



Link `n Learn
Capital Markets Union: Focus on
Distribution

March 2017

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Speakers



Derina Bannon

Manager – Investment Management
Deloitte Ireland
E: dbannon@deloitte.ie
T: +353 1 417 2637



Paola Liszka-Draper

Senior Manager – Advisory & Consulting
Deloitte Luxembourg
E: pliskadraper@deloitte.lu
T: +352 45145 2803



Coco Chen

Associate – Risk Advisory
Deloitte UK
E: cocchen@deloitte.co.uk
T: +44 20 7007 0915

Capital Markets Union

What is the Capital Markets Union (CMU)?

The CMU is the European Commission's 'landmark project' which aims to create a single market for capital across all EU member states by 2019. It aims to achieve this by making the investment chain as efficient as possible through improving the access to finance across the EU, increasing and diversifying the sources of funding available and ensuring the effective allocation of capital through markets. Its objectives also include:

- helping SMEs raise finance as easily as large companies
- creating a single market for capital by removing barriers to cross-border investments, and
- diversifying the funding of the economy and reducing the cost of raising capital

The CMU is a long-term project expected to last many years.

The CMU is part of the Commission's "Investment Plan for Europe" which it launched in November 2014. Its measures include:

- the implementation of European Long-term Investment Funds (ELTIF) regulation,
- 'high-quality' securitisation,
- standardised credit information on SMEs.
- private placement and
- the review of the Prospectus Directive.

Who does it affect?

It affects businesses across the EU, including regulated entities such as fund managers, fund service providers and investment funds.

The European Commission's 'Green Paper'?

The purpose of the Green Paper was to foster debate across the EU on possible measures needed to create a true single market for capital. The Commission sought feedback from the European Parliament and the Council, other EU institutions, national parliaments, businesses, the financial sector and all those interested. The Green Paper suggested the following principles should underpin a CMU:

- how to reduce the costs of setting up and marketing investment funds across the EU;
- how to further develop venture capital and private equity;
- whether targeted measures in the areas of company, insolvency and securities laws as well as taxation could materially contribute to CMU; and
- the treatment of covered bonds, with a specific consultation in 2015 on a possible EU framework.

The Commission followed the end of the consultation process and a review of the responses on the 30th of September 2015 released its "Action Plan on Building a Capital Markets Union" setting out its roadmap and timeline for putting in place the building blocks of a CMU by 2019.



Early Initiatives

- Pan-European Private Placements
- High-quality Securitisation
- Review of the Prospectus Regime
- Improving SME Credit Information
- Encouraging the uptake of ELTIFs



Medium-term Initiatives

- Covered Bonds, Corporate Bonds, Green Bonds, Mini Bonds
- FinTech (including crowdfunding)
- Venture Capital (including EuVECA)
- Private Equity
- Leverage Loans
- Securities Law

