to bring finance towards the path of sustainable investments and become part of the solution to tackle climate change.

In particular, the LuxSE launched the LGX in 2016, a platform dedicated to green securities. The LGX aims at functioning as a meeting place for issuers, asset managers and investors active in sustainable finance and to provide a clear and transparent environment for bonds, whether labelled or unlabelled, recognised as green, social or sustainable. The LGX has quickly become the global market leader in the listing of green securities. It nowadays also includes segments dedicated to social bonds and sustainable bonds, meeting enthusiasm from issuers and market participants. The results are tremendous. The LGX displays over 900 sustainable securities from issuers located all over the globe and reaching an aggregate of USD 500 billion in value of listed sustainable securities. And this is just the beginning. Only a few weeks ago, the banking group KfW issued a EUR 4 billion green bonds, the largest green bonds to date issued by a non-sovereign issuer, admitted to trading on the LuxSE and displayed on LGX.

The LGX is not a separate market on its own but is rather a complementary feature to a "regular" admission to trading on one of the markets operated by the LuxSE. To achieve a listing on the LGX, issuers need to comply with certain specific disclosure requirements and satisfy a specific independent assessment regarding the use and the management of the proceeds of the issued securities. Issuers appearing on the LGX must also comply with the applicable reporting obligations ensuring appropriate transparency and disclosures (notably certain commitments regarding the effective use of the proceeds and adequate disclosure to investors).
The LGX recognises and displays the following categories of bonds:

- green bonds, aimed at funding projects that have a positive environmental or climate impact, in line with the International Capital Markets Association (ICMA) Green Bond Principles and/or CBI's Climate Bonds Standards, including renewable energy, pollution prevention and control, clean transportation and sustainable water and wastewater management;

- social bonds, aimed at funding social projects, in line with ICMA's Social Bond Principles, that includes affordable housing, food security and access to essential services; and

- sustainable bonds, aimed at funding a combination of green and social projects, in line with ICMA's Sustainability Bonds Principles.

The LuxSE has also launched several initiatives to develop awareness and skills in the fields of sustainable finance, notably the LGX Academy, launched in May 2020. The LGX Academy provides market professionals with the knowledge they need to develop sustainable finance. The launch of the LGX DataHub followed in September 2020. The DataHub is a centralised database offering structured sustainability data on more than 3,000 sustainable bonds from more than 800 issuers, aiming at covering virtually the entire universe of listed sustainable debt securities worldwide. With up to 150 data points per security, it is the most comprehensive source of structured sustainability data available on the market.

Only a couple of months ago, the LGX expanded to include "Climate-Aligned Issuers", which is a new section of LGX dedicated to Climate-Aligned Issuers. The section is built on the Climate Bonds Initiative's issuer screening and research. It is dedicated to issuers of debt securities that are active in climate-aligned sectors such as clean energy, low-carbon transport and sustainable land use, but that may not have issued bonds in the labelled format yet. This focus on Climate-Aligned Issuers aims at shedding light on the wider climate-aligned investable universe by highlighting private and public companies that derive at least 75% (strongly aligned issuers) or at least 95% (fully aligned issuers) of their revenues from low-carbon activities.

More recently, the LuxSE entered into an agreement with the German index engineering company Solactive AG to establish a new green bond impact index called the Solactive LGX Green Bond Impact Index. This index features a selection of green bonds listed on LuxSE and displayed on the LGX.

The Luxembourg State playing the game

On 2 September 2020, Luxembourg launched its Sustainability Bond Framework, a dedicated and specific framework, meeting the ICMA Green, Social and Sustainability Bonds principles, becoming the first European country to launch a Sustainability Bond Framework. This innovative framework meets the highest market standards and has also become the first worldwide to fully comply with the new recommendations of the European taxonomy for green financing.

The launch of the Sustainability Bond Framework, providing a dedicated framework for the issuance of green, social or sustainability bonds (i.e. combining green and social aspects), is one of the various initiatives undertaken by the Luxembourg government over the last years in the field of green and sustainable finance. The goal is to ensure that all bonds issued within this framework enjoy international recognition as green, social or sustainable bonds.

