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Analysis of the Legal and Regulatory Situation of Uncovered Corporate Bond Issuance in the Baltic States: is there a Common Framework Possible?

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Abstract

While the development of the Baltic corporate bond market is based on the uncovered bond segment, the elaboration of the legislative base has a devoted emphasis on the covered bonds. The shift from a country-focused to the pan-Baltic-focused capital market has been publicly acknowledged by the governments (Ministry of Finance of the Republic of Latvia, 2018) and is in line with the ongoing Capital Markets Union initiative of the European Commission (The High Level Forum on the Capital Markets, 2020). Moreover, a pan-Baltic covered bond legal and regulatory framework has been initiated (Ministry of Finance of the Republic of Lithuania, 2019). The strong demand for the corporate bond segment in the Baltics (the average number of issues listed in the period 2009-2019 reached 44) where no covered bonds are traded on Nasdaq Baltic (Nasdaq Baltic, 2020) creates the need for a unification of the uncovered corporate bond legislation.

The existing academic research is relatively modest on analysing legal frameworks of corporate bond issuance. The studies examine the division between domestic and international (typically Eurobonds) legal issuance frameworks with more focus on the legislative frameworks as related to the terms of issuance. Few articles consider a new supranational bond issuance framework, while the interpretation of the issue is radically diverse. There is no existing academic research on the legal framework of the uncovered corporate bond issuance in the Baltics.

The aim of this research is to reveal the feasibility of the development of a pan-Baltic uncovered corporate bond issuance framework by analysing the existing legal and regulatory documentation of the corporate bond issuance in the Baltic states. The research provides a limitation for the corporate bond issuance process legislation in the form of information disclosure requirements and the prospective situation of a default of an issuer. The research presents the primary data analysis of the in-depth interviews with pan-Baltic legal professionals in the corporate bond issuance segment conducted in the period December 2019-March 2020. The research demonstrates that the concern of the information disclosure for the issue of corporate bonds is covered under the new regime of the Prospectus Regulation, where further harmonisation of the smaller scope of issues is needed. The national insolvency laws in the Baltics are yet different and need to be harmonised for the default of the issuer. In the result of the research, the idea of a proposal for a pan-Baltic legal and regulatory framework for uncovered corporate bond issuance is evaluated as feasible action corresponding both to the goals of the Capital Markets Union and a pan-Baltic capital market development. The research methods used in this article are scientific publication analysis, document analysis, and in-depth interviews.

KEYWORDS: corporate bonds, corporate bond issuance, legal and regulatory framework, Baltic states, CMU.

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Introduction

The ongoing capital market integration in the European Union, particularly the Capital Markets Union initiative, influences the legal and regulatory frameworks of member states and their development patterns (European Commission; Progress Report, 2019). The Baltic countries stand out for their proactivity, where an agreement on the creation of a pan-Baltic capital market is concluded and supported by the European Commission and the European Bank for Reconstruction and Development. This measure should help to overcome the limited scope of an individual market (Ministry of Finance of the Republic of Latvia, 2018). The first step of the Baltic capital market agreement is the creation of a pan-Baltic covered bond framework (Ministry of Finance of the Republic of Lithuania, 2019). While the established focus on the covered bond segment may be an untapped potential of the Baltic corporate bond market, its historical development indicates strong demand from issuers of uncovered bonds (all listed corporate bonds in Nasdaq Baltic are uncovered (Nasdaq Baltic, 2020)). A comparable legal framework for corporate bond issuance is not available at the European Union. If the corporate bond issuance framework is developed and implemented at the pan-Baltic level, it could be further scaled to the Baltic-Scandinavian or European level. No similar analysis of the legal framework for corporate bond issuance in the Baltics has been made before.