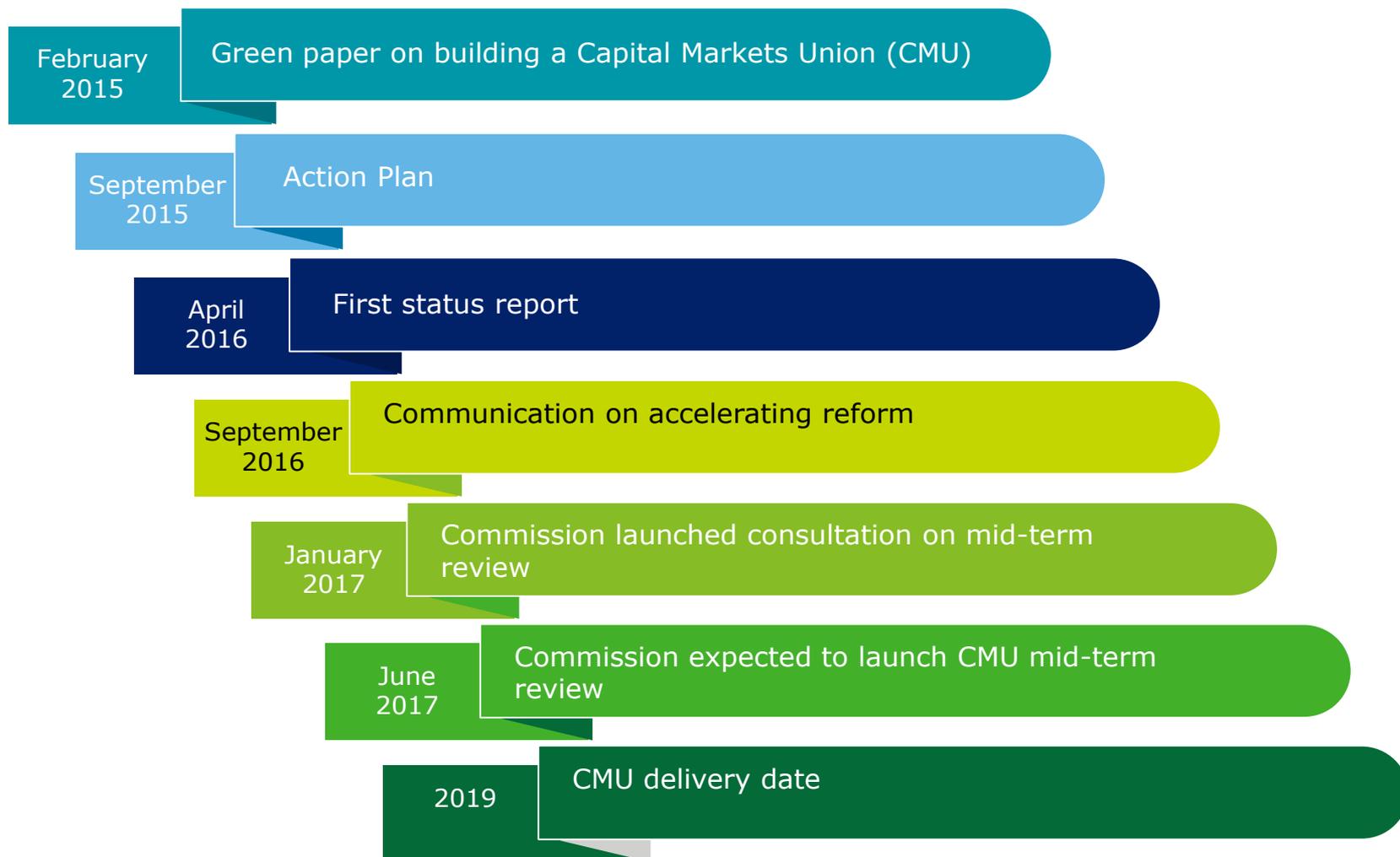


Early Initiatives

- Insolvency Law
- Company Law
- Tax
- Pensions (products and provision)
- Accounting standards

Capital Markets Union

Key milestones 2015-2019



Capital Markets Union

Deep Dive : An overview of the Commission's Green Paper

Principles

- Maximise economic **growth**
- Increase financial **stability**
- Apply to **all 28 Member States** and remove barriers to entry
- Ensure effective **consumer protection**
- Attract global investment and enhance **competition**

Policy Shift

The CMU incorporates three notable policy shifts:

- A **focus on jobs and economic growth** as well as financial stability
- A greater emphasis on **legislative review and calibration** rather than new initiatives
- A willingness to use **alternative techniques to legislation** to achieve its aims (i.e. market driven solutions)



Approach

- Commission will take a **pragmatic "bottom-up" approach, identifying and tackling each barrier in turn** based on the impact and feasibility of each action
- Legislative and regulatory change will be **undertaken only where necessary**
- Greater emphasis will be placed on **market driven solutions**
- There will **not be a large legislative agenda** to deliver the CMU
- The Commission will revisit previous decisions to ensure the **right balance between stability and growth**
- There will be **increased emphasis on impact assessments**

Barriers

Some barriers to the CMU have already been identified, such as a historical bias towards certain types of finance and heterogeneous equity cultures. The Green Paper put **emphasis on identifying and understanding unknown barriers** before proceeding with an action plan.

