International
Capital
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Association

Press release

News from the International Capital Market Association (ICMA)

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Please see foot of release for contact details

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ICMA contributes to discussions to improve disclosure in documentation for primary international corporate bond markets

(London, UK) The International Capital Market Association (ICMA) today announced the publication of an explanatory note which aims to provide a brief, "non-legal" explanation of the term "senior" and the "negative pledge" covenant, as they are currently used in the terms and conditions of international corporate bond issues. The note, drafted in consultation with the Association of British Insurers (ABI), is intended to provide clarification on the use of these terms and highlight the most common misconceptions about their meaning.

ICMA, which represents the major banks active in the primary market for international corporate bonds, has been an active participant in recent discussions between the sell-side and investors focusing on the timeliness and accuracy of disclosure and clarity of covenants which appear in bond documentation.

The explanatory note addresses concerns raised by some institutional investors about the interpretation of some terms and covenants used in the documentation of bond issues, in particular the term "senior" and the "negative pledge" covenant.

It explains that the term "senior" is used to describe ranking of a debt in relation to other debts of the same issuer, but that it has no fixed legal meaning. The issuers normally use the term to denote "ordinary" debt that is not preferred or subordinated to other debts of the issuer. The explanatory note highlights the most frequent misconceptions about the term, for example that it might incorrectly be interpreted to mean that debt is secured or in any other way preferred in the insolvency of the issuer.

More follows/

In relation to a "negative pledge covenant", the explanatory note characterises the covenant as a restriction on the freedom of the issuer to grant security for other debts without granting equal security for the debt in question, and its economic effect, being usually protection of the price of an issue. However, the scope of the negative pledge may differ substantially from issue to issue and the note emphasises the need to carefully review all elements of the covenant.

It also refers to the IPMA Handbook, administered by ICMA, which recommends clarity in the use of both of these terms by the lead manager in relation to other members of the syndicate when an issue is being launched.

ICMA recognises the importance of the debate over timeliness, accuracy and clarity of disclosure in the primary markets and supports efforts to promote better understanding by investors of current primary market practices. It has already published a series of recommendations concerning availability of offering documentation to investors through the IPMA Handbook, the standard for best practice in the primary market, which it maintains.

The explanatory note is available from the ICMA website www.icma-group.org

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Notes for editors

1. International Capital Market Association

The International Capital Market Association (ICMA) is the self-regulatory organisation representing the financial institutions active in the international capital market worldwide. ICMA's members are located in some 50 countries across the globe, including all the world's main financial centres, and currently number over 400 firms.

2. IPMA Handbook

The IPMA Handbook is document maintained by ICMA covering the issuance of bonds, international equities and continuous offerings. The Handbook is very much a live document, continuously updated in response to market developments when guidance is required.

For more information about ICMA and the IPMA Handbook see: www.icma-group.org

3. Contacts

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