Banking & Payments Federation Ireland

BPFI Response to the Department of Finance consultation on the European Commission Green Paper on Capital Markets Union

www.bpfi.ie

Introduction

Banking & Payments Federation Ireland (BPFI) is the voice of banking and payments in Ireland. Representing over 70 domestic and international members institutions, we mobilise the sector's collective resources and insights to deliver value and benefit to members, enabling them to build competitive sustainable businesses which support customers, the economy and society.

We welcome the opportunity to comment the Department of Finance consultation on the European Commission Green Paper on Capital Markets Union and the new Commission's focus on growth and jobs. Further progress towards more integrated European capital markets can be an important factor that brings Europe back to a sustainable growth path. Europe needs efficient and dynamic capital markets alongside a strong and stable banking sector. This makes sense from both a growth and financial stability perspective. We also welcome the inclusion of the commitment in IFS 2020 to develop a working group that will examine the opportunities afforded by the Capital Markets Union green paper and opportunities for strategic positioning and skills enhancement.

Background:

The Green Paper discusses a range of steps that are intended to cumulatively help build a single market for capital across all 28 Member States in order to strengthen jobs and growth and begins a three month consultation. Feedback received from the consultation will be used by the Commission to develop an Action Plan to put in place a fully functioning CMU by 2019.

The Green Paper sets out the following objectives for CMU:

- improving access to financing for all businesses, especially SMEs, and investment projects;
- increasing and diversifying the sources of funding from international investors; and
- ensuring that markets work more effectively and effectively, including reduced costs.

With these objectives in mind the following priorities are highlighted for early action:

1. Lowering barriers to accessing capital markets
2. Widening the investor base for SMEs
3. Building sustainable securitisation
4. Boosting Long Term Investment
5. Developing European private placement markets

The Commission has also launched separate consultations on two of the early priority policy areas:

- securitisation, as a first step towards a possible initiative on creating a more simple, transparent and standardised securitisations market through greater standardisation in securitisation instruments, transparency and simplicity; and
- the Prospectus Directive, in order to gather views on ways to simplify the information in prospectuses, examine when a prospectus is necessary and how to streamline the approval process.

List of priorities

BPFI have established a list of seven key priorities of the CMU:

1. The CMU should enhance existing markets

Policy-makers need to avoid introducing measures that are likely to have a negative impact on capital flows and investment. This would hinder the overall objective of the CMU. The Commission must in particular avoid unintended consequences on capital structures which could risk further fragmentation in financial markets. A good example of this is the implementation of MiFID II and MiFIR, which if not calibrated correctly could create distortions in financial markets, leading to further fragmentation and higher costs for investors.

2. Ensure a level playing-field between markets and between EU and non-EU actors

The Commission must ensure a level-playing field for all actors in financial markets, and there should be equal terms for all market participants. To ensure an effective Single Market it is necessary to align regulation to ensure that it does not act to prevent cross-border activity or to distort competition.

Alternative channels of funding to bank intermediation are essential to the creation of a CMU, however these channels should not have a competitive advantage with respect to banks as a consequence of current banking regulations.

3. Completion of the Single rulebook

The implementation and completion of a true Single Rulebook would help to remove uncertainty for investing in capital markets. The Single Rulebook must be complemented by close convergence of supervisory practices that must be effectively and consistently enforced across all Member States. This will help to create a Single Market for capital for all 28 Member States and would help to remove barriers to cross-border investment within the EU.

Member States must avoid 'gold-plating' legislation, which would disturb the single market. Member States should not be competing on legislation, but instead should be competing on business-friendliness and reliable environments to attract investment.

4. The CMU should emphasise the importance of liquidity and market-making

The success of the initiative to make capital markets more efficient will also depend on whether or not markets can be made broader and deeper and on the availability of the necessary liquidity. Market-makers serve a crucial role in financial markets by providing liquidity to facilitate market efficiency and functioning. Market-makers are critical for the financing of the economy, as was recently confirmed by the ECB.

