Building a Genuine Capital Markets Union
The views of organised civil society

Summary of relevant EESC opinions

Section for Economic and Monetary Union and Economic and Social Cohesion
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Preface

Following the global financial crisis, one of the top priorities of the Juncker Commission was stimulating growth, investment and jobs. The Capital Markets Union (CMU) was launched to establish the building blocks of a stronger and more integrated capital market in the EU by 2019, contributing to the creation of an investment-friendly environment. The “Action Plan on Building a Capital Markets Union” in 2015 presented more than thirty measures. These ranged over a wide variety of issues, from providing businesses with more diversified sources of funding and easier access to the capital markets, through offering more choices for savers and investors, to making the financial system more stable and resilient.

The European Economic and Social Committee (EESC) – a consultative body of the European Union that gives representatives of Europe’s civil society organisations a formal platform to express their points of view on EU issues and policies – has long been calling for the completion of the CMU. It has always warmly welcomed all initiatives aimed at providing the real economy with additional and more diverse financial resources, highlighting in particular the lack of access to finance for SMEs. Well-developed and integrated capital markets and well-functioning and diversified financial markets are indispensable to strengthening and supporting the functioning of the Economic and Monetary Union. This is crucial to ensure predictability, stability and prosperity for all Europeans.

The way forward

This brochure presents a selection of the EESC’s opinions on the regulatory framework for establishing the Capital Markets Union and the numerous policies aimed at shaping Europe’s capital markets. Despite the progress made, the integration of these markets is far from complete. We call for strong political commitment from decision makers at both European and national level to taking all necessary steps to turn the Capital Markets Union into a reality in all Member States.

The Capital Markets Union has to be transformed into an ambitious project that responds to the new challenges. It is of paramount importance to have carefully chosen and well-defined objectives for the future. Integrated, liquid and resilient European capital markets are the key to financing the EU’s commitments to the Sustainable Development Goals and the Paris climate agreement by re-directing capital flows towards long-term and sustainable investments.

Stefano Palmieri
President
Section for Economic and Monetary Union and Economic and Social Cohesion (ECO)
European Economic and Social Committee
The funding of SMEs, a driving force for Europe’s economy, should be at the heart of the future Capital Markets Union. There is currently an information deficit that needs to be tackled and a framework for lending that needs to be made more SME-friendly.

Daniel Mareels

• The Committee **endorses the goals** of the action plan i.e. to **mobilise capital** in Europe and **channel it to all companies, infrastructure** and sustainable, long-term projects.

• **Bank funding** will continue to play a key role in financing the economy. The Committee feels that certain new markets, including for non-performing loans, should be explored further.

• The Committee has serious concerns, however, regarding the relevance and effectiveness of the capital markets union for SMEs. They must be **able to choose the funding channels that suit them best**.

• The financial regulation needs to better take into account the proven national features in the future so as not to jeopardize the regional SME lending.

• The role of the EIB could also be further strengthened when it comes to instruments (guarantee schemes, etc.). The initiative for STS-securitisation is also a step in the right direction.

• The current pervasive **information deficit** should be remedied, and the framework made more **SME-friendly**.

• The **EU’s economic and financial stability** should be one of the priorities of the capital markets union. A suitable regulatory and supervisory framework requires greater convergence and cooperation in the area of micro- and macro-prudential supervision.

*Rapporteur: Daniel Mareels*
The EESC

- is strongly in favour of the CMU union and is ambitious regarding its implementation. The CMU, together with the banking union, should ensure a financial union, and its implementation should therefore contribute to ensuring the establishment of the EMU;
- finds it absolutely necessary that the CMU becomes a reality in all EU Member States;
- calls for the political will at European level and in the Member States to make all necessary efforts and to establish all of the relevant conditions required;
- is strongly in favour of establishing a system to regularly assess the progress with and implementation of the CMU in the Member States, using both qualitative and quantitative measures, with the results of this to be made publicly available;
- welcomes the current rapid mid-term review and recommends that such exercises should in future take place on a regular basis;
- believes that further steps in building the CMU should focus on action and measures that achieve the greatest convergence;
- believes it is important to ensure that the foundations of an irrevocable and irreversible CMU are laid down as quickly as possible;
- calls for attention to be given to the financing of SMEs, for which bank financing remains an extremely important issue;
- welcomes the focus on the strengthening of sustainable investments;
- is pleased that supervision will be a key part of efforts to develop the CMU.