Logically, proceeds from the bonds issued through this framework can only be used to finance or refinance eligible projects or assets, such as construction of green buildings, energy transition, development of low-carbon transport, environmental protection, water and wastewater management, climate financing and R&D, access to essential services (such as health, education and social inclusion), affordable housing and job creation.

Shortly after the publication of this specific framework, the Luxembourg State issued Europe's first sovereign sustainability bonds. This issue of EUR 1.5 billion bonds is designed to contribute to finance and refinance sustainable projects, in other words projects that combine both green and social aspects. The bonds have a maturity of 12 years, bear a negative interest rate of -0.123% and were largely over-subscribed by investors, demonstrating the trust of investors in this framework and the Grand Duchy of Luxembourg more generally.

> Luxembourg launched its Sustainability Bond Framework, a dedicated and specific framework, meeting the ICMA Green, Social and Sustainability Bonds principles.

Understanding International Capital Markets

With over 475 lawyers, tax advisers, civil-law notaries and support staff in the Netherlands, Belgium and Luxembourg, AKD is a leading Benelux law firm. For our clients, we are the gateway from, to and in the Benelux.

Members of our dedicated and innovative Capital Markets practice are known for their experience, stretching over decades, in the capital markets environment. They assist and advise corporates and financial institutions on setting up transaction structures, preparing the supporting documentation and obtaining regulatory approvals where necessary. Exploring beyond customary standards being second nature to them, they will be your ideal guides through the complex legal world. They further assist issuers with their ongoing and periodic reporting and disclosure obligations, remaining a reliable and trusted partner throughout the lifetime of the transactions.

THE EUROPEAN GREEN BOND STANDARD - A NEW FRAMEWORK FOR EUROPEAN ISSUERS

ELÍAS RODRÍGUEZ-VIÑA
Uría Menéndez Abogados, SLP

E: elias.rodriguez-vina@uria.com
T: +34915860400

Elías Rodríguez-Viña joined Uría Menendez in 2013. From August 2016 to June 2017 he pursued an LL.M. Master in Law Degree at Columbia University in the city of New York.

Mr Rodríguez-Viña has over 6 years of experience advising domestic and international clients on initial public offerings (IPOs) and stock exchange listings, rights issues and offerings of shares by listed companies, block trades, takeover bids and issues of bonds (including convertible bonds) and hybrid securities.

Mr Rodríguez-Viña also regularly advises clients (issuers and investors) on matters related with capital markets regulations (investments in listed companies, transparency, market abuse, etc.) and the corporate governance of listed companies (general meetings, internal regulations, corporate law, etc.).

ALFONSO BERNAR
Uría Menéndez Abogados, SLP

E: alfonso.bernar@uria.com
T: +34915860400

Alfonso Bernar joined Uría Menéndez in Madrid in 2014. From 2019 to 2020, he was seconded to the firm's London office. Mr Bernar's practice focuses on M&A and securities law. He also advises on wide-ranging corporate matters, such as corporate governance and national and international contracting, and regulatory aspects concerning financial activities, such as banking and investment and payment services.
Mr Bernar has been involved in numerous transactions, including all types of M&A deals and capital market transactions, including issuances, offers (public and private), listings and delistings of shares, preferential subscription rights, bonds (simple, convertible, exchangeable and high yield), commercial paper, and in the defence and launching of tender offers, spin-offs and M&A involving public and private companies.

FOREWORD

Since their introduction by the European Investment Bank (EIB) on 5 July 2007, green bond issues have experienced year-on-year exponential growth that—while momentarily interrupted by the Covid-19 health crisis—is forecasted to set a new record in 2021.