The Commission needs to place market-making and the importance of providing liquidity at the forefront of the CMU. Liquid capital markets will boost the process of moving capital from slowly growing sectors to dynamic innovative industries and raise confidence of investors.

The adoption of the Banking Structural Reform proposal without adaptations will have significant adverse impacts on the potential CMU. The separation of trading activities out of the universal bank will render market-making more expensive for customers and decrease liquidity in markets.

Hurdles and disincentives to providing liquidity and market-making may also arise from the introduction of a Financial Transaction Tax (FTT). By increasing the cost of secondary market trading – even fractionally - in participating Member States, the FTT would reduce liquidity and so make capital markets a less attractive place for investors, impacting both primary and secondary capital markets and disincentivising on-exchange trading and clearing. The negative consequences of the tax would be proportionate to its huge effective magnitude, taking into account the cascading effect in its application.

5. Improvement of financial education

The Commission should take steps to improve the level of financial education in the EU, for both (retail) investors and SMEs. This would help (retail) investors to better understand the functioning of capital markets and their role within markets, while SMEs would benefit from increased knowledge of possible funding options available within capital markets.

6. Ease burden on firms going to market - Review of the Prospectus Directive

The Prospectus Directive needs to be reviewed to make it easier to comply with, in particular for SMEs. The threshold for producing the prospectus should be significantly higher (as it is in the US) to ease the burden on SMEs. A revised Prospectus Directive should make it easier and cheaper for firms to go to market, while still preserving a high level of investor protection.

7. Restore the economics of Securitisations - Revised rules for Securitisation

The Commission needs to revitalise the market for simple, standard and transparent securitisations. This should be based on a dedicated European securitisation framework addressing the inherent risks associated with securitisations, including a revision of the capital requirements for securitisations.

There is a real need to ensure that Banks have access to securitisation both as a funding tool and a credit risk transfer mechanism to help deleverage balance sheets. The current capital treatment for a bank to invest in ABS is more penal in terms of risk weightings and its inclusion in the LCR than investing in other financial instruments such as covered bonds. This effectively rules banks and insurance companies (under Solvency II) from investing in ABS at current market levels, these investors were the majority of the market prior to the financial crisis. While wider market spreads may encourage other investors or indeed make it attractive for banks and insurance companies, it will dissuade banks from issuing bonds as the economics of the securitisation become prohibitive.

A functioning securitisation, where it makes sense for banks to deleverage their balance sheet and also for banks and insurance companies to buy bonds will ensure that a market for SME Securitisations can be developed and that banks will have additional capital which can be lent into the SME sector.

Time Line to date

- 18 February - Green Paper on CMU published together with Securitisation and Prospectus Directive Consultation Papers – Deadline for responses 13 May
- 31 March - Department of Finance and European Commission Workshop on CMU, Securitisation and Prospectus Directive consultations
- 31 March - Gavin Purtill, Head of Capital Markets outlines initial feedback and priorities of BPFI on CMU. In addition, he presents what BPFI members see as the case for delivering equal regulatory treatment versus comparable instruments for securitisation to revive this market.
- 31 March - Gavin Purtill, Head of Capital Markets and Felix O'Regan, Director of Public Affairs met with, by invitation, the Oireachtas Committee on Finance and the Public Service to present the sector's views on the proposals CMU.
- 31 March - Department of Finance issue a consultation on CMU with April 21st deadline.
- 13 May 2015 - Closing of European Commission public consultation on the CMU
- 08 June 2015 - European Commission high-level conference on the CMU
- September 2015 - Publication of European Commission action plan for the CMU

1. Which areas of a CMU action plan would you like to see prioritised? Which areas require an EU regulatory response and which areas are best left either to domestic regulation or to the market?

Better regulation in financial services

BPFI welcomes the introduction of the new post of First Vice-President in charge of Better Regulation. The Capital Markets Union project should be based on robust principles of better regulation. In that sense we deem it appropriate to identify better regulation agenda as both a shorter and a longer term action. We also note that the Commission REFIT-programme (the Commission's Regulatory Fitness and Performance programme) is an important part exercise to reduce excessive administrative burden. This programme should be extended to financial services.