*Rapporteur: Daniel Mareels*
A sound system of financing sustainable growth, with a long-term approach, is the most important driver for restoring trust in the markets and connecting savings to sustainable investments, providing complementary sources of funding for SMEs and strengthening green and social infrastructure projects.

The challenges should be addressed harmoniously, through a joint effort by all, including actors in the financial sector, companies, citizens and authorities. It is also of utmost importance that in this field, the whole EU speaks with one voice and follows the same approach.

The EESC strongly supports the Commission’s road map on financing sustainable growth, but wishes to make a number of comments.

- It is important to make the financial value chain more sustainable as a whole.
- The proposed sustainability taxonomy should be dynamic and updated on a regular basis. A suitable starting point would be the configuration of environmental factors (E), while introducing safeguards in the social sectors and in relation to good corporate governance.
- The ten proposed actions are internally consistent and interact with each other. The right balance is therefore needed between them.
- Keeping in mind resilience and stability of the financial sector, the opportunity of providing a green supporting factor should be examined. In this field the EESC agrees with the EP when promoting the inclusion of sustainability risks in the Basel IV framework.
- The publication of high-quality, as much as possible harmonised, more complete, relevant, harmonised and comparable non-financial information should be pursued, to facilitate external controls.
- To facilitate easier and safe access for investors, “flagship pan-European sustainable financial products” should be created, beginning with the “Pan-European Personal Pensions Products”.
- Communication about these actions of financing sustainable growth is extremely important if citizens are to be aware of what the EU is doing for them.
- Financial education should be compulsory to ensure that people understand this new approach of sustainable finance and thereby encourage socially responsible retail investment.
- The EESC highlights the potential of artificial intelligence for aligning the preferences of investors with the destination of investments.
- The EESC publicly calls on the co-legislators to swiftly discuss and adopt the three legislative proposals stemming from the Commission Action Plan.

**Rapporteur:** Carlos Trias Pintó
The EESC
• welcomes the design of the Action Plan on Financing Sustainable Growth and the legislative proposals stemming from it;
• supports that fiduciary obligations of financial market participants will help end investors to bring their sustainability preferences into line with their informed investment decisions.

Financial market participants help the European economy transition towards a greener, more resilient and circular system, by incorporating Environmental, Social and Governance (ESG) factors:
• into advisory activities to end investors, by asking about their sustainability preferences;
• into the design or selection of a portfolio of financial assets;
• into the transparent disclosure and reliable explanation of their decision-making process;
• into the pre-contractual ex-ante information on integrating risks and their expected impact;
• into the periodical reports by stating the overall sustainability-related impact.

The EESC
• supports that the starting point is to gradually define – using rigorous scientific evidence – which activities are sustainable;
• finds that right from the outset, with the environmental criteria, the social safeguards agreed at international level must be respected, as well as the European Pillar of Social Rights;
• demands that safeguards should continue right to the governance aspect;
• highlights the need to ensure the involvement of civil society and the social partners at every stage of the process;
• firmly believes in designing sustainable pan-European financial products.

Rapporteur: Carlos Trias Pintó

Environmental, Social and Governance (ESG) factors have to be integrated into advisory activities, the design or selection of a portfolio of financial assets, and into the periodical reports, by stating the overall sustainability-related impact.

Carlos Trias Pintó
A sustainability taxonomy provides a concrete basis for further action within the framework of the Action Plan on Financing Sustainable Growth, and at the same time, it is of great importance for companies, the financial sector as well as for investors and savers.