Only recently, Iberdrola, S.A., the Spanish global energy leader, and one of the world's largest electricity utilities in terms of market capitalisation, launched what is currently reported by specialised media to be the historically largest green hybrid bond issue, with €2 billion issued through its subsidiary, Iberdrola International B.V. Following this trend, two Spanish real estate companies have issued green bonds in 2021 (Vía Célere issued €300 million 5.25% Senior Secured Notes due 2026 and Neinor issued a €300 million 4.5% Senior Secured Notes due 2026).

The growth trend demonstrates that green bonds have become a fundamental financing tool in connection with the assets and projects necessary to carry out the low-carbon transition expected by the international community. Nevertheless, and despite their importance, a uniform standard for the criteria and framework under which a bond can be considered "green" has yet to be implemented.

As a result of this vacuum, many issuers have adopted or followed principles inspired by the Green Bond Principles (GBPs) published by the International Capital Markets Association (ICMA), which have become an accepted market standard to determine whether or not a bond can be labelled "green".

The European Union (EU) has, in turn, been working to develop a uniform green bond standard since it was recommended to do so in the final report of the Commission's High-Level Expert Group on sustainable finance delivered on 31 January 2018, materialising in, among other measures; the European Green Deal of 11 December 2019; the new EU Taxonomy Regulation, which entered into force on 12 July 2020; and the European Commission's commitment to deliver a legislative proposal on the EU Green Bond Standard (EU GBS) in the second quarter of 2021.

THE EU TAXONOMY REGULATION - A UNIFORM GREEN SYSTEM

The EU Taxonomy Regulation and the EU GBS are two key legislative instruments for implementing the European Green Deal. The EU Taxonomy Regulation is a classification system that, among others, will provide appropriate definitions to issuers, investors, regulators and policymakers on what economic activities can be considered environmentally sustainable, enhancing market transparency and increasing investor protection from the practice known as "greenwashing" (labelling a financial product as a green or sustainable bond when the fundamental standards for that classification have not been met).

The EU Taxonomy Regulation establishes six environmental objectives, as well as specific thresholds for economic activities to determine whether they are substantially contributing to the achievement of those six objectives:

(i) climate change mitigation;
(ii) climate change adaptation;
(iii) the sustainable use and protection of water and marine resources;
(iv) the transition to a circular economy;
(v) pollution prevention and control; and
(vi) the protection and restoration of biodiversity and ecosystems.

For any economic activity to be considered in compliance with the EU Taxonomy Regulation it must directly or indirectly contribute substantially to one or more of the six objectives, avoid doing any significant harm to the other five and comply with specific minimum safeguards and Technical Screening Criteria (TSC) pending to be adopted by the Commission.

Under the EU Taxonomy Regulation, the Commission is responsible for establishing, among others, the TSC applicable to each of the foregoing environmental objective through the corresponding delegated acts (the so-called Taxonomy Delegated Acts) regulating the specific technicalities for their implementation (including without limitation metrics, thresholds, performance measures for each objective, etc.). While the Taxonomy Delegated Acts with the TSC for the first two objectives were expected to be published no later than 31 December 2020, the overwhelming response to its consultation has warranted its delay, and now it is expected to be formally adopted at the end of May 2021 with application from 1 January 2022. The Taxonomy Delegated Acts with the TSC for the other four remaining environmental objectives are currently being developed and its application is not expected until 1 January 2023.

IMPLICATION FOR ISSUERS - A NEW FRAMEWORK FOR GREEN BOND ISSUANCES

The EU GBS is a voluntary standard that seeks to enhance the transparency, credibility and comparability of the EU green bond market, harmonising the analysis of whether an economic activity qualifies as environmentally sustainable for financing purposes and thus helping issuers to raise funds across borders for their environmentally sustainable activities.

To assist in the development of this standard, the European Commission mandated a Technical Expert Group on sustainable finance (TEG) to come forward with a standard for green bonds. The TEG published the Report on EU Green Bond Standard in June 2019, which included a Draft Model of the EU Green Bond Standard and an EU Green Bond Framework Template (EU GBS Report), and a usability guide for the EU GBS in March 2020.

While the European Commission's commitment is to deliver a legislative proposal on the EU GBS in the second quarter of 2021, the legislative proposal is expected to largely follow the TEG's approach established in the EU GBS Report.

