

ACCEPTANCE AND USE OF ENGLISH IN THE BOND MARKET

DECEMBER 2023

Introduction

The Asian Bond Markets Initiative (ABMI) Brief series aims to provide insights on professional bond markets, their development, and necessary or desirable components to issuers, investors, market intermediaries, regulatory authorities and policymakers, academia, and other interested parties.

The previous ABMI Briefs have focused on an introduction to professional bond markets, explained the concept of professional investors and their categories, and detailed fundamentals of disclosure in the bond market. This ABMI Brief makes the case for the use of English as one of the common and critical factors for a professional bond market and its acceptance by related parties and in the wider bond markets of ASEAN+3. The brief also reviews a number of considerations with regard to language in the bond market.¹ The use of a single language such as English in an environment as heterogeneous as the ASEAN+3 regional bond markets may indeed be challenging. Having acknowledged that, it is the intention of the authors to highlight this subject as one of the indispensable realities of professional and, by extension, successful bond markets.²

For any characteristic of a market, professional or otherwise, to be portable or reusable in other like-markets, there needs to be a certain level of commonality, preferably even a standard; this applies to

HIGHLIGHTS

- ➔ For professional bond markets in ASEAN+3, the acceptance and use of English are essential subjects, also with a view toward a potential future intraregional professional bond market.
- ➔ The use of English is desired for bond issuance documents, disclosure information, and related regulatory processes where possible, as well as acceptance in court or a dispute resolution mechanism should disputes arise between parties.
- ➔ The heterogeneous nature of ASEAN+3 poses challenges, though English may well be part of the solution; yet, some markets feature regulatory or legal constraints to implementing the use of English.
- ➔ Despite these challenges, these markets are increasingly finding practical ways to enable an increased use of English in their jurisdictions within the confines of their frameworks.
- ➔ It is hoped that policymakers and authorities in the region will continue to give utmost consideration to the use and application of the English language in professional bond markets or market segments, given that all relevant parties are professionals, and in view of the potential mitigation of risks, higher costs, and time delays.

¹ The term “related parties” refers to the participants in a bond, note, or sukuk (Islamic bond) issuance; and includes, but is not limited to, the issuer, advisors and underwriters, marketing agents, legal counsel, paying and settlement agents.

² The ABMI Brief series is compiled by Satoru Yamadera, advisor, Economic Research and Development Impact Department; Shigehito Inukai, consultant; and Matthias Schmidt, consultant; with input and expertise from ABMF members and other subject matter experts. ASEAN+3 refers to the 10 members of the Association of Southeast Asian Nations (ASEAN) plus the People’s Republic of China, Japan, and the Republic of Korea.

investor categorization, documentation, and disclosure practices as much as the manner of the language in which documentation and practices are expressed.

As explained in ABMI Briefs No. 1 and No. 2, a liquid and active bond market is predicated on, among other elements, the presence of a professional investors-only bond market segment that is populated by market intermediaries catering to these professional investors, which also attracts a greater number of issuers; these market participants are assumed as a prerequisite to be able to read the documentation and analyze information in English. ABMI Brief No. 3 also explained the significance of specific disclosure in the professional market and beyond—with English being a suitable medium for such disclosure, in addition to an official domestic language in some cases. Furthermore, issuers that intend to issue bonds in multiple professional markets are best served with standardized disclosure document(s) in a common language. This brief intends to make the case for a general acceptance of English as one language for bond issuance, documentation, and disclosure in regional professional markets.³

Why a Common Language?

The use of a particular language defines a significant part of a market itself. The laws of each economy or jurisdiction are expressed in the language of that economy or jurisdiction, and the legal concept of each law is also expressed in the language of that economy or jurisdiction. Consequently, it is to be expected and only natural that individual economies or jurisdictions use their own language to further describe rules and domestic practices for everyday life events, the business environment and related transactions, and the capital market (including the bond market). At the same time, these descriptions are intended for and mostly adhere to a domestic context only, and often may not be suitable or even applicable in a regional or even global context. Most significantly, they may not be best read or understood by nonresident market participants or interested parties, potentially even from a neighboring economy. This may be most evident in the case of technical terms applied in international best practices—terms that may have different meanings or even have no direct equivalent in a local language.

