

THE FRENCH NEU CP MARKET NOW OPEN TO ITALIAN ISSUERS.

In a [press release](#) dated 3 April 2023, Euroclear France announced that "Italian issuers can issue their commercial paper via the French CSD¹'s Negotiable European Commercial Paper (NEU CP) service".

This should enable Italian issuers to use the French NEU CP market, the largest commercial paper market of the Euro zone. Italian issuers should now be able to issue "Negotiable European Commercial Paper" ("**NEU CP**", pronounced "**New CP**"), which corresponds to the trade name of French law money market instruments having a maturity of one year or less.

Despite recent French law efforts aiming to facilitate the access to the NEU CP market, it remained difficult for Italian issuers to issue on such market due to the lack of the necessary infrastructure to secure the exemption from Italian withholding tax. Clifford Chance has been actively involved to help resolving this issue along with the relevant financial intermediaries.

Attractiveness of the French NEU CP market

The NEU CP market is a longstanding market, which has in the recent years benefitted from increased attention outside France following recent French law reforms, active lobbying from French market organisations, such as Paris Europlace², and the strong impetus from the French central bank, the *Banque de France*. The success of the NEU CP market is evidenced by the fact that 295 billion euros of NEU CP were outstanding as end of June 2023, and thus is

Key issues

- The NEU CP market is a longstanding market, which has in the recent years benefitted from increased attention outside France.
- Euroclear France has completed the procedure to become a "second level bank" and is in a position to administer the exemption in favor of eligible noteholders on NEU CPs issued by Italian issuers and cleared through its platform.
- This demonstrates the willingness of the French CSD and of French market organisations to increase the attractiveness of French law and of the NEU CP market

¹ CSD stands for "Central Securities Depository", which would be Euroclear France in relation to French law debt securities.

² See in particular the Paris EUROPLACE report dated May 2022 (English translation) on the "Attractiveness of French law" for the issuance of debt securities and the Paris EUROPLACE report dated November 2021 on the "Attractiveness of the *Place de Paris*" for short term financings.

said to be the largest commercial paper market of the Euro area, with many non-French issuers³ joining French issuers on the market.

The French law regime governing NEU CP had in particular been modernised in the context of a French law reform in 2016, by "rebranding" French law money market instruments, previously existing under the terminology of French certificates of deposit (*certificats de dépôts*) issued by credit institutions and *billets de trésorerie* issued by corporates under the common terminology of "NEU CP".

This "rebranding" exercise, combined with (i) more flexible conditions to access the market, (ii) the simplification of documentary requirements for the establishment of information memoranda, which can now be exclusively drafted in English, (iii) the eligibility to the Eurosystem refinancing and (iv) a robust and efficient operational ecosystem (including with a "same day" ISIN code allocation allowing the issuance and placement of NEU CP in quasi-real time, through the use of eNEU CP service of Euroclear France), has improved the attractiveness of the NEU CP market for foreign issuers in particular.

The NEU CP market is placed under the supervision of the Banque de France. To carry out its supervisory duty, the *Banque de France* in particular (i) reviews, approves and publishes on its website⁴ information memoranda established by issuers, with the use of a web portal through which information memoranda are generated, updated and submitted to the Banque de France, and (ii) drafts and publishes templates of information memoranda, which have a format very similar to the STEP format, as well as guidance⁵ as to how to document an ESG component of the programme. The *Banque de France* further collects from issuing and paying agents (*agents domiciliataires*) information relating to outstanding NEU CP through its NORIA system and publishes statistics resulting therefrom on its website⁶.

NEU CP take the form of a dematerialised book-entry security governed by French law and regulations. They are usually cleared in Euroclear France, the French CSD, but are generally not listed (even though this is possible at the issuer's option). Furthermore, the NEU CP market is a wholesale market as NEU CP have a minimum denomination of EUR 150,000 or EUR 200,000 (or the counter-value in any other currency), subject to certain conditions.

Italian issuers remained however very prudent and were waiting for existing tax risks to be lifted to be more active on the NEU CP market.

Setting aside the Italian withholding tax issue

Interest on NEU CPs issued by Italian issuers would in principle be subject to a 26% tax at source under Italian law, unless accrued by eligible white-listed noteholders. While the width of the exemption is very wide, its actual enjoyment requires the relevant noteholders to document their eligibility through, and to hold the securities in custody with, custodians that are (i) in a position to track daily ownership of the notes and accrual of interest, and (ii) in direct or indirect certified connection with the Italian tax authorities to ensure the relevant compliance.

³ From Austria, Belgium, China, Denmark, Finland, Germany, Ireland, Italy, Japan, Luxembourg, Monaco, Netherlands, Spain, Sweden, Switzerland, United Arab Emirates, United Kingdom, United States etc.

⁴ See the dedicated website of the Banque de France (English version): [Banque de France dedicated website](#).

⁵ Such guidance having been adopted by a working group composed by ACI France AFTB, AFTE and AFG, with the participation of the Banque de France.

⁶ See [Statistical reports and analysis published by the Banque de France](#).

For this reason, CSDs are ideally placed to become Italian tax agents, also known as "second level banks", for Italian issued bonds and debentures and CSDs have been playing this role for decades. Now, also Euroclear France has completed the procedure to become a "second level bank" and is in a position to administer the exemption in favor of eligible noteholders on NEU CPs issued by Italian issuers and cleared through its platform.

UniCredit Bank SpA which had already put in place a NEU CP programme approved by the Banque de France is said to be the first Italian issuer to benefit from this new "service".

This further demonstrates the willingness of the French CSD and of French market organisations to increase the attractiveness of French law and of the NEU CP market.

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