Pursuant to the guidelines set by the TEG, issuers will need to develop a green bond framework (GBF), or thoroughly review their existing framework, that can capture several bond issuances but also other products and detailing the approach and compliance with the EU GBS requirements. In particular, the GBF will include the issuer's environmental objectives and strategy; the process by which the issuer ensures alignment of each of the financed projects with the EU Taxonomy Regulation requirements, including the evaluation and selection process for such projects; guidelines on how proceeds allocated to green projects are managed and on general reporting requirements (e.g., frequency, content, metrics); and information on the external review performed by accredited third-parties at the time of issuance and after full allocation of proceeds to verify alignment with the EU GBS.

The GBF shall be published on the issuer's website before or at the time of the issuance of an EU Green Bond and shall remain available until the maturity of the relevant EU Green Bond.

This article gives a brief overview of the contents and requirements issuers must meet in relation to their respective frameworks in order to be adequately aligned with the EU GBS since, despite its voluntary nature, that alignment will be required in order to use the "EU Green Bond" label in connection with their issues.

ENVIRONMENTAL STRATEGY AND OBJECTIVES

In this section, issuers will be required to describe the environmental objectives to which their green projects contribute as part of the issuer's overall environmental strategy and explain how the green bond issuance contributes to their achievement.

The TEG considers the inclusion of a description of the extent of the environmental impact by business area of the issuer and a description on the manner in which such impacts are handled as a best practice.

Furthermore, issuers subject to the Non-Financial Reporting Directive must include information on their alignment with the EU Taxonomy in their respective GBFs.

The purpose of this section of the GBF is to allow investors to evaluate an issuer's environmental targets and determine whether the framework adheres to any existing international environmental frameworks (including the EU GBS) or sustainability commitment.

USE OF PROCEEDS - EU TAXONOMY REGULATION ALIGNMENT

Net proceeds from the issuances of green bonds must be used to finance projects aligned with the activities covered by the EU Taxonomy Regulation and, once available, the Taxonomy Delegated Acts. In the interim period during which alignment might not be possible—for example, due to the lack of implementing acts in relation to the applicable EU Taxonomy Regulation objectives that the financed project seeks to comply with, issuers normally apply a selection of the most relevant guidelines and criteria available at the time, such as the EU Commission's TEG reports.

As previously explained, before the development of the EU Taxonomy Regulation, no uniform standard existed to determine the criteria and framework under which a bond could be considered "green". Issuers tended to rely on guidance provided by private institutions such as ICMA and its GBPs.

Consequently, the novelty and heightened scrutiny required by the EU Taxonomy Regulation to determine whether an activity could be considered environmentally sustainable may prove to be the most challenging section to prepare in any issuer's GBF.

Issuers must corroborate the: a) substantial contribution to environmental objectives, b) the absence of significant harm to the remaining environmental objectives, c) compliance with minimum safeguards, and d) compliance with the TSC established by the relevant Taxonomy Delegated Acts.

This necessary alignment with the EU Taxonomy Regulation is expected to increase market transparency and mitigate the risk of greenwashing. For example, a green bond issued to finance a solar photovoltaic project would comply with ICMA's GBPs but would not be considered an eligible green project pursuant to the EU GBPs unless it also complies with the TSC applicable to activities covered under the EU Taxonomy Regulation's climate objectives (change and mitigation).

PROJECT EVALUATION AND SELECTION PROCESS

EU GBS bond issuers will need to define the eligible green projects to be financed or refinanced, totally or partially, by its green bond issuances, providing information on the financed project's alignment with the EU Taxonomy Regulation or, if unavailable, the alternative standards that will be applied.

In the relatively uncommon case in which the issuers have yet to determine the specific project to be financed through a particular green bond issuance, issuers are required to define the class and sectors of potential projects and the environmental objectives to be addressed by those projects. Additionally, once a project has been financed, issuers are expected to publish, when possible, detailed information on the specific project as part of the post-issuance reporting required under the EU GBS framework (see section 3.5 below).