CMU: The Commission's policy developments

Rapid finalisation of priority areas, acceleration the delivery of second wave actions and potential areas for proposals

First wave: rapid finalisation

Second wave: accelerating delivery

Third wave: future proposals

The implementation of **Simple, Transparent and Standardised (STS) securitisations** for more funding provisions in the real economy (proposal in trialogue negotiations)

A proposal for a new **Insolvency Directive** (published in November 2016)

A "simple, efficient, and competitive" **EU personal pension product**

Governance and financing of the ESAs

The modernisation of the Prospectus rules (agreed by co-legislators in December 2016)

A proposal on the debt-equity bias in the context of its proposal on **Common Consolidated Tax Base** (published in October 2016)

An action plan on increasing choice and competition in **retail financial services**

Cross-border distribution of investment funds

A compromise proposal for a **Regulation amending European Venture Capital Fund (EuVECA)** and **European Social Entrepreneurship Fund (EuSEF)** (published in October 2016)

As part of the review for CRR/CRD, the Commission proposed to expand the favourable capital treatment for loans to SMEs and to reduce the capital requirements attached to **investments in infrastructure**. It also amended the Solvency II Delegated Act to reduce the capital charges attached to investments by insurance companies in infrastructure corporates

Reforms in the area of **sustainable finance**, incl. a comprehensive European strategy on green finance

Covered bond markets

Structural Reform Support Programme (SRSP) (to become fully operational in 2017)

Development of the **FinTech** sector and work to ensure the appropriate regulatory environment

Post-trading infrastructures

Cross-border distribution of investment funds

Consultation closed in October 2016, with possible legislative and non-legislative actions to follow

September
2015

In the Action Plan, the Commission stated that it will seek to eliminate key barriers to the cross-border distribution of investment funds, through legislative means if necessary, following the consultation.

June
2016

The Commission consulted on barriers to the cross-border distribution of funds across the EU. The paper covered all types of EU investment fund (UCITS, AIF, ELTIF, EUVECA and EUSEF). It did not make any specific proposals about how regulation could change.

Potential legislative changes will aim to enable investment funds to do business more easily on a cross border basis, with focus on addressing issues in the following areas (as highlighted in the consultation paper):

Marketing restrictions

EU funds marketed cross-border are usually required to comply with national requirements set by host Member States, which differ across the EU. Significant costs can be incurred in researching each EU Member State's financial promotion and consumer protection regime, and providing appropriate materials on an on-going basis.

Administrative arrangements

Where EU funds using the marketing passport are sold to retail investors, host Member States sometimes introduce special administrative arrangements intended to enable investors to subscribe, redeem and receive related payments from those funds, as well as receive tailored information to support them in doing so. These are an additional burden that may not always be justified by the value added for local investors.

Distribution costs and regulatory fees

EU funds can be subject to regulatory fees imposed by home and host Member States that vary significantly in both scale and how they are calculated. The costs themselves and the need to research them could act as a barrier to cross-border distribution.

Notification processes

Where funds are marketed on a cross-border basis and there is a need for documentation to be updated or modified, investment managers are required to give written notice to the competent authority of the host Member State. This can add cost and time to the process.

Distribution networks

With increasing use of online platforms to distribute funds, the Commission sought to understand the barriers that hinder the use of online and direct distribution across borders.

Taxation

Differential tax treatments can sometimes create barriers to cross border business. Feedback was sought on how best to promote best practice and avoid discriminatory tax treatment.

Timeline for all initiatives

Facilitating cross-border investing

	Action	Progress and next steps
Remove national barriers to cross-border investment	The Commission has published a report addressing differences in national rules and supervisory approaches on marketing of funds, in national rules on administrative arrangements for funds and in regulatory fees for marketing cross-border.	Member States to take actions in Q4 2017. Member States and ESMA will also consider setting up a single public domain for fee-related information, in the form of a comparative website or a central repository.
Improve market infrastructure for cross-border investing	Targeted action on securities ownership rules and third-party effects of assignment of claims	A legislative proposal is underway to address the legal uncertainty on the applicable national law to security ownership in cross-border securities trades.
	Review process in removing remaining Giovanini barriers	Finalisation of European Post-Trade Forum Report and launch of a public consultation is expected in Q2 2017. Communication on post-trade expected in Q4 2017.
Foster convergence of insolvency proceedings	Insolvency law	The European Commission published a proposal for a new Insolvency Directive on preventive restructuring frameworks, second chance and measures to increase the efficiency of restructuring, insolvency and discharge procedures in November 2016.