Daniel Mareels

• The EESC welcomes the proposals regarding the taxonomy as a first step towards implementing the action plan on financing sustainable growth and also welcomes the proposal relating to the development of new low-carbon and positive carbon impact benchmarks.

• It is of the utmost importance for the whole of the EU to take the same approach. The European taxonomy should replace the existing individual and scattered approaches in the Member States. Where possible, it should be based on existing international frameworks.

• The taxonomy should be seen as an evolving tool that needs regular review and adjustment.

• The proposals relate to environmental aspects. However, the EESC welcomes the fact that minimum social and governance guarantees must be taken into account. It will be important in future to work on extending the system to social sustainability and governance goals.

• The taxonomy should also take account of how it will be implemented by businesses, as they will be largely responsible for the “real” transition to a sustainable economy. Taking account of the differences between sectors and the size of businesses will definitely be needed.

• The Committee also sees information and communication as crucially important, with all stakeholders including the operational business environment, and with the general public. A corresponding plan could be developed that could also include financial education and training.

Rapporteur: Daniel Mareels
Reducing barriers to cross-border distribution of investment funds

The EESC

• supports systematic efforts to launch all the key elements of the CMU by 2019 and anticipates that the prospective benefits will include expanding investment opportunities, streamlining the process of financial intermediation;

• thinks it important, to establish a balanced relationship between investor protection requirements, which are key in this regard, while also giving the designers and distributors of investment products enough room for creativity;

• thinks that the key regulatory barriers to cross-border distribution of investment funds at this time are marketing requirements, regulatory fees, notification procedures and administrative requirements at national level. However, is aware of the existence of other obstacles, such as the harmonisation of tax rules;

• takes the view that the main reasons for the existing barriers to the cross-border distribution of investment funds lie primarily not with the current regulations, but above all from the lack of instructions from the European Securities and Markets Authority (ESMA), as a result of which each national jurisdiction has different rules;

• believes that in order to achieve an economy-of-scale effect, manifestations of “national inventiveness” in working out charging structures should be curbed and a path taken of having clearly defined and unambiguous national provisions that are consistent throughout the EU;

• welcomes and supports the intention to improve transparency regarding regulatory fees;

• welcomes the creation of the ESMA database, but notes that this should not involve the imposition of additional notification requirements on asset managers;

• is inclined to take the view that the decision on termination of the proposed rules for discontinuing promotion and marketing of investment funds should be optional and depend on the decision of the asset manager;

• recommends more detailed rules be established to ensure the verification of qualifications and competence of persons providing investment services.

Rapporteur: Petr Zahradník

We anticipate that the prospective benefits of reducing barriers to cross-border distribution of investment funds will include expanding investment opportunities, streamlining the process of financial intermediation. We support the establishment of a balanced relationship between investor protection requirements, while also giving the designers and distributors of investment products enough room for creativity.

Petr Zahradník
The EESC

• strongly welcomes these proposals to create an enabling framework for crowdfunding by means of a 29th regime. The Committee therefore calls for swift action in order to achieve a successful outcome, particularly as it fits into a broader framework that is of particular interest to the Committee;

• welcomes the fact that the financing of small, young and innovative enterprises has been taken into consideration. Crowdfunding is an important part of their funding escalator, particularly when they move from a start-up to an expansion phase and traditional financing is not always available. At the same time, more and better opportunities are being created for investors;

• welcomes the fact that use is being made of innovative products and solutions supported by modern technology, meaning that this forward-looking proposal also forms part of the implementation of a digital single market. The proposal also adds a cross-border dimension, which contributes to the effective integration and deepening of capital markets. The creation of a single harmonised market in the EU with the same rules for both entrepreneurs and investors should be a primary consideration;

• welcomes the consideration given to the risk aspects associated with crowdfunding operations and markets, but at the same time believes that - at least in the initial stages - there should be an even stronger focus on these aspects in order to better identify them or mitigate them where possible;

