

Capital Markets

INSIGHT REVERSE YANKEES

INSIGHT: REVERSE YANKEES

In this briefing, we take a look at the basics of “Reverse Yankees” – offshore debt issuances by US issuers in a currency other than US dollars – when and why they might be an attractive funding choice and the documentary options for coming to market. If you would like to know more, please talk to any of your Mayer Brown contacts.

WHAT IS A REVERSE YANKEE?

- **A bond issued by a US issuer outside of the US and denominated in a currency other than US dollars (typically, euro or sterling).**
- Issuers tend to be, but are not exclusively, higher rated credits.
- The market is large and has grown over the past 10 years, albeit not always consistently.
- In the euro corporate market, US borrowers accounted for €52bn of issuance in 2021 or just over 17% of overall supply (Source: IFR).

WHY ISSUE A REVERSE YANKEE?

- When interest rates in the non-US currency markets are low, US issuers may be able to issue debt with lower coupons than they would otherwise be able to in the domestic US market. It can be particularly cost effective when the costs of swapping the local currency back to USD are low.
- To fund the local currency operations of non-US subsidiaries.
- An opportunity for US issuers to diversify their funding sources and investor base.
- An opportunity for non-US investors to gain access to US names without taking the currency risk of investing in US dollar debt.
- In certain circumstances, debt issued by US issuers (or their subsidiaries) can be made “eurosystem eligible” with the European Central Bank (ECB). This can be attractive for investors intending to use the debt as collateral with the ECB and can qualify the debt for ECB bond buying programmes such as the Corporate Sector Purchase Programme (CSPP).

WHAT ARE THE DOCUMENTARY OPTIONS?

- Broadly speaking, there are three main routes to market. For those US issuers with US SEC shelf registration documentation, that documentation can often be adapted to permit the offering, issuance and settlement of securities outside the US. Alternatively, US issuers can set up either a Euro style medium term note programme or standalone Eurobond documentation for the purpose of issuing. Our table overleaf compares these options.



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	Adapted US Shelf Registration Documentation	Euro Style Standalone	Euro Style Programme
Offering Documentation	Prospectus Supplement to existing US shelf incorporating the relevant amendments for EU/UK market.	Standalone euro-style Prospectus/ Offering Circular.	Euro style programme Base Prospectus/ Offering Circular. Potentially a Supplemental Prospectus/Offering Circular to add any disclosure required between programme signing date and a drawdown.
Main Contractual Documents	Underwriting Agreement plus Supplemental Indenture and Agency Agreement.	Subscription Agreement plus Trust Deed/ Agency Agreement and Deed of Covenant.	For the Programme, Dealer Agreement plus Trust Deed/Agency Agreement and Deed of Covenant. For the issuance, Final Terms/Pricing Supplement/Drawdown Prospectus plus Subscription Agreement/Dealer Confirmation.
Governing Law	New York Law.	Usually English or New York Law.	Usually English or New York Law.
Due Diligence	Due diligence sufficient to permit issuer's and underwriter's counsel to deliver a negative assurance (10b-5) letter.	Reg S Only: Management due diligence only and no requirement for the delivery of negative assurance (10b-5) letters. Reg S/Rule 144A: Due diligence sufficient to permit issuer's and underwriter's counsel to deliver a negative assurance (10b-5) letter.	Same as Euro Style Standalone. Due diligence will typically occur on establishment, update and each drawdown.