Timeline for all initiatives

Facilitating cross-border investing (continued)

	Action	Progress and next steps
Strengthen supervisory convergence and capital market capacity building	Strategy on supervisory convergence to improve the functioning of the single market for capital	ESMA implemented its first annual work programme on supervisory convergence and is preparing a second such programme. Work is ongoing to assess how to strengthen the effectiveness and efficiency of supervision at macro and micro-prudential level.
	White Paper on ESAs' funding and governance	Preparatory work is ongoing in view of adoption of a White Paper.
	Technical assistance to Member States to support capital markets' capacity	Commission proposal on the establishment of a Structural Reform Support Programme. Agreement by the co-legislators expected in H1 2017, followed by the launch of CMU-related projects.
Financial stability	Review of the EU macro-prudential framework	The Commission conducted a public hearing in November 2016. Follow-up measures expected in 2017.
Remove cross-border tax barriers	Best practice and code of conduct for relief-at-source from withholding taxes procedures	Code of Conduct expected by the end of 2017.
	Study on discriminatory tax obstacles to cross-border investment by pension funds and life insurers	Terms of reference under preparation by the Commission.

The European Fund and Asset Management Association (EFAMA) replied on Friday

7 March 2017 to the European Commission's CMU Mid-Term Review consultation

EFAMA welcomes the new impetus brought to the overall project but more to do.

Peter De Proft, EFAMA Director General, commented:

"This consultation is a golden opportunity to voice once again the European asset management industry's strong support for all dimensions of the CMU: strong focus on investors' interests, promotion of a market-based financing of the economy, development of a PEPP and development of a comprehensive strategy on sustainable finance".

EFAMA encourage the European Commission to pave the way for further deepening the Single Market for investment funds and removing remaining barriers.

EFAMA recognise that it is important to support larger and more diversified choice of investment and saving opportunities for European citizens, increase competition in the markets, allow for further innovation and reduce the costs and fees.

Retail investors need better access to the capital markets in order to create potential for citizens' savings, which are currently under-exploited.

EFAMA is stated that it is very supportive of the CMU's focus on sustainable finance.

Citizens and companies are increasingly committed to addressing environmental, social and governance ('ESG') challenges in their investments.

Asset managers, as the linchpin between investor's savings and the real economy, have a crucial role to play in providing the tools and advice for selecting responsible investments.

Pan-European Personal Pension Product ("PEPP")

Pan-European Personal Pension product (PEPP) aim is to:

Increase choices for retirement savings, trigger a shift of retail savings into capital markets and would contribute to growth and investment within the Capital Markets Union.

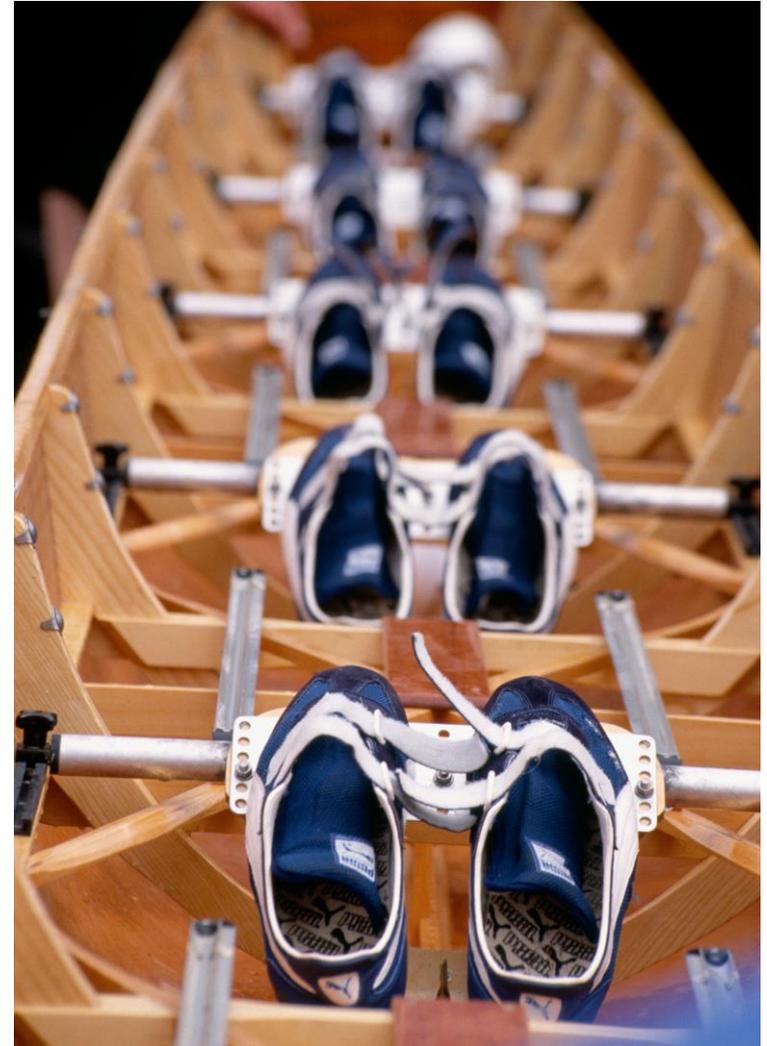
Benefit for EU Citizens:

Aim is to create cost-efficient, simple and portable personal pensions.

Providers would be able to offer similar products within a wide range of Member States, which should lead to economies of scale, lower costs and increased competition.

The future:

the legislative proposal for establishing the pan-European personal pensions product is expected in Q2 2017.



Pan-European Personal Pension Product ("PEPP")

EIOPA's recent publications

It give us an idea of what the legislative proposal might look like

Proposed PEPP standardised features

- information provision,
- limited investment choices,
- regulated flexible caps on costs and charges,
- flexible financial guarantees) that take into account the need of a personal pension product to provide future retirement income whilst allowing for national specificities.

The investment policy behind the PEPP should be long-term. As a result there should be; minimum holding periods, sustainable illiquid asset investment, and the PEPP should receive the same tax advantages as national personal pension products.

CMU: Questions Remain

Supervision

A critical question for the markets is the impact of CMU on supervision, specifically whether it will lead to a single supervisor.

Signals from the Commission and Member States is there is **no appetite for a single supervisor** for capital markets.

End Users

The CMU agenda will put in place a framework for a single market in capital to develop.

Growing EU capital markets will **require innovative techniques** from all concerned, but the framework needs to be **aligned to the needs of end users** if it is to be used.

Questions remain over how the Commission seeks to overcome these challenges.

Institutional Change

The impact of the new internal structure in the College of Commissioners has yet to be seen, especially the role Timmermans (better regulation and subsidiarity).

Political Will

The CMU has received warm reception from some Member States, but it is unclear whether there is sufficient will:

- To **tackle the more difficult and politically sensitive topics** such as insolvency and tax;
- For the Commission to **stay the course with its approach to put emphasis on market driven solutions**.

Existing Workstreams

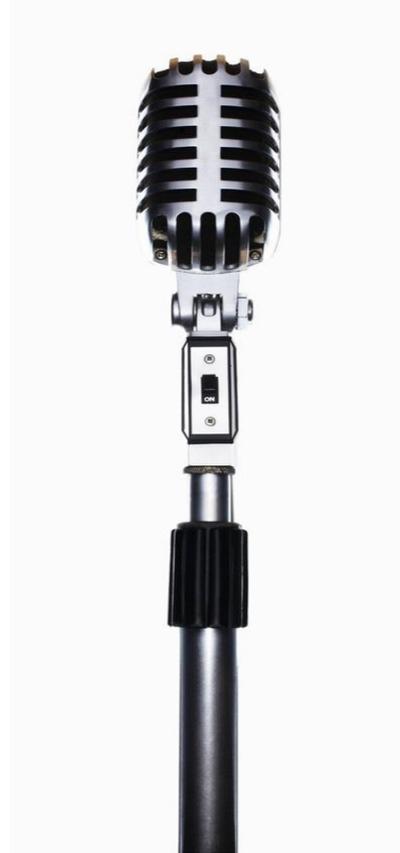
Little information has been provided on **how existing regulatory initiatives will be tied into the CMU**, e.g. MiFID II/ MiFIR level 2 work, or which decisions made in the crisis will be revisited to **"balance growth and stability"**.

Cultural Barriers

The Commission has already highlighted cultural barriers to the CMU, such as the heterogeneous equity cultures. The **Commission has yet to indicate how such barriers could be tackled**.



Q&A





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