The aim of this research is to reveal the feasibility of the development of a pan-Baltic uncovered corporate bond issuance framework by analysing the existing legal and regulatory documentation of corporate bond issuance in the Baltic states. The research provides a limitation for the corporate bond issuance process legislation in the form of information disclosure requirements and the prospective situation of a default of an issuer. While the integration of capital markets at the pan-Baltic level extensively utilises the concept of covered corporate bonds, this research provides an additional limitation for the definition of the corporate bond instrument - an uncovered corporate bond. For the national legislation of the default of the issuer, a method of comparing the most recent official translation of legal documents with manual translations of the respective parts of new amendments was used. The research presents the primary data analysis of the in-depth interviews with pan-Baltic legal experts in the field of corporate bond issuance conducted in December 2019-March 2020.

The article is structured as follows: first, the literature review provides an analysis of the corporate bond issuance framework as studied by scholars. Second, the authors present the analysis of the EU and pan-Baltic legislation that provides the legal framework for corporate bond issuance, with the main focus on two processes in the corporate issuance: information disclosure and a probable event of default of an issuer. The Prospectus Regulation is highlighted as the supranational source of law regulating information disclosure requirements, and the national laws of the Baltic states are identified as regulating the prospective situation of a default of an issuer. As a result of the literature review, analysis of the existing legal framework and primary data obtained through in-depth interviews, the main factors evaluating the possibility of introducing a unified Baltic legal and regulatory framework for the uncovered corporate bond issuance are presented. This study contributes to the current research on corporate bond issuance legislation in two ways: the authors present an in-depth analysis of the Baltic corporate bond issuance legislation at the national and supranational levels; the authors evaluate the proposal for a pan-Baltic legal and regulatory framework for uncovered corporate bond issuance.

Literature Review

Despite the wide application and trade opportunities of corporate bonds, academic research lacks a common division of legislative frameworks as the base of the issuance. Scott & Wellons (2002) argued that nearly all capital markets could be included in a three-tier structure categorised as domestic markets, foreign markets and external or “offshore” markets also referred to

as Euromarkets. Gozzi *et al*. (2015) discovered three characteristics of debt issues in domestic and international markets, where each market specialised in bonds with different features: large international bond issues with shorter maturity and presumably involving fixed interest contracts compared to domestic issues. More studies indirectly presented the division of legislative frameworks while relating to the terms of bond issuance. Chamon *et al.* (2018) related the choice of jurisdiction to the bond price and found that in times of crisis, governments could borrow at lower rates under foreign law while Baker *et al*. (2003) related the lowest cost maturity to the debt market conditions. Cortina *et al*. (2018) showed that firms from developing countries borrowed shorter-term in domestic bond markets, while the differences in international issuances were significantly smaller. Guedes & Opler (1996) and Stohs & Mauer (1996) linked the credit rating of the borrower to the maturity of bond issues. Fan *et al*. (2012) found that a country's legal and tax system, corruption, and the preferences of capital suppliers explained a significant portion of the variation in leverage and debt maturity ratios.

Bazzana *et al.* (2018) found that while placing bonds simultaneously in the domestic and Eurobond markets, the companies in Russia faced a higher level of covenant protection for the issues placed in the domestic market to compensate for the different levels of creditor protection. Petrasek (2010) accented that global bonds intended for multimarket trading, were offered concurrently in two major markets, for example, the US bond market and Eurobond market, as well as the trading, clearing and settlement could be conducted between the markets. Fuertes & Serena (2018) noted that companies issuing global bonds were financially sound and large, and could comply with strict, demanding regulations, including extensive public information disclosure.

The analysis of academic papers reveals more focus on the legal framework of the Eurobond issuance. Eurobond market is subject to a comparatively lighter regulation- issuers must disclose information in a private manner, to a narrowed set of potential qualified investors. Informed investors have a relatively high level of expertise to deal with such possible obstacles as informational asymmetries surrounding the issuer's company value and agency problems. Traditionally Eurobonds are less standardised, where in cases of distress, the liquidation can be conducted more efficiently, as parties have the expertise (Fuertes & Serena, 2018). Trioa (1986) emphasised that the Eurobond market was by definition an international legal framework, hence it was regulated beyond the single regulatory domain of one country, while Fuertes & Serena (2018) indicated that Eurobond framework was essentially developed to bypass the local jurisdictions. Sfez (2014) endorsed that one of the specifics of the Eurobond market was the lack of the jurisdiction of a single state or regulation of central bank, in practice the organisational matters were to a large extent dealt by financial intermediaries. Horn (1977) referred to Eurobonds as mostly bearer-bonds. Scott & Wellons (2002) acknowledged the international bond markets in their essence as the response to government policy in many countries, which restricted foreign borrowers to issue securities in the domestic market. As indicated by Rich (1980), the international market for debt securities was impacted by norms of practice, highly relevant in respect to Eurobond issue. The goal in the choice of governing law of the Eurobond issue and corresponding agreements is to have an effect and be enforceable, accompanying the principle of freedom of choice of the governing law (Rich, 1980).