• is of the view that the risk assessment of specific projects on crowdfunding platforms is left too much to markets and investors. The EESC believes that appropriate measures are needed to better identify or mitigate all risks, both financial and non-financial. Ultimately, it is about better protection for investors;

• believes that the role of European Securities and Markets Authority (ESMA) seems clear, that of national supervisors less so. The Committee is of the view that more clarity is needed here. Furthermore, the EESC wonders whether a substantial role should perhaps be assigned to national supervisors, especially as they are closer to national markets and can better assess local circumstances.

Rapporteur: Daniel Mareels
Small and medium-sized enterprises are the backbone of the European economy and loans are the main source of their funding. We need to promote the use of the European venture capital funds and the European social entrepreneurship funds to overcome the dependence of SMEs on bank financing and to ensure satisfactory access to financing for them. This is a crucial not only for the development of these companies but also for sustainable economic growth in Europe.

Giuseppe Guerini

The Single Market is undoubtedly one of the greatest achievements of the EU but it is still far from the finish line. This is evident not least in its capital markets where rapid development is crucial for financing innovative start- and scale-ups. To keep the EU competitive at a global level, we need new European growth companies and efficient growth financing through a deep, broad and integrated capital market. Banks should promote this in the same way the Austrian Erste Bank does.

Michael Ikrath

Amendment EuVECA and EuSEF

- The EESC welcomes and supports the European Commission’s initiative to anticipate the review of the Regulations on European venture capital funds (EuVECA) and European social entrepreneurship funds (EuSEF).
- The EESC believes that such an regulation can reduce the danger of different interpretations at national level, thus promoting the establishment of a capital markets union.
- The EESC points out that at EU level there are now a large number of financing sources and therefore the Committee expects closer coordination with the existing sources regarding the new direction of EuVECA and EuSEF. It should be ensured that the hitherto very restrictive access criteria, as well as other restrictive conditions, are significantly relaxed by the Commission.
- In order to expand participation in such investment funds, the EESC proposes to increase the involvement of non-institutional investors.
- Finally, the EESC considers it equally important to create an environment in which the financing objectives of social investment funds, such as Social Enterprises (SE) and Social Sector Organisations (SSO), can develop.

Rapporteur: Giuseppe Guerini
Co-rapporteur: Michael Ikrath
FinTech can deliver a number of benefits to both European businesses and their clients. However, cyber security and the resilience of the financial sector are important. The EESC believes that the level of regulation for FinTech should be equivalent to that in the financial sector, and rules should ensure uniformity in the development of FinTech in the EU.

Petru Sorin Dandea

The EESC

- supports the Commission’s FinTech Action Plan and considers that the development of FinTech can deliver a number of benefits to both European businesses and their clients;
- considers that the measures included in the action plan on improving cyber security and the resilience of the financial sector are important, but should be supplemented by rules to ensure uniformity in the development of FinTech in the EU;
- believes that the level of regulation for FinTech players should subject to the same rules as the financial sector, particularly as regards resilience, cyber security, and supervision;
- recommends that the Commission keep a close eye on crypto-assets and their high degree of volatility, in cooperation with the European supervisory authorities. Where necessary, all necessary action should be taken at EU level to ensure that the security and stability of the financial and economic system are not threatened in any way or at any time;
- recommends that the Member States design and implement active labour market measures enabling workers affected by the introduction of innovative technologies in the financial sector to take up a new job as soon as possible.