Creation of Streamlined regulatory reporting channels

Recent regulatory agenda has had a constant focus on improved data and close-to-real-time reporting. This has meant several new reporting obligations towards the ECB, the national central banks, the ESAs, the local regulators and trade repositories as data intermediaries in exceptional cases. Depending on the scope of these rules (such as CRR and EMIR) same data needs to be reported to several recipients with slightly different intervals and parameters.

In general, high quality data is crucial in ensuring that emerging risks can be tackled as early as possible without creating systemic risk. Consistent, high quality reports are also crucial for investors when they make their investment decisions.

The current system with growing and overlapping reporting obligations creates additional burden and possible barriers to capital flow. A one stop shop approach towards at least all EU-level and national supervisors and ECB is needed. Different report addressees should agree on similar data fields and the use of same standards as much as possible and reporting channels should take use of existing IT systems and well-improved digital means. The European Supervisory Authorities (ESAs) could, within their mandates, play a stronger coordinating role to avoid such unwanted consequences, to the benefit of the CMU project. Consequently, relevant budgetary and organisational issues are something that should be looked at in the revision of the regulations governing the ESAs.

Creation of a generic recognition process when assessing EU equivalence of *third countries*

In order to attract capital and investment more easily from *outside* the EU we suggest developing a more generic recognition process when assessing the equivalence of financial market legislations in third countries by the EU authorities (in particular ESAs).

Such a generic process could ensure that the content-related requirements would become *more reliable* (entitlement) and the processes would be more readily *assessable* (legal certainty).

Furthermore, such standardised processes would enable the ESAs to conclude their assessments in a timelier, more transparent and resource-efficient way, without sacrificing thoroughness or eliminating the Commissions prerogative to decree conclusively.

2. **The Commission's indicates some key features that would underpin a "high quality securitisation market". What potential opportunities might this create for Ireland and what needs to be done within a domestic and EU context to maximise any such opportunities?**

BPFI welcome the Commission's comments highlighting the importance of securitisation as a key funding tool in Europe and a channel for borrowers to access capital markets contributing to funding the real economy. We feel that any "stigma" still attached to this asset class is as a result of a poorly calibrated regulatory framework with regard to securitistions when compared to other assets with similar risk ratings.

Documenting the performance

AFME's paper "High-Quality Securitisation for Europe" documented that most European securitisations have performed well, both during the crisis and since, showing the need to differentiate them from US sub-prime mortgage securitisations and the associated, highly-levered artificial exploitations of securitisation techniques.

- Credit performance has been excellent with only **0.12%** of European RMBS outstanding in mid-2007 defaulting since then. See Table 1, which includes all tranches, not just senior ones. By contrast, the default rate for US RMBS in the same period was **22.05%.**

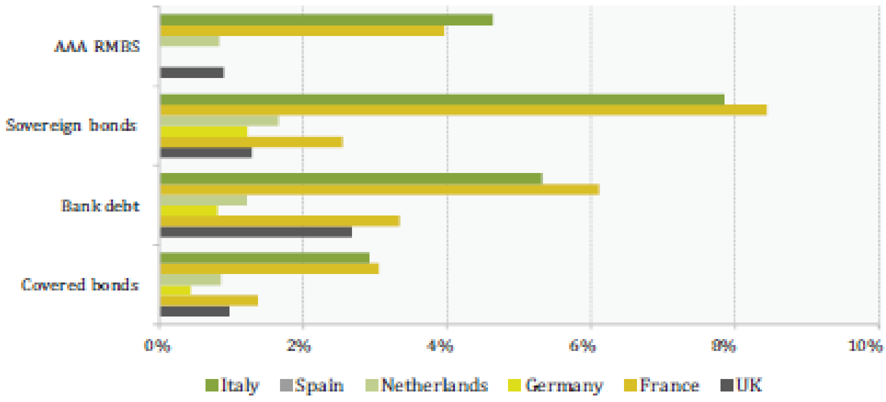
Table 1: European securitisation default rates: mid-2007 to end 2013

