

DG Financial Stability, Financial Services and Capital Markets Union
Unit C1 – Capital markets union
European Commission
SPA2 03/071
1049 Brussels
Belgium

**European Commission public consultation on
Building a Capital Markets Union**

Dear Sirs,

Introduction

The European Private Placement Association (EUPPA) has as its prime objective creating, developing and maintaining a Pan-European market for ‘private placements’ . For the purposes of EUPPA, private placements are medium or long-term corporate debt transactions provided by a small number of institutional investors, based on deal-specific negotiated documentation, generally but not necessarily with the participation of one or more bank intermediaries as arranger(s).

EUPPA is an organisation focussing on the interests of institutional investors, providing access to a community of investors and financial institutions who share information and work towards the development of industry standards in the Pan-European Private Placement market. EUPPA is currently represented in working groups established by ICMA and LMA (e.g. the steering committee of the ICMA-led Pan-European Private Placement Working Group). Members are able to participate in lobbying activities undertaken by EUPPA, gain access to publications and market information gathered by EUPPA and are better able to help shape the growing Pan-European Private Placement market.

EUPPA welcomes and fully supports the European Commissions’ Green Paper on Building Capital Markets Union (CMU). As EUPPA and its members participate in various other associations and initiatives, it’s recommendations may overlap.

As referred to above, EUPPA focuses on private placements and our recommendations are restricted to that aspect of the Green Paper.

We set out below a brief summary of our recommendations on which we elaborate further below.

Summary

- 1) *Beyond the five priority areas identified for short term action, what other areas should be prioritised?*

EUPPA:

The Commission should create a clear and level playing field for investing in private placements.

- 2) *What further steps around the availability and standardisation of SME credit information could support a deeper market in SME and start-up finance and a wider investor base?*

EUPPA:

The Commission should promote the availability of credit and scoring information for all companies.

- 3) *Is any action by the EU needed to support the development of private placement markets other than supporting market-led efforts to agree common standards?*

EUPPA:

More research and information on the asset class is needed in order to support the allocation and risk management by institutional investors. EUPPA would welcome the support of the European Commission and EU Member States in promoting its efforts.

EUPPA would like to urge the EC to prevent overregulation of the nascent private placement market. It should be recognized as and remain a private market aimed at institutional investors. What is required is for institutional investors to build expertise, recognition and support of a pan-European private placement industry.

Detailed Recommendations

- 1) *Beyond the five priority areas identified for short term action, what other areas should be prioritised?*

There is an industry-wide concern that there is not a regulatory level playing field for investment in private placements. At the moment uncertainty and differences in national implementation of Solvency II are an issue for the pricing and structuring of pan-European private placements. Institutional investors are disadvantaged under Solvency II when compared to banks under Basel III as well as when compared to US insurance companies under NAIC rules.

Therefore, the Commission should consider providing more clarity and guidance on the implementation of Solvency II and in particular the matching adjustment¹. This means also eliminating national differences in the interpretation of regulatory treatment, valuation, accounting and basic characteristics of private placements in the EU.

The Commission should consider revising the final calibrations for insurers of the spread risk capital weightings in the Solvency II Delegated Act. For buy-to-hold investors - such as insurers acquiring European private placements - the impact of market volatility on spread risk is immaterial as the assets are held to maturity. This would bring capital charges more in line with those for banks and non-European investors.

¹ Introduced in Article 77b-77d of Solvency II (2009/138/EC).

In addition, EUPPA observes that there are certain laws at work in certain jurisdictions as regards the ability to lend in certain countries which discriminate against lenders which are not banks. For example, one particular feature of the French market is that, due to the 'banking monopoly' restrictions, private debt funds cannot make loans available to borrowers incorporated in France (or French branches of foreign companies) unless it takes the form of a bond instrument. Since the loan format is often preferred, this inhibits the development of a private placement market.

EUPPA believes that best practices should be implemented in all Member States (for example, the introduction of the withholding tax exemption for private placements in the UK). Further work should be carried out to analyse best practices across Member States and EUPPA would be happy to work with the European Commission to this end.

2) What further steps around the availability and standardisation of SME credit information could support a deeper market in SME and start-up finance and a wider investor base?

Private placements are diversifying financing instruments for medium and larger-sized European companies. Whilst increasing availability and standardisation of credit information for SMEs is an admirable aim, the Commission should also promote the availability of credit and scoring information for suitably defined and identified medium to large sized companies.

3) Is any action by the EU needed to support the development of private placement markets other than supporting market-led efforts to agree common standards?

There are four areas where EUPPA believes the EU can help:

- Research in relation to the private placement asset class
- Encouraging sharing of information and transparency
- The prevention of over regulation
- Harmonisation of insolvency regimes

Research, information and transparency

It is well documented that institutional investors are in need of sound long term investments to match the guarantees and promises to their customers. The availability of long(er) term lending from long term funded institutional investors enhances the stability of the financial system and all its participants and could enhance companies willingness to invest on a longer horizon.

Potential issuers of private placements, medium-sized companies, need information to evaluate their funding options to allow them to diversify maturities and suppliers. In addition, more research and information on the asset class is needed in order to support the allocation of funds to private placements and risk management by institutional investors.

Through their strong lending relationships, banks are a dominant source of information and advice to companies in Europe. However, greater transparency is required if private placements are seen as a way to potentially replace part of banks' long-term lending.

Consideration should be given as to how market data is collated and made available to issuers and institutional investors. EUPPA could assist in this by working together with national and European regulators. The gathering of information, greater transparency and the building of a track record is a key issue if the European private placement market is to develop into a credible alternative to other private markets.

EUPPA would welcome the support of the European Commission and EU Member States in promoting its efforts.

Over regulation

EUPPA would like to urge the EC to prevent overregulation of the nascent private placement market. It should be recognized as and remain a private market aimed at institutional investors.

Harmonisation of insolvency regimes

EUPPA welcomes the Commission Recommendation of 12.3.2014 on a new approach to business failure and insolvency and looks forward to the EU taking further steps towards the creation of a level playing field of insolvency laws for companies within the internal market.

Yours faithfully,

European Private Placement Association
12 May 2015