Rapporteur: Petru Sorin Dandea
The EESC

• welcomes the proposals on covered bonds and calls rapid progress to achieve a successful outcome, especially as these proposals contribute to the achievement of objectives of establishing a CMU and completing the EMU. Furthermore, covered bonds promote cross-border financing operations and therefore more private risk-sharing too;

• calls for seizing upon for promoting the widespread take-up of covered bonds and developing markets for them throughout the EU;

• calls for strengthening the current leading position of the EU in the global markets of covered bonds;

• welcomes both the chosen approach of minimum harmonisation based on national regimes and the content of the proposals, for which solid foundations were laid by the European Parliament, the supervisors and other stakeholders;

• underlines the importance that the funds created by covered bonds are then used to provide additional financing for governments, businesses and households;

• is pleased that the proposal also envisages bringing covered bonds within the reach of smaller banks;

• nevertheless, calls for further consideration to be given to how this possibility can be fully harnessed;

• suggests additional consideration to be given to what further measures need to be taken to attract private savers and consumers to such bonds;

• recommends that use of the European label for covered bonds be made mandatory;

• suggests that the evaluation period of these proposals should be extended from 3 to 5 years.

Rapporteur: Daniel Mareels

A number of EU Member States now have a leading position on the international and global markets for covered bonds. The new proposals should help promote the widespread take-up of this instrument across the EU. This is indeed the case given that covered bonds enable banks to create additional resources for the long-term financing of the economy and there is an urgent need to do so.

Daniel Mareels
Sovereign Bond-backed Securities (SBBS)

The EESC

• welcomes these proposals on sovereign bond-backed securities (SBBSs) that aims to tackle the traditionally close link between banks and their home countries ("sovereigns");

• points out that the proposal simply constitute an enabling framework that allows the development of SBBSs by the market and underlines the importance to ensure the clarity, efficacy and effectiveness of this framework under all circumstances;

• agrees with a number of aspects such as the principle of SBBSs being issued by a Special Purpose Entity (SPE);

• highlights that other aspects, such as self-certification of the composition of the underlying portfolios by SPEs, need to be strengthened and calls for tighter and even prior monitoring by the European Securities and Markets Authority (ESMA);

• points out a number of unanswered questions: such as whether SBBSs will work effectively in all circumstances; how they would fare in times of general crisis, or of crisis in one or more Member States; what are the consequences of dividing issues into tranches, considering especially that the senior tranches (which entail less risk) can only be placed on the market if enough investors are found for the junior tranches (which entail greater risk);

• considers it indispensable to undertake dialogue and consultation with all stakeholders in order to jointly develop constructive solutions;

• considers that in conceptual terms, the idea of SBBSs is an attractive one and agrees with the Commission to put this proposal to the test on the market;

• finally, the EESC feels that further thought also ought to be given to the matter of whether SBBSs can be acquired by private savers and consumers.

Rapporteur: Daniel Mareels
The EESC

- agrees with this proposed Regulation and its aim to boost investment across the EU but is unclear as to whether the investment arising from this initiative will remain within the EU and also to the impact on labour mobility across the EU arising from the provision of PEPPs;

- acknowledges that PEPPs are most likely to appeal to a limited number of groups, particularly, mobile professionals who work in a number of different Member States over their working life, and the self-employed;

- however points out that this initiative should not in any way be construed as lessening the relevance of either state or work-based pensions;

- considers that Member States should provide fair taxation on this type of product;

- emphasises the need for consumer protection and risk mitigation for savers during the course of their working lives and on retirement. Greater clarity as to what is being guaranteed around the default option is also strongly recommended. It is of crucial importance that savers are fully aware of the risks that they bear and the conditions attached to their PEPP;

- emphasises the role of European Insurance and Occupational Pensions Authority (EIOPA) in monitoring the market and national supervisory regimes with a view to achieving convergence and consistency across the EU especially regarding the governance structure for PEPPs within any provider;

- seeks clarity on the fee for changing PEPP providers, and proposes examining to waive that fee following a defined period of time.

Rapporteur: Philip von Brockdorff

In the light of the combination of ageing populations and falling birth rates, the EESC welcomes any attempt to encourage EU citizens to make adequate provision for their retirement years. While not lessening the relevance of either state or work-based pensions, every effort, by way of tax relief, should be provided to encourage as many workers as possible to take up personal pension products.