While dividing the legislative frameworks on domestic and international, with the separate category of Eurobonds as international bond issuance, the academics considered the supranational framework for bond issuance- eurobonds- as the common bonds issued by the members of the European Union (EU) and potentially introduced as an instrument of its stabilisation policy: Beetsma & Mavromatis (2014), Corsetti *et al.* (2019). The latter suggested that the issue of a non-defaultable eurobond as performed by a "euro area fund" (which could be similar to the

European Stability Mechanism) could be introduced. Jarocinski & Mackowiak (2018) concluded that such a non-defaultable eurobond was already present in the form of interest-bearing reserve deposits at the European Central Bank. The European perspective has also been stressed by academics studying the regulatory power: the creation of a pan-European bond market by euro-area governments where financial intermediaries as providing infrastructure for the secondary market was stressed Pagano & Thadden (2004). An initiated pan-Baltic covered bond legal and regulatory framework, as a potential model of a pan-European bond, lacks academic interest, while being recognised as a positive regional initiative within European covered bonds market creation (Bajakic, 2019).

Methods and Procedures

The research methods used in this article are scientific publication analysis, document analysis, and in-depth interviews. In the process of legal document analysis, the authors have detected a sizeable diversity between the local legislation documents as present in the local language only. The latter has indicated the need for practitioners' comments on the legislation both for legal documents outstanding and their application on the Baltic level. In-depth interviews were conducted with the legal specialists from Lithuania, Estonia and Latvia directly involved in the corporate bond origination process as legal advisors to the issuers. The interviews took place in the period December 2019-March 2020. The selection process of the legal firms contacted included two criteria: the activity of the legal firm in the corporate bond segment and a pan-Baltic geographical scope. There is no information on the legal advisors to the corporate bond issues present in the public space, the bond issue documentation, or on the Nasdaq Baltic level. Although there is a publicly available list of certified advisors of the Nasdaq Baltic (legal firms and investment firms), the main purpose of those advisors is consulting the potential issuers in the First North list. Companies on First North are subject to the rules of First North and not the legal requirements for listing or admission to trading on a regulated market (Nasdaq Baltic, 2020). While the certified advisors' list could be a proxy for the legal companies active in the corporate bond origination segment, only Eversheds Sutherland Bitāns is active on the Baltic level (Nasdaq Baltic, 2019). The list of the legal firms was further extended by the international ranking of the legal firms active in the Baltic Banking, finance, and capital markets area by Legal 500 and Baltic Financial and corporate area by IFLR1000. Both rankings provide a diverse picture of the leading Baltic firms in the segment, moreover, the segment as provided by Legal 500 is narrower than the one of IFLR1000. In the result, the limitation for participants of the in-depth interviews was made to include the representatives of legal firms having expertise in banking, finance and capital markets listed in Legal 500 and IFLR1000 rankings Tier 1 and Tier 2 categories in Latvia, Lithuania, and Estonia, complemented with the investigation of publicly acknowledged legal expertise in Baltic local corporate bond issues. The interviewed persons were six practising lawyers representing Cobalt, TGS Baltic and Eversheds Sutherland Bitāns. All interviewees had management positions with more than 5 years of expertise in financial and commercial law matters and considerable personal experience working with corporate bond issues. No similar primary data collection on the legislation of the corporate bond market in the Baltics has been made before.