The ASEAN+3 region consists of 14 bond markets—the People's Republic of China (PRC) and Hong Kong, China are considered separate markets—with 19 official domestic languages. To offer issuers, investors, and intermediaries a common communication medium in such a heterogeneous environment, the use of a common language would be a practical solution. Given that English is already the traditional language of international trade as well as finance, it offers itself as the language of choice.

The ASEAN+3 Bond Market Forum (ABMF) was established in 2010 under the Asian Bond Markets Initiative by the ASEAN+3 Finance Ministers, with a mandate to support the development of regional local currency bond markets. Since then, ABMF has acted as a platform for dialogue among public and private sector stakeholders in regional bond markets and promoted the exchange and evaluation of ideas among finance ministries, securities regulators, securities exchanges, depositories, custodian banks, underwriters, and other market intermediary organizations. ABMF discussion outcomes have helped to address common issues and formulate policy recommendations.

The Asian Development Bank publishes the ASEAN+3 Bond Market Guide series, which was created and is updated by ABMF, for interested parties. The economy-level bond market guides serve as reference material to learn more about individual regional markets' development, help address misperceptions, and disseminate regional bond market information to a larger audience. ABMF has proposed, agreed on, and helped implement the ASEAN+3 Multi-Currency Bond Issuance Framework as one practical initiative toward harmonizing the professional bond markets in ASEAN+3 member economies.

As part of its efforts, ABMF created the Working Group for Comparative Capital Market Law and Regulations to research market foundations and practices. The working group will share observations and policy input with constituents and the public, particularly on the regional professional bond markets.

³ This particular brief was compiled by Satoru Yamadera, advisor, Economic Research and Development Impact Department; Shigehito Inukai, consultant; and Matthias Schmidt, consultant; with valuable input and expertise from conversations and correspondence with Shuji Yanase, chairperson of Capital Markets Association for Asia, formerly of Nagashima Ohno & Tsunematsu; and Tony Grundy, of Mori Hamada & Matsumoto. An earlier version of this brief was reviewed by the Asian Business Law Institute which provided useful suggestions.

This is not to say that only the English language and, by extension, all international practices are applicable or useful for each domestic context. English has become a conduit for doing business across multiple markets, even regions, for parties not familiar with other markets and practices. Hence, its use should be considered as a key ingredient in any professional bond market in ASEAN+3 and, where practical, the wider bond and capital markets.

Why English?

English has established itself as the language of international trade and finance, partially driven by the standardization of trade documentation under the guidance of the International Chamber of Commerce.⁴ The Eurobond market, in existence since 1963 and considered the setter of international best practices for professional bond markets, particularly in relation to documentation and disclosure, has been conducting business in English since its inception (see also sidebar “Origins of English as the Language for the Professional Bond Market”).⁵

English as Common Denominator

One key reason for Eurobond market participants choosing English was the need to be able to communicate among regional participants in Europe, being from a heterogeneous region speaking a number of established languages. At the time, and in the absence of regional regulations, there was no practice to expect or produce regulations or material for the offer of securities across borders in multiple languages, unlike the practice in the European Union today. Hence, English served as a common denominator for all market participants who considered themselves professional investors under each market’s own classification.

Acceptance and Use of English in ASEAN+3

Arguments from the previous section suggest that, for professional domestic bond markets aiming at an intraregional professional bond market in ASEAN+3, acceptance and use of the English language are crucial. Thus, let us consider the likely uses of English in a regional context—that is, in such cases where bond issuances in one market may attract interest from

Origins of English as the Language for the Professional Bond Market

One other key reason for the choice of English as the common language was actually not directly related to the language itself. Professional markets work on the basis that all parties are professionals and apply professional practices; part of this professional approach was the need to formally plan for resolution mechanisms in the event of disputes or the inability of an issuer to pay interest or redeem the bonds.

English law was considered at the time to be the most advanced with regard to prescriptions for bankruptcy proceedings and the recognition of bondholders as creditors in such proceedings. English law was expressed in