	Original Issuance (€bn)	Default Rate (%)
Europe		
Total PCS eligible asset classes	960.2	0.15
Credit Cards	33.2	0.00
RMBS	756.0	0.12
Other consumer ABS	68.0	0.13
SMEs	103.0	0.41
Only senior tranches to be PCS labelled, the default rate for which is zero, like covered bonds		
Total Non-PCS eligible asset classes	728.9	5.66
Leveraged loan CLOs	70.6	0.10
Other ABS	69.1	0.00
Corporate Securitisations	64.9	0.13
Synthetic Corporate CDOs	254.4	2.87
CMBS	163.3	10.34
Other CDOs	77.8	6.54
CDOs of ABS	28.9	41.04
Total European securitisation issuance	1,689.1	2.53
Covered Bonds	1,085.0	0.00
Total European issuance	2,774.1	1.54
Select US asset classes		
Credit cards	295.4	0.07
Autos	198.2	0.04
Student loans	266.9	0.34
RMBS	3,254.9	22.05

Source: Standard & Poor's

- In terms of secondary market price performance, during the period of turbulence associated with perceived issues around the stability of the Euro, from January 2011 to July 2013 the market price performance of European RMBS was correlating most closely with the covered bond asset class and superior to most EU sovereign debt and senior bank debt (see chart 1 and table 2 below).

Chart 1: **Market Price Performance Jan 2011 – Jul 2013**



Source: BofA Merrill Lynch Global Research

Table2: **European RMBS price performance vs other instruments**

Spread volatility by sector

	2011				2012				2013 to end July			
	CB	Bank	Sovs	RMBS	CB	Bank	Sovs	RMBS	CB	Bank	Sovs	RMBS
UK	0.9%	3.3%	1.1%	0.8%	1.0%	2.2%	1.6%	1.0%	0.4%	1.4%	0.7%	0.6%
France	1.5%	4.3%	3.1%	-	1.2%	2.7%	2.5%	-	0.5%	1.6%	0.8%	-
Germany	0.4%	0.8%	1.3%	-	0.5%	0.8%	1.2%	-	0.2%	0.6%	1.0%	-
Netherlands	0.7%	1.1%	1.9%	0.9%	1.0%	1.0%	1.8%	0.8%	0.8%	1.6%	0.8%	0.7%
Spain	2.3%	6.1%	8.8%	3.6%	3.3%	7.0%	9.5%	4.6%	3.4%	3.9%	5.2%	3.1%
Sweden	0.4%	2.6%	1.0%	-	0.5%	1.6%	1.4%	-	0.3%	1.0%	1.2%	-
Italy	3.0%	6.2%	9.1%	4.3%	2.7%	4.9%	7.5%	5.2%	2.0%	3.6%	5.1%	3.0%

Source: BofA Merrill Lynch Global Research

Regulatory restrictive treatment – "discriminate ABS unfavourably"

The mis-calibration of regulatory treatment around securitisations has increasingly been recognised with regulators and policy makers acknowledging the following, for example:

- **Mario Draghi, President of the European Central Bank** "If we consider just the revitalisation of the ABS market, there are many things that need to change in regulation and in legislation. Today, the capital charges for ABS **discriminate ABS unfavourably with respect to other instruments with similar degrees of riskiness**. **The current capital regulation of ABS was calibrated on a reality which is not**

the European one. To give you an idea, I can't remember exactly the period of reference, but let's say over five or ten years, the default rate of ABS in the United States was 17.4%; in Europe, it was 1.4%. So you see that **the capital charges are certainly not being calibrated on European ABS**, which are traditionally of a much simpler, transparent and unstructured form. These things have to be changed, and it will be up to the Basel Committee and the European Commission, as far as legislation within the EU is concerned, to change some of these regulations. Also there are issues like the sovereign cap: ABS are rated according to their sovereign – perhaps with a few points difference, but this often does not make much sense. So there are several issues and, in the end, it may well be the case that, to launch this market, one may need third-party guarantees. So, it is a complex thing on which the ECB's staff is working."