The interviews took place online, where the interview questions were sent to interviewees one month before the event. The interview questions contained 15 questions, which were subgrouped by the area of corporate bond issue procedure elements: current regulation of corporate bond issue, information disclosure requirements in the process of a corporate bond issue, supervision, tax considerations, potential situation of the default of the corporate bond issuer, discussion of existing pan-Baltic initiatives and potential initiative for pan-Baltic unified legal and regulatory framework for corporate bond issuance. All interviews were conducted in English, recorded, and transcribed.

Research Results and Discussion

The process of corporate bond issuance can be described as a complex legal framework where several legislative areas are present on the national level. For the European Union member states, on the national level, the regulatory framework for corporate bond issuance can be characterised as more aligned yet, diverse due to the inconsistent interpretation of the supranational European Union legislation. The present disparity in national legislation affects both issuers and investors of the corporate bonds: issuers have to overcome the overlapping requirements and costs, while investors have to research a divergent domestic regulation. The remaining challenge for the legal and regulatory framework of corporate bond issuance in the European Union is to become more efficient while benefiting from improvements in bond markets throughout the legal sources in the legal hierarchy.

In the regulation process of corporate bond issuance on the supranational level, two legislative sources: the MiFID II directive (Directive 2014/65/EU, 2014) and information disclosure in the format of the prospectus (European Commission; Securities Prospectus, 2019) should be highlighted. The latter was underlined by Strampelli (2018) as the extensive EU action regarding a particular aspect relevant to the corporate bond issue process. Both, the transposition and implementation of the MiFID II and Regulation (EU) 2017/1129 (2017) (Prospectus Regulation) contributed to shaping national legislation and aligning it between the member states. The remaining aspects as left to national competence and creating the dissimilarities between the member states are aimed to be further reduced by the creation of a unified capital market throughout the European Union- Capital Markets Union (CMU). The European Commission (EC) in the CMU progress report has indicated the commitment fulfilment and stressed the importance of national measures and reforms. The areas requiring the centre of attention by the European Commission for national level improvement are the national tax regimes, efficiency, and duration of insolvency procedures (European Commission; Progress Report, 2019). Based on the limitation provided, this research further investigates two focal areas in the corporate bond issuance process legislation: the information disclosure requirements and the prospective situation of a default of an issuer.

The Prospectus Regulation applies to prospectuses as a form of information disclosure to be published when securities are offered to the public. It aims to simplify the rules and procedures that companies are required to apply when they are drawing up, securing approval, and distributing approval. The first action towards harmonisation was the Directive 2003/71/EC on rules on prospectuses to be published when securities were offered to the public (Directive 2003/71/EC, 2003), the content was amended with the adoption of the Directive 2010/73/EU. The directives have introduced an opportunity of a single passport (mutual recognition) for the issuers, which allows the prospectus to be valid in all other member states when approved in at least one EU member state (European Commission; Securities Prospectus, 2019).

The Prospectus Regulation forms a part of the CMU and is aimed to improve the shortcomings of the prospectus regime under the Prospectus Directive (COM/2016/0723 final - 2016/0359 (COD), 2016). The Prospectus Regulation reduces the overloaded burdens and costs on the issuers, especially on small and medium-sized enterprises (SMEs). The main changes introduced by the Prospectus Regulation concern compulsory requirements, main components, a new standardised and simplified form of prospectus, as well as the introduction of a European Online Database (Regulation (EU) 2017/1129, 2017). In Article 3, the Prospectus Regulation determines the EU prospectus as a compulsory requirement of capital raised publicly over 8 million EUR, thus raising the previous threshold by 3 million EUR. Furthermore, the rules of Article 14 allow for a simplified disclosure regime for secondary issuances for companies aiming to issue additional securities in the form of shares or debt securities. The prime condition for the company endeavouring to benefit from this regime: having been listed for 18 months on a regulated or SME