The TEG has also issued a recommendation to include a reference in the EU GBS framework to the corresponding activities, criteria and, where applicable, thresholds of the EU Taxonomy Regulation to enable a more streamlined analysis by investors and other interested parties.

MANAGEMENT OF PROCEEDS

Issuers must confirm and describe the management process to ensure that the net proceeds for the issuance of green bonds are effectively allocated to eligible green projects. Issuers should put in place processes that adequately avoid any double-counting issues and distinguish the stage of development and disbursement of the projects (for example, establishing procedures for the management of proceeds for refinanced projects).

In this section of the GBF, it is critical to assure investors and other market participants that the issuer has implemented a dedicated tracking process that ensures the traceability of the proceeds. It should also indicate, if possible, the use of such proceeds prior to their disbursement and the expected timeframe for the disbursement of the proceeds to the corresponding eligible green projects.

REPORTING

Issuers will need to guarantee their compliance with the reporting requirements under the EU GBS, indicating in their GBF both the scope and frequency of the reporting. In this regard, the EU GBS establishes two distinct reporting categories: allocation reporting and impact reporting.

In relation to allocation reporting, issuers are required to report—at least annually until full allocation of the green bond proceeds—information on total proceeds, amounts allocated as at the end of period and information on a project or activity-by-activity basis, as well as in relation to the environmental objectives covered, and information on the geographical distribution of the projects offering, when possible, the corresponding information on a country-by-country basis.

> no uniform standard existed to determine the criteria and framework under which a bond could be considered "green".

With regard to impact reporting, issuers must disclose, at least once prior to the green bond's final maturity date, following full allocation of proceeds, and following any material change, information on the methodology, assumptions, metrics and thresholds it has applied to measure the environmental impact of each project. Once available, thresholds and metrics must be aligned with those developed under the applicable Taxonomy Delegated Acts with TSC for each environmental objective established in the EU Taxonomy Regulation, although additional accepted market metrics may also be applied.

Transparency in connection with the definition, scope and frequency of reporting under the EU GBS when developing the applicable GBF is key to ensure investors and other market participants have a clear understanding of the information provided by the issuer, particularly in relation to the methodologies applied and potential estimates on future environmental impact of the applicable project.

Allocation and impact reportings shall be published on the issuer's website and, when appropriate, through any other accessible communication channel.

THIRD-PARTY VERIFICATION

The GBF should also describe the verification procedures that an EU accredited external reviewer duly appointed by the issuer will undertake to confirm: before or at the time of issuance, the alignment of their GBF with the EU GBS, and, after full allocation of proceeds, the allocation of the proceeds to green eligible projects. In relation to debt programmes, the TEG has clarified that all bonds issued under the same programme and GBF may benefit from a single initial verification. Similarly, any bond issuance by virtue of which the proceeds are fully allocated at the time of issuance may include the verification of the allocation within the initial verification procedure.

Finally, all verifications must be made available on the corresponding issuer's corporate website and, when appropriate, through any other accessible communication channel.

CONCLUSION

The EU Taxonomy Regulation and the EU GBS are highly anticipated landmarks that will further consolidate and boost the green bonds' already positive trend, increasing their transparency and acting as a benchmark standard for the market. While implementation may require an effort from all parties involved, we believe that the benefits clearly outweigh the costs and that the alignment and review of an issuers' GBF is a critical step for issuers to understand the extensive scope and complexity of these modifications.

We trust that the EU Taxonomy Regulation and the EU GBS will contribute to the development of a more standardised and professional green bond market by, among other results, helping investors understand the environmental impact of investing in these assets, which will lead to better and more-informed investment decisions, assisting companies when developing activities allegedly green and may ultimately be the tools necessary for the EU to achieve their ambitious objective of becoming the first climate-neutral continent by 2050 as established in the European Green Deal.

> "Allocation and impact reportings shall be published on the issuer's website and, when appropriate, through any other accessible communication channel.

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