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	Adapted US Shelf Registration Documentation	Euro Style Standalone	Euro Style Programme
Comfort Letter	Required.	Required.	Same as Euro Style Standalone in connection with establishment and update of programme and individual drawdowns.
Timing	3-6 weeks.	Reg S (c.4-6 weeks) Rule 144A (c.6-12) weeks but dependent on the issuer and level of existing disclosure.	Same as Euro Style Standalone for set up of Programme. Individual drawdowns can be executed on an expedited basis post Programme set up.
Listing	Typically listed on NYSE if Issuer is listed on NYSE or NASDAQ. May also be listed on regulated market or MTF in UK or Europe (London, Dublin, Luxembourg).	Typically listed on regulated market or MTF in UK or Europe (London, Dublin Luxembourg).	Typically listed on regulated market or MTF in UK or Europe (London, Dublin, Luxembourg).
Clearing	Euroclear/Clearstream.	Euroclear/Clearstream.	Euroclear/Clearstream.
Expenses	Issuer will be responsible for payment of SEC registration fees, listing fees, as well as expenses associated with preparation and filing of the registration statement and prospectus supplement, plus expenses associated with preparation of the contractual documents and conditions precedent (including comfort letter).	Issuer responsible for expenses associated with preparation of offering documents, contractual documents and conditions precedent (including comfort letters). This will usually be the lowest cost alternative for a one-off issuance.	Slightly more expensive than Euro Style Standalone but cost savings usually apply with 2+ issuances a year. Programme will need to be updated on an annual basis in order to remain ready for issuance.



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WHAT ELSE DO I NEED TO KNOW?

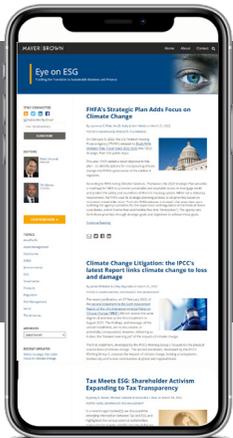
- The table above is a generalisation. There are always exceptions that prove the rule.
- Sometimes the correct choice for documentation can be a function of the parties working on the deal. Some market participants simply prefer to follow a particular form or are more familiar with the style and practicalities of a particular format.
- The choice between a euro style programme and euro style standalone documentation is primarily a function of issuance frequency. An issuer coming to market 2+ times a year (and not using adapted SEC documentation) may find that setting up a programme is the cost effective option.
- There are key differences between Reverse Yankee and US domestic market transactions which the documentation will need to reflect, they include:
 - » **Selling Restrictions** – Reverse Yankee documentation may include a wider range of UK/EU/other selling restrictions in the offering documentation.
 - » **Interest Payment Dates** – Convention is for euro payments to be made annually.
 - » **Tax** – Unlike domestic US deals, Reverse Yankees will feature tax gross up and tax redemption provisions.
 - » **Denomination** – It is common for Reverse Yankees to have a minimum denomination of EUR100,000 or higher (or equivalent in another currency) to avoid the risk of breaching UK and EU public offer rules.
 - » **Day Count Fraction** – Actual/Actual (ICMA) for Euro and Actual/365 for Sterling.
 - » **Signing Process** – European signing processes are often different from US domestic deals. For example, for non-SEC deals it is standard to sign the Subscription Agreement 3 business days after pricing.
 - » **Market Abuse Regulation** – Listing on a UK or European regulated market or MTF puts the Issuer within scope of the UK/EU Market Abuse Regulation which mandates, amongst other matters, a range of ongoing disclosure obligations.
 - » **Listing after Closing** – It is not common on UK/EU transactions for listing to be a condition subsequent to the deal. This needs to be factored into transaction timetables (with listing authority comments incorporated in offering documentation prior to announcement).
 - » **Clearing** – Euroclear and Clearstream clearing procedurally different from clearing in DTC. It is key to understand, for example, that European cleared programmes need to be reviewed and signed off by the European clearing systems at establishment and for each annual update of the programme. This can take a number of weeks and should be built into transaction timetables.
 - » **ECB Eligibility** – An attractive feature for many investors but the issuer must be able to fulfil certain specified criteria to be included on the ECB's List of Eligible Assets. In particular, notes must be issued in a particular “New Safekeeping Structure” or “New Global Note” format.
 - » **Pricing/Make-whole Calculation** – For euro/sterling transactions, will be based off Bund/Gilts or applicable mid-swap rates rather than US Treasuries.

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