growth market beforehand. The observation of the aforementioned articles indicates the general aims of the legislator. Moreover, the Prospectus Regulation brings a novelty to the prospectus regime by establishing the EU Growth Prospectus. It is targeted for the particular benefit of SMEs and is characterised as a proportionate disclosure regime. The focus of the legislator can be revealed from Article 15 of the Regulation - the stimulation of SMEs' participation in the financial markets (Regulation (EU) 2017/1129, 2017). Accordingly, the interpretation of the intentions of the legislator supports the information disclosure regime as an attracting factor for market participation. During the interviews, the Baltic experts positively evaluated the changes introduced by the Prospectus Regulation, emphasising the introduction of EU growth prospectus, simplified prospectus regime, regulation of advertisement, description of risk factors, requirements of summaries as well as the extent of certainty for expected requirements for issuers and advisors. From their experience working with the Prospectus Regulation, the challenges were faced from the requirements and approval of the prospectus summary- the new regime does not provide a template of the contents of summary, as present for the old regime. However, as recognised by experts, the Prospectus Regulation in practice has validated to be improving the corporate bond issuance procedure, by providing clearly stipulated requirements comprehensible for the issuer and advisors. Based on the expert opinion Prospectus Regulation in practice has achieved the aims set by the EU.

From the investor perspective, the main positive contribution of the Prospectus Regulation is in the form of relatively easier decision making and analysis of the relevant information due to a more comprehensive and concise manner of information disclosure. Article 6(1) of the Prospectus Regulation requires the assets and liabilities, profits and losses, financial position, and prospects of the issuer and any guarantor; the rights attaching to the securities; the reasons for the issuance and its impact on the issuer to be mandatorily disclosed. These core elements were defined as allowing enough information to be provided for the investor to be able to conduct informed decisions in a manner, which does not extensively overload the issuer. (Regulation (EU) 2017/1129, 2017). Additionally, Article 7 of the Prospectus Regulation provides requirements of the summary to be prepared in a language understandable and concise enough for the investors' perception. The summary is a key tool for the investor to analyse the nature and risks of the issuer, the guarantor, and the securities as the essence of the offer. The legislator has strived to balance the interests of issuers and potential investors whilst creating a substantive harmonised rule (Regulation (EU) 2017/1129, 2017). When commenting on the Prospectus Regulation application from the investor perspective, one of the Baltic experts interviewed welcomed the more lenient approach to the format of the prospectuses and acknowledged the new approach of risk factor disclosure resulting in regulators' increased attention of risk factors disclosure and wording. Based on the new approach in practice the risk factors disclosed are focused on investors' interest perspective. Another expert evaluated the increasing harmonisation of rules across the EU, including the Prospectus Regulation, as a beneficial direction increasing the level of certainty for investors. It was complemented by the opinion on supervisory authority possessing improved power of controlling the risk factors in the summary and the prospectus.

As a result of the Prospectus Regulation, the information disclosure part of the publicly offered corporate bond issues is harmonised across all the EU. Yet, Baltic states have to achieve a uniform national regulation for the gaps of Prospectus Regulation. Issues not amounting to the mandatory applicability threshold of Prospectus Regulation are one of the areas requiring harmonised regulation in the Baltic states. As acknowledged by the experts during the interviews, in the Baltic states no best practices or guidelines for the legal compliance of corporate bond issues have been developed. Such soft law instruments are advised to be introduced at the pan-Baltic

level based upon the expert experience and recommendations. The study proposes the Baltic state legislative bodies to set the prime focus of establishing a harmonised legislative coverage for the corporate bond issues outside of the mandatory application of the Prospectus Regulation.

The prospective situation of a default of an issuer is another milestone of the corporate bond issuance legislation. The national insolvency procedure's efficiency and time span have a profound influence on both cross-border investments and capital flows (European Commission; Progress Report, 2019). Corporate bond investors need to rely on legal certainty and research the corresponding state's insolvency proceedings before the investment. The crucial factors considered by the potential bondholders include the hypothetical situation of the insolvency of a bond issuer company, the situation of bondholder not receiving a coupon, or/and par value of the bond- the occurrence of a situation of default. Investors are ordinarily attentive towards the possibility of the issuer claiming insolvency, with the focus on the rights and position of the bonds. The general principle underlying the insolvency regulations - in the event of insolvency the creditors are considered in an order of priority. The key concern is the order of precedence of creditors' rights (COM/2015/0468 final, 2015). Another principle is that the claims of the owners of the company are considered only after the order of creditors is satisfied (Celik, 2015).

The importance of insolvency laws has been repeatedly acknowledged by the EU when addressing national insolvency, tax, and securities laws as creating barriers for the free flow of capital. The EC particularly has stressed the differences in national insolvency laws as causing uncertainty and posing several legal risks accordingly. The EC has proposed a new approach to the insolvency regime as part of CMU, concurrently including the possibility of early restructuring and second chance (COM/2015/0468 final, 2015). This legislative proposal can be considered as the next step complementing the existing EU insolvency framework. The main EU legal act in the field of insolvency is the Regulation on Insolvency Proceedings (Regulation (EU) 2015/848, 2015). Additionally, the Baltic states are following a proactive stance and participating in a project aiming regional harmonisation of rules, ahead of EU legislative initiatives. This project is the Nordic-Baltic Insolvency Network, established in 2010, where academics and expert practitioners from Sweden, Norway, Denmark, Finland, Estonia, Lithuania, and Latvia have produced several recommendations addressing the goal of harmonisation of national insolvency rules of these countries (Nordic-Baltic Insolvency Framework, 2016). Insolvency procedures are still subject to substantive differences. The laws regarding insolvency procedures in the EU are to a major extent originating in the member state-level legislation, closely tied with national company laws.

In Latvia, the main legal act governing insolvency is the Insolvency Law (Insolvency Law, 2019). Relevant for the situation of insolvency of a bond issuer company, according to Section 2 paragraph 1 of the Insolvency Law, it applies to legal persons. Moreover, according to Section 2, paragraph 4 of the Insolvency Law the scope of this legal act also covers the insolvency proceedings of the financial and capital market participants whose activities are supervised by the Financial and Capital Market Commission. Sections 7 and 8 of the Insolvency Law define the distinctions between secured and unsecured creditors- the secured creditors being creditors possessing claim secured by commercial pledge, in contrast to an unsecured creditor having a claim which is not secured by any of collateral measures. Chapter XIII addresses creditors' claims. Section 73 specifies the submission procedure of creditors' claims, as well as verification and administrator's decision. Furthermore, the satisfaction of creditors' claims in legal insolvency proceedings has to be conducted according to Chapter XXI Section 118 of the Insolvency Law. The satisfaction of creditors' claims in legal insolvency proceedings has to be conducted in the order of firstly covering the costs of the insolvency proceedings. Second in the line of satisfaction order are the claims of the Insolvency Control Service and employee claims. An underlying principle of the In-

solvency Law is the requirement of the division of claim amounts in principle and ancillary debts and the establishment of proportions (Insolvency Law, 2019). As confirmed by the Baltic expert, the creditor's line and categories in the Insolvency Law are the main legal sources of bondholder's rights as a creditor in Latvia, yet the consideration of default of the issuer can be included in the prospectus.

In Lithuania, the enterprise bankruptcy process is regulated by the Enterprise Bankruptcy Law of the Republic of Lithuania and applies to legal persons only. Article 21 of the Enterprise Bankruptcy Law specifies the rights of the creditors and relevant procedural aspects (Enterprise Bankruptcy Law, 2012). Likewise, in Latvian Insolvency Law, in Lithuania, the satisfaction of creditors' claims has to be done in a specified sequence. In Enterprise Bankruptcy Law it is stated in Articles 34, 35, and 36. Before the satisfaction of the creditor's claims is considered, the expenses relating to the administration of the enterprise bankruptcy shall be paid first from all types of funds of an enterprise in bankruptcy and a bankrupt enterprise (Enterprise Bankruptcy Law, 2012). Following, from all the proceeds obtained from the sale of the pledged assets of the enterprise or by transferring the pledged assets, the creditor's claims which are secured by a pledge and/or mortgage should be satisfied. Article 35 specifies the sequence of the procedure of the satisfaction of other claims and determines this sequence procedure to be conducted in two stages. The first stage requires the creditors' claims to be satisfied in the sequence established in this Article, not including the computed interest and default interest. During the second stage, the remaining part of the creditors' claims (interest and default interest) shall be satisfied in the same sequence (Enterprise Bankruptcy Law, 2012). As commented by the Baltic experts during interviews, in Lithuania, the bondholder interests are partly realised throughout bondholders' trustee, supervising the status of the bond issuer. Such legal institute has not been indicated by experts to be present in Latvia or Estonia. Lithuania underwent a recent change in insolvency and enterprise reconstruction regime as the new law was introduced from January 1, 2020. The Baltic experts indicated no significant changes in respect to bondholders, to their position and rights as creditors.

In Estonia, three legal acts regulate bankruptcy and insolvency procedures, where the main one related to the default of the issuer is the Bankruptcy Act (Bankruptcy Act, 2019). Section 2 Article 41 is devoted to blocking securities in the register of securities and states that pursuant to the bankruptcy order, securities, or securities accounts registered in the securities register shall be blocked. Additionally, Article 44 of the Bankruptcy Act in conjunction with Chapter 5 Section 1 specifies the procedure of creditors' claims by explaining the term of claims, claim itself, settlement of claims, and other details. Section 2 continues by determining the measures of protection of creditors' claims. Furthermore, the creditors' claims are satisfied according to the distribution process specified in Chapter 9 of the Bankruptcy Act (Bankruptcy Act, 2019). The steps of creditors' claims satisfaction must be fulfilled by having a notion of two additional requirements. The requirements of the next step shall be satisfied after the satisfaction of the requirements of the previous step. If the property has not enough value to satisfy all the requirements of one creditor stage (category), the claims of the same rank shall be satisfied in proportion to the size of the claims. Additionally, Article 154 introduces the distribution ratio, which is the proportion that a creditor from each category/ranking has the right to receive. The ratio is based upon the value of the sale of bankruptcy estate and amount and on the specific claim (Bankruptcy Act, 2019). Experts clarified that no special legal provisions are present for bondholders in case of the default of an issuer, thus bondholders' position in the creditor's rankings depends on whether the bonds are secured. If the bonds are unsecured, the respective bondholders are positioned in the last ranking of creditors' claim satisfaction.

Analysis of the Baltic corporate bond issuance process legislation in the form of the prospective situation of a default of an issuer has revealed the lack of unified insolvency legislation despite the initiated Nordic-Baltic Insolvency Framework cooperation, EU actions undertaken, recommendations provided in the Insolvency law area and the pan-Baltic-focused legislative actions in unifying capital markets. The Baltic experts evaluated the key national insolvency acts of the Baltic states as inconsistent in their approach of creditors' claims satisfaction. The primary difference underlies in the division of creditors claim more detailed in to primary and ancillary claims and the satisfaction of this division. The experts have underlined that in Latvia, Lithuania, and Estonia there are no specific provisions relating to bonds or notes; the rights of the creditors are considered to be dependent on the types of the financial instrument – whether or not they are senior, subordinated, covered, or other types. The discrepancies in the creditors' claims satisfaction order and principles are revealed and identified as one of the areas requiring harmonisation among the three Baltic states. The certainty for a bondholder of the position of bonds between the other creditors' claims in case of the distress of the issuer is a fundamental consideration demanding harmonised approach of the national legislators. European Commission's recommendations regarding insolvency barriers are evolving. Baltic states have already presented a will to harmonise divergent, nationally deeply entrenched primary law during the process of developing pan-Baltic covered bond legal and regulatory framework (Ministry of Finance of the Republic of Lithuania, 2019). Based on the research results, the authors consider the pan-Baltic Insolvency Law harmonisation as a prolonged and complex process, referring to the extensive CMU development process and the differences in national legal systems.

Conclusions

- The existing studies analysing the legal framework for the corporate bond issuance process have been divided by the authors into three groups: the traditional division between domestic and international (typically Eurobonds) legal frameworks for issuance; the indirect division of legal frameworks by relating them to the terms of bond issuance; and a supranational framework for bond issuance - eurobonds - as the common bonds issued for the member states of the European Union and possibly introduced as an instrument of their stabilisation policies.
- From the perspective of developing a pan-Baltic uncovered corporate bond issuance framework, the authors highlight two existing frameworks, as pointed out by scholars: Eurobond and eurobond. Eurobond is the existing and widely used legal framework for international bond issuance. It is subject to comparatively less regulation, as it is not under the jurisdiction of a single sovereign or regulated by a central bank - the organisational matters are largely handled by financial intermediaries. A eurobond as a common EU bond lacks a unified structure - research on this instrument suggests a non-defaultable eurobond as carried out by a "euro area fund" (which could be similar to European Stability Mechanism), interest-bearing reserve deposits at the European Central Bank, or a product similar to the Eurobond as created by Eurozone governments for the pan-European bond market. The latter (if applied to the corporate sector) would correspond to the establishment of a framework for pan-Baltic corporate bond issuance.
- The analysis of the existing legislation on corporate bond issuance shows that the concern of information disclosure in corporate bond issuance is covered by the new regime of Prospectus Regulation. Due to the Prospectus Regulation, the part of information disclosure in the issuance of publicly offered corporate bonds is harmonised across the EU. However, the Baltic States need to achieve a uniform national regime for the gaps of Prospectus Regulation. Issues that do not meet the mandatory applicability threshold of Prospectus Regulation are one of the areas in need of harmonised regulation in the Baltic States. This research suggests the development of pan-Baltic recommendations/guidelines for disclosure of information

in corporate bond issuance as guiding documents also for private placements as one of the requirements of pan-Baltic legislative solutions.

- As emerged from Prospectus Directive, Prospectus Regulation has harmonised information disclosure rules across the EU. This research recognises the changes introduced by Prospectus Regulation as beneficial for the corporate bond issuance process, highlighting the introduction of the EU Growth Prospectus, the simplified prospectus regime, the regulation of advertising, the description of risk factors, the requirements for summaries and the level of certainty for the expected requirements for issuers and advisors. The challenges as highlighted by this research relate to prospectus summary requirements and approval - the previous regime provided the template for summary content, which is not present in the new regime.
- The analysis of the national insolvency laws in the Baltics reveals their divergence and the need for harmonisation: in Latvia, the main relevant legal act is the Insolvency Law, in Estonia- the Bankruptcy Act, in Lithuania- Enterprise Bankruptcy Law. There are different approaches to the concept of insolvency, as well as to the division of creditors' claims into main and ancillary claims to determine the general principles of creditors' satisfaction. Therefore, from the perspective of potentially creating a unified pan-Baltic legal and regulatory framework, insolvency law should be addressed as a potential area of alignment to create a safe environment for investors. The EC particularly has stressed the differences in national insolvency laws as barriers for the free flow of capital causing uncertainty and posing several legal risks. The EC has proposed a new approach to the insolvency regime as part of CMU, concurrently including the possibility of early restructuring and a second chance. The laws regarding insolvency procedures in the EU are to a major extent originating in the member state-level legislation, closely tied with national company law, and still subject to substantive differences. The pan-Baltic Insolvency Law harmonisation is considered by this research as a prolonged and complex process, referring to the extensive CMU development process and the differences in national legal systems. However, Baltic states have already presented the ability to harmonise specific key legal rules of primary law during the process of developing a pan-Baltic covered bond legal and regulatory framework. The results of the analysis are consistent with the concerns of EC, which highlight the differences in national insolvency laws as a source of uncertainty and various legal risks.
- The research reveals the development of a pan-Baltic uncovered corporate bond issuance framework as feasible. Additional development of a pan-Baltic legal solution is required in the area of information disclosure for issues not meeting the mandatory applicability threshold of Prospectus Regulation, and for the insolvency law area where the creditors' claims satisfaction order and principles are identified as the areas requiring harmonisation.
- The authors recommend further research on the potential development of a unified legal and regulatory framework of uncovered corporate bond issuance in the Baltics to broaden the national legal act research base with the civil code, commercial law, and tax law, as well as to include the standpoint of national regulators and exchanges.

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