- **Yves Mersch, ECB board member** "**There is a need to restore coherence across financial sectors in particular amid the unfavourable regulatory treatment of (high-quality) securitisation instruments** without violating prudential principles. By doing so, we must act fast and in a manner that is sensitive to our own European reality.

Restoring the economics of securitisation

The economics of securitisation need to be restored. For issuers, the yield on highly rated securitised tranches must be economic compared with other sources of both secured and unsecured funding. From the investor's perspective, more consistent regulatory treatment of securitisations when compared to other assets with similar risk ratings is required so that they can price the assets appropriately.

Changes in ABS risk weighting could lead to simple transparent securitisation (STS) products receiving more consistent regulatory treatment across financial legislation. In November of 2013 Yves Mersch, ECB board member heavily criticised the more restrictive treatment of ABS products compared to other assets with similar risk ratings, comparing it to "calibrating the price of flood insurance on the experience of New Orleans for a city like Madrid". In particular, regulators could work to reduce the discrepancy between regulatory treatment of ABS and collateral.

Simple Transparent Structures
A uniform set of criteria for STS securitisation could potentially broaden the base of investors in securitisation, including investors who were forced to leave the market due to the unfair stigma attached to the entire market. A standardised set of criteria to form an EU framework on STS would facilitate a better functioning market where the liquidity and pricing would become more transparent.

Criteria

It is to be welcomed that the European Commission has decided to build on the international debate that has been ongoing at the international and EU level and incorporating the criteria used in the Commissions delegated acts on the Liquidity Coverage Ratio and Solvency II to define High Quality Liquid Assets. It is important that the new STS criteria referring to the entire securitisation, and not just the tranche or asset, are developed in line with the BCBS-IOSCO and EBA criteria to ensure that the new EU securitisation framework is robust, effective and in line with international standards so as to ensure international investors will be receptive to the criteria.

There is merit in reviewing the inclusion of certain types of funded synthetic securitisations and of Asset Backed Commercial Paper (ABCP), as they relate to SME funding, within such a framework. This analysis should look at the actual performance of synthetic deals to establish if there is merit in including them in the criteria as they could be useful in cases where the actual sale or transfer of loans and receivables may not be possible, e.g. SME loans.

Prudential treatment

There should be some recognition that structures that comply with the STS framework be afforded a preferential prudential treatment to reflect the lower risk profile of STS structures relative to non-STS structures.

Risk retention

The Bank of England/ECB have suggested that for STS securitisation, the "indirect approach" to due diligence on risk retention – which places the onus on the investor of verifying compliance with risk retention rules by the Securitising Party – should be complemented with a "direct approach" that imposes compliance directly on the issuers. This will allow investors, when completing due diligence on risk retention, to place reliance upon attestation provided by the Securitising Party.

It would also help to ensure risk retention rules are implemented effectively and consistently across jurisdictions. This is a fair proposal which should be accepted

Transparency

The ECB has been a champion of increasing transparency in the European ABS markets by making the availability of loan level data a condition for ECB eligibility. Any other measures taken to increase the transparency, consistency and availability of data for investors is to be welcomed.

SMEs

The Bank of England/ECB noted one transparency issue in particular that requires urgent attention and action and that is the need to improve the availability of SME credit data in the EU. A major impediment affecting the securitisation of SME loans is the lack of investor confidence in the quality of underlying SME loans. Improving the availability of key performance metrics, while complying with national confidentiality laws, would significantly increase transparency and reduce concerns about the asymmetry of information between originators and investors.

Implementation and enforcement

There is merit in using an independent body to ensure that criteria for qualifying instruments are met. The Prime Collateral Securitisation (PCS) label is a perfect example of how such a system could work. The qualification criteria are set by an independent body, in consultation with industry practitioners (which could work as a template for any EU criteria). Assessment of the criteria can be carried out by the independent body, which is established on a not for profit basis. All criteria and the assessment of how an instrument meets them should be made publicly available so as to ensure optimum levels of transparency.