Philip von Brockdorff
The EESC

• welcomes the proposals to establish a system of “simple, transparent and standardised” securitisation (STS securitisations) and to amend the framework in respect of prudential requirements for credit institutions and investment firms;

• calls for action on this in the short term that should enable significant additional resources to be generated for bank funding. That is very important, for SMEs and households in particular;

• feels that bank funding and market-based funding should be considered complementary rather than competing and developed hand in hand;

• wants the rules to be sufficiently broad and the STS criteria realistic and feasible for all banks, both the large banks and the small local banks, which are involved in issuing bank loans;

• wants that securitisation be equally attractive to investors. There should be clarity as to the risk involved and who bears that risk, taking account of the whole chain from the issuer to the investor;

• feels that the important thing now is that the mistakes of the past are not repeated;

• concurs with the view that small investors and consumers should not have access to securitisation due to the complexity and risk involved. The Committee calls for a formal prohibition to be explicitly included in the texts.

*Rapporteur:* Daniel Mareels
The EESC firmly supports the current proposal. It appreciates the greater legal clarity that the form of a regulation rather than a directive brings.

The principle of making the prospectus more reader-friendly and targeted to the specific situation of the issuer has the double advantage of reducing costs and increasing the relevance of the prospectus.

The EESC also sees the possibility for all prospectuses in the EU to be accessible in a common user-friendly and accessible database.

Reducing the administrative burden of drawing up prospectus for all issuers, in particular for SMEs, frequent issuers of securities and secondary issuances merits the EESC’s support.

It is necessary for all the stakeholders to be closely involved in the process of producing the level 2 legislation and an in-depth, qualitative impact assessment to be performed two years after the Regulation enters into application. The EESC is particularly interested in participating actively in these consultations.

The EESC urges the Commission to clarify some unclear issues in particular as regards the margin of discretion left to the Member States.

Rapporteur: Milena Angelova

The EESC welcomes the simplification of the prospectus rules which not only makes them more cost-effective, reader-friendly and thus more useful and relevant for investors, but constitutes an important step towards regaining investors’ trust and confidence completing the Capital Markets Union. A common user-friendly and accessible database could give an extra boost to the development of the European capital markets, invoke greater investor confidence and lead to the creation of more diversified financial products. We praise the efforts aimed at making the prospectuses a more relevant disclosure tool for potential investors.

Milena Angelova
Appendix

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Opinion of the EESC on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Action plan on building a capital markets union
COM(2015) 468 final
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Rapporteur: Daniel Mareels
Adopted at the Plenary Session of 17 and 18 February 2016

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COM(2017) 292 final
OJ C 81 of 2.3.2018, p. 117
Rapporteur: Daniel Mareels
Adopted at the Plenary Session of 18 and 19 October 2017

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Rapporteur: Carlos Trias Pintó
Adopted at the Plenary Session of 17 and 18 October 2018

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Rapporteur: Carlos Trias Pintó
Adopted at the Plenary Session of 17 and 18 October 2018
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Rapporteur: Daniel Mareels
Adopted at the Plenary Session of 17 and 18 October 2018

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Co-rapporteur: Michael Ikrath
Adopted at the Plenary Session of 14 and 15 December 2016

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Rapporteur: Petru Sorin Dandea
Adopted at the Plenary Session of 11 and 12 July 2018

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Rapporteur: Daniel Mareels
Adopted at the Plenary Session of 11 and 12 July 2018

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Rapporteur: Daniel Mareels
Adopted at the Plenary Session of 17 and 18 October 2018
COM(2017) 343 final – 2017/0143 (COD)
OJ C 81 of 2.3.2018, p. 139
Rapporteur: Philip von Brockdorff
Adopted at the Plenary Session of 18 and 19 October 2017

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Rapporteur: Daniel Mareels
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Rapporteur: Milena Angelova
Adopted at the Plenary Session of 16 and 17 March 2016