Schwerpunkt Europäische Kapitalmarktunion

The pan-European private placement market

Die Schaffung eines harmonisierten Marktes für Privatplatzierungen in Europa soll kleineren und mittleren Unternehmen die Finanzierung über den Kapitalmarkt erleichtern und größeren Firmen die Diversifizierung ihrer Refinanzierungsbasis ermöglichen. Koordiniert durch die ICMA wurden Best Practise Standards entwickelt. Zur Förderung dieses Marktsegmentes wäre es hilfreich, die unterschiedlichen Behandlungen dieser Instrumente aufseiten der Banken und Versicherungen zu beseitigen. Dies könnte durch eine Anpassung von Solvency II Regelungen zu Gunsten von Versicherungen erfolgen, deren Eigenkapitalhinterlegung höher ausfällt, als dies bei Banken nötig ist. Wünschenswert wäre es aus Sicht der Autorin darüber hinaus, wenn die EU-Kommission und die Europäische Investitionsbank den Markt für Privatplatzierungen im Rahmen des European Fund for Strategic Investment, durch gezielte Risikoübernahme unterstützten könnten um damit das Emittentenspektrum um weniger bonitätsstarke Unternehmen zu erweitern. Red.

For many years, European companies have increasingly accessed the US Private Placement (USPP) market, making up a significant proportion of its nearly 60 billion US-Dollar of annual issuance. The popularity of private placements has however accelerated since the onset of the financial crisis, with markets in countries such as France and Germany providing borrowers with a local solution.

Research[1)] indicates that European borrowers are looking for viable alternative financing options and that private placements will be part of the solution, but until now, there has been no pan-European private placement market to speak of. The demand for private placements looks set to increase as the EU's approximately 200 000 medium-sized companies look to diversify their sources of funding away from the traditional bank loan market, and view private placements as both an alternative and as an intermediate step towards the listed bond markets.

Die Autorin

Katie Kelly

Director, Market Practice and Regulatory Policy, International Capital Market Association (ICMA), London

Coordinated by the International Capital Market Association (ICMA), the Pan-European Private Placement Working Group (PEPP WG) was established in 2014 with the main objective of promoting the development of a dynamic Pan-European private placement (PEPP) market. As a key part of this effort, the PEPP WG published a Pan-European Corporate Private Placement Market Guide in February 2015, which is a guide to best practice designed to represent substantial progress towards common market practices, principles and standardised documentation.

The Guide builds on the Charter for Euro Private Placements developed by the French Euro PP Working Group, a French financial industry initiative. The PEPP WG has also set about identifying barriers to entry for new issuers and investors into this market.

Standardised transaction documentation was also made available in 2015 by both the Loan Market Association (LMA) and the French Euro PP Working Group, which was in all cases developed for internal use. The LMA documentation is governed by English law and is aimed primarily at investment grade-equivalent borrowers, but is designed to be easily adaptable to other credits. The French Euro PP Working Group documentation is governed by French law, but is easily adaptable to other legal systems.

The PEPP instrument was defined by the PEPP WG as financing in the form of medium to long-term senior debt obligations (either in the form of a note or a loan), generally at fixed rate, negotiated with and issued privately to a small group of professional investors, normally an unlisted and illiquid instrument designed for institutional investors with a buy-to-hold strategy, but nonetheless a registered and transferable security.

Either in form of a note or a loan

PEPPs will particularly benefit medium-sized and unrated companies by providing medium to long-term debt funding which may not otherwise be available to them from the loan or bond markets. It may serve in this way as an intermediary and preparatory stage for these companies before they gain access to the public debt markets. The PEPP market will also be able to accommodate larger companies seeking to diversify their funding sources.

Intermediaries and arrangers in the PEPP market will typically have an agency rather than an underwriting role. As the level of information agreed as appropriate for both the particular transaction and the borrower's situation will be mandated by the investor, investors will need to build up the resources to allow them to assess risk of those companies accessing the private placement market more easily.

Significant contribution to the goals of Capital Markets Union

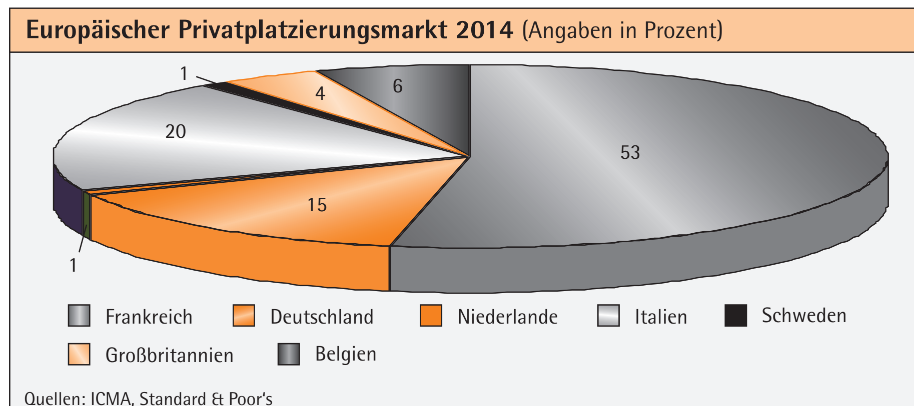
The PEPP should therefore not be confused with forms of public debt market financing that have other characteristics and/or target issuers, but that may also be "privately placed" to individual or small groups of institutional investors, as in the case for example of reverse enquiry EMTN transactions.

On 18 February 2015, the European Commission published a Green Paper on Building a Capital Markets Union (CMU) – an initiative designed to maximise the benefits of capital markets and non-bank financial institutions for the real economy and develop a more integrated single market for raising capital across the EU.

CMU is intended to cut the cost of raising capital in the EU, notably for small and medium-sized enterprises; help reduce the very high dependence in the EU on bank funding; and increase the attractiveness of the EU as a place to invest.

The PEPP market is perceived as potentially a significant contribution to the goals of CMU, and received official support during the Economic and Financial Affairs Council held in Brussels on 9 December 2014, as well as directly from Lord Hill in recent speeches. Specific recommendations were incorporated in ICMA's response to the CMU Green Paper on how to "support the development of private placement markets".

Europäischer Privatplatzierungsmarkt 2014 (Angaben in Prozent)



Quellen: ICMA, Standard & Poor's

Creation of a level playing field for investments

The first of these recommendations is that the most significant policy measure that the European Commission can undertake is to create a level playing field for investment in PEPPs by institutional investors. It is estimated that European institutional investors may face higher capital charges investing in PEPPs under Solvency II than banks under Basel III rules. This discrepancy exists also to a higher degree with respect to US insurance companies investing in USPP (under the rules of the National Association of Insurance Commissioners (NAIC)) that have otherwise comparable maturity and risk profiles as PEPPs, a situation which could be addressed by a revision by the European Commission of the final calibrations for insurers of the spread risk capital weightings in the Solvency II Delegated Act. The final calibrations in the Delegated Act are also problematic due to the focus on volatility risk as opposed to default risk. For buy-to-hold investors – such as insurers acquiring PEPPs – the impact of market volatility on spread risk is indeed immaterial as the assets are held to maturity.

As stated, PEPPs are designed especially to raise medium to long-term finance for medium-sized and unrated companies, as well as larger companies seeking to diversify their funding sources. Efforts to improve the availability of credit and scoring information would support the development of the PEPP market by facilitating the evaluation of these companies by potential investors. Mindful however that medium-sized issuers in the PEPP market would be companies that are typically not captured by the EU's definition of SMEs, the European Commission should promote the availability of credit and scoring information not only for SMEs, but also for suitably defined and identified medium-sized companies.

The credit profile of companies issuing in the PEPP market extends from implied or explicit investment grade to cross-over risk. This is different from the practice of private placement markets such as the USPP and the Schuldschein which are very largely used by companies that, although unrated, are generally implied investment grade. In order to avoid disincentives for institutional investors to invest in the PEPP market, the European Commission should not exclude the use of suitable and existing European guarantee or risk-sharing mechanisms, which could be achieved by the extension of the scope of existing risk sharing schemes and careful allocation of resources from the European Commission/EIB European Fund for Strategic Investment.

Directly acquired or through fund structures

PEPPs may be acquired both directly by institutional investors and through fund structures. There are however numerous restrictions in EU Member States for institutional investors like pension funds investing in pooled fund solutions holding illiquid assets, such as prohibitions or tax disincentives on allocating investments into Alternative Investment Funds (AIFs).

The European Commission should also examine a number of obstacles that exist to non-bank lending, often at national level, including: the inability of funds to originate loans, the need for a banking licence to originate loans, the fact that bank liabilities are preferred in bankruptcy, the lack of standardised procedures for taking security, enforcement and for creating loans/ bonds (like EU company registers for registering and enforcing pledges and similar charges), the restrictions on the availability of credit data which can be restricted to only actors with banking licences, and the different tax treatments on, for example, withholding tax on interest.

Lack of reliable date

In December the UK HM Treasury announced a new exemption from withholding tax for interest on private placements, which removes a significant barrier to the development of the PEPP market in the UK, as issuers would otherwise most likely have had to compensate investors for withholding tax imposed on UK PEPP transactions. The UK exemption, as well as existing dispositions in jurisdictions like France or as recently introduced in Italy, may encourage other European countries where withholding taxes would create barriers for PEPPs to consider comparable adjustments.

One of the recurring questions concerning the PEPP market has been the lack of reliable data on its size and characteristics. Standard & Poor's Ratings Services and Private Placement Monitor (PPM) have produced league tables and numbers for 2014 that show that transactions in this market raised nearly 7 billion Euro in private capital for companies in Europe through 94 deals (including direct transaction, but excluding the German Schuldschein market and the US private placement market). And although private placements in the French Euro PP market continue to dominate, at 53 percent of deal flow, this market is truly becoming pan-European, with 20 percent of deals coming from Italy, 15 percent from Germany, 6 percent from Belgium, 4 percent from the U.K., and 1 percent each from the Netherlands and Sweden.