The objective of the exercise should be kept in mind– i.e. recognising the role that high quality STS securitisation can play in promoting a successful and safe financial services industry in Europe – when looking at the scope and process of the procedures. Again, the PCS label could provide a template here. The procedures would involve an analogous process to that employed by competent authorities in reviewing prospectuses for compliance with the requirements of the Prospectus Directive. An issuer or its advisors would submit a near final version of the prospectus along with a checklist indicating compliance with the relevant assessment criteria to the independent body. The criteria would then be checked within a short period of time, with any amendments to take place on an iterative basis thereafter. The assessment process would occur in parallel to the approval process of the relevant competent authority under the Prospectus Directive.

Monitoring and consistency

The Bank of England/ECB have urged the Commission to assess on a continuing basis the adequacy of measures introduced for STS securitisation, the consistency with relevant international standards and the relative treatment of similar financial instruments, in particular covered bonds which should also be subject to appropriate improvements in prudential standards. The consistency of legislation for and the implementation of an EU framework for STS securitisation will be imperative for ensuring the sustainable revitalisation of the European securitisation market.

Regulatory Treatment for Securitisation to Secure a Level Playing Field

The regulatory treatment for securitisation, even for senior ABS bond investments is more penal compared to other comparable funding instruments such as covered bonds and financial corporate bonds. This situation is impeding the revival of the securitisation market

Basel treatment comparison

For ABS investments we have used the ratings based approach. Unless a bank holds residential mortgages in a country they cannot use the internal model approach for RMBS investments in that country.

As shown below, under the proposed ratings based approach, 5 year senior RMBS rated AAA at 20% is treated as if it is an unsecured financial corporate bond, and attracts twice the risk weight of a comparable covered bond.

Rating	5 year Senior RMBS	Covered	Financial corporate bonds	Unrated mortgage pool (75% LTV)	CRE loan (50% LTMV)
AAA	20%	10%	20%	35%	50%
AA	40%	10%	20%		
A	65%	20%	50%		
BBB	105%	20%	50%		
BB	180%	50%	100%		
B	340%	50%	100%		

Source: CRR, Basel securitisation framework

In peripheral Europe where AAA ratings are hard to achieve due to sovereign rating caps from the rating agencies, risk weights are even more heavily stacked against ABS. Best rated Irish RMBS (AA rating) would therefore attract ***four times*** the risk weight of comparably rated covered bonds and ***twice*** the risk weight of an ***unsecured*** financial corporate bond of similar rating. Similarly BBB senior RMBS common in Spain/Portugal attract 105% risk weights, some ***five times*** that of covered bonds at 20%. As a direct result, banks are finding covered bonds much more attractive to issue as other bank investors need to place less risk capital aside.

LCR treatment

This unequal treatment for ABS bonds also extends to bank liquidity purposes. Under the LCR, ABS bonds are more harshly treated for:

- Haircuts for AA- and above RMBS stand at 25% and for SME /consumer ABS at 35% versus just 7% for comparable covered bonds.
- Upper cap on the quantum on ABS by classifying it as Level 2B and capping the asset class to just 15% of High Quality Liquid Assets. This compared to covered bonds which can effectively form 100% of the HQLA bucket via its classification across Level 1 and Level 2 assets.
- Ratings cut-off – while high quality ABS is eligible only when ratings are higher than AA- (a very high threshold), covered bonds are eligible even when they are ***unrated.***

An A rated covered bonds attracts a 15% haircut compared to complete ineligibility for single-A rated ABS. Even accounting for some liquidity differences in secondary markets for A/BBB rated senior ABS, the difference in LCR haircuts is questionable.

LCR haircuts comparison

Rating	Qualifying Senior RMBS	Qualifying senior SME/consumer ABS	Qualifying covered bonds	Financial corporate bonds
AAA	25%	35%	7%	Not eligible
AA	25%	35%	7%	Not eligible
A	Not eligible	Not eligible	15%	Not eligible
BBB	Not eligible	Not eligible	30%	Not eligible
BB	Not eligible	Not eligible	30%	Not eligible
B	Not eligible	Not eligible	30%	Not eligible
Unrated	Not eligible	Not eligible	30%	Not eligible

Source: LCR delegated act

Solvency II Treatment

Insurers are also being pressured by punitive capital charges on ABS via Solvency II proposals (to come into force on 1 January 2016). There are three main issues which are detrimental to the functioning of the securitisation market by squeezing out insurance investors from the ASB market:

- ***The definition of Type 1 securitisation is too restrictive*** as it only senior RMBS, SME and consumer ABS. In terms of asset classes it is too narrow and restricting the definition to senior tranches may seem convenient but ignores economic realities such as highly enhanced mezzanine tranches with very well-seasoned collateral and the fact that without insurance companies there is no other buyer of theses tranches.
- ***Type I charges versus covered bonds and corporates are punitive***. For example a 5 year Type I AAA RMBS attracts 10.5% charges versus 3.5% for AAA covered bonds, a factor of 3x and this type of penalty continues across rating categories. A 5 year AAA unsecured corporate bonds for example, get a charge of 4.5% as against highly enhanced 5 year AAA secure RMBS at 10.5%. This results in it being penalised more than twice.
- **Type 1 securitisation charges versus loans are also highly unfavourable**. For example, a residential mortgage pool with 75% LTV loans attracts just 0.75% in charges, while a senior AAA RMBS against the same pool would attract 10.5% despite being highly enhanced. Indeed, owning the entire securitisation stack would attract capital charges several fold compared to owning the mortgage pool – creating an incentives for insurers to originate or acquire whole loan pools, an activity which is far more risky than owning AAA tranches against the same pools.

Potential for Ireland and what needs to be done within a domestic and EU context to maximise any such opportunities?

The proposals relating to securitisation in CMU are the areas which have the greatest potential to impact on Ireland as a location for inward investment. Ireland has a very strong securitisation base and is a recognised market leader in terms of listings and corporate formations. The service provider's side of the industry remains very strong.

The current weakness in the industry is in relation to investors and issuers who are currently constrained by the overly restrictive regulatory conditions.

The openness of the Commission to look at remedies to ensure that the securitisation market becomes a properly functioning market which can provide capital relief for bank issuance as well as a source of funding diversity. The implementation of these measures should ensure that the investor and issuers once again become active in the market demonstrating the credit analysis and structuring skills in the sector. A return of the securitisation market should also facilitate the emergence of non-bank solutions, which we are beginning to see, to utilise the currently underemployed skills of the investor and issuer base.

Once activity begins to build then there is the possibility that some of the underutilised skills can be employed in looking at securitisation solutions to the funding needs of Irish micro SME's. Until the proper functioning of the securitisation of the market has been restored it is difficult to look at any securitisation solutions as the current economics do not favour such deals. Once a more normalised market has been established then there is the potential to access the economic viability of such structures and to look at potential micro SME solutions.

3. To what extent is the current Prospectus regime considered to be a barrier to more SME issuances? What single change to the current Prospectus regime could have the most positive impact in terms of improving Irish SME issuances?

The existing prospectus rules and regulations, including the high minimum denomination threshold in the Prospectus Directive, are both complex and costly to potential SME issuers. In addition different national rules for access to the retail capital markets can be a critical barrier to SME issuance (particular if the SME has operations outside its home country). Removing these cross-border barriers under the CMU initiative would go a long way to addressing these problems and have a positive impact.

4. Which areas of CMU have the greatest potential to impact upon the attractiveness of Ireland as a location for inward investment?

The current securitisation consultation process and that with the Commission is extremely important for the industry as it is a chance to show internationally that the industry in Ireland is active and is trying to influence the current debate and that it is coordinating its approach to ensure that the industry as a whole is benefitting.

A resurgence of activity in the context of a growing industry and activity will help foster the concept of Dublin as a securitisation hub. As in the 1990's Dublin will become a natural focus for inward investment to take advantage of the levels of activity being conducted in Ireland as well as the wide range of activities.

5. The green paper raises the possibility of some far-reaching CMU elements (for example relating to supervisory convergence, company law, differences in tax regimes). How might such horizontal changes impact on Ireland, both in terms of our domestic market and more generally our attractiveness as a location for inward investment?

The degree of standardisation and harmonisation envisaged in the CMU Green Paper will be difficult to achieve as long as different jurisdictions have separate legal systems especially in relation to commercial matters such fiscal tax matters, contract law, property rights and the insolvency process. Laws regarding insolvency are of general application in a jurisdiction and do not apply solely to a funding structure for example. Any change to insolvency laws could impact all insolvencies in a jurisdiction (e.g. "ordinary" corporate insolvencies, personal bankruptcies) and a detailed analysis on any proposals in this regard would be required.

6. What developments are required to make European private placement markets more attractive to Irish companies vis-à-vis the US? Is there scope for companies that currently cannot realistically secure private placements to benefit?

7. **Taking into account the establishment of a Central Bank owned central credit registry, how well does Ireland fare in terms of SME data coverage, fragmentation, quality, integrity, etc? What opportunities or issues may arise for Irish SMEs in the event of the creation of an EU credit database or at least formal arrangements between national database owners that would go in this direction? To what extent would such developments likely meet investors' requirements and thus encourage greater investment in SMEs?**

Typically, it would be our experience that the range of information available for small businesses in Ireland does not compare favourably with other jurisdictions. While the CRO contains information such as Directorships, Audited accounts and history of judgements, what is missing from this is a regular update for information from lenders as part of a data sharing agreement. Such a process gives more timely data and allows others to assess the business position. By supplying regular monthly updates to the Central Credit Register, such timely data would be provided. While audited accounts are important, in some cases the information contained therein can be up to 20 months old on the CRO. Therefore there is merit in a better business databases in Ireland. In terms of a pan-European basis, we believe that the added benefit of such a system would be minimal as this lending is mostly within country and does not have a large cross-border element. This is in accordance with feedback provided previously on the potential benefit for our SME clients of a cross-European database for credit assessment (AnaCredit).

While we cannot comment as to whether investors would benefit from such a service or the extent of cross-border investment in SMEs in Ireland, any investment in databases that facilitates better engagement with stakeholders, be they regulators, lenders or investors can only be a positive development.

8. **What is the potential for the MiFID II created "SME Growth Market" to support more IPOs by Irish firms with a market capitalisation of up to or a little beyond €200 million? What needs to be done to realise any such potential?**

9. **How might equity markets generally better serve the financing needs of Irish SMEs and mid-caps?**

10. How can participation levels (direct or indirect) by retail investors in the capital markets be increased? What role can EU or domestic policy play in this regard? What steps can be taken to improve transparency and comparability for retail products?

We note that core to the objectives of the following regulatory developments are transparency and comparability for retail products:

- MiFID II/MiFIR
- Regulation for Packaged Retail and Insurance-based Investment Products (PRIIPs)
- Insurance Mediation and Distribution Directive
- Mortgage Credit Directive
- Access to a Payments Accounts Directive
- Regulation on indices used as benchmarks in financial instruments and financial contracts
- Multilateral Interchange Regulation
- Payments Services Directive II

We would suggest that the legislative/regulatory regime already in place, coupled with these planned developments, fully meet the requirements of ensuring transparency and comparability for retail products and we have not identified any additional enhancements which might be required to this regime. We would note the importance of ensuring that the regime applies proportionality and appropriately to all relevant parties involved in the production and distribution of retail products, and that this is critical in ensuring a level playing pitch amongst all relevant market players.

11. What is considered to be "appropriate regulation" for crowdfunding within a national or EU context? To what extent would an EU 'passporting' regime for crowd-lending and/or crowd-investing provide opportunities for Irish SMEs?

Regulation which is similar to that applied to other forms of credit granting by financial services entities should be applied to crowd funding to ensure that there are equivalent consumer and investor safeguards in place and a level of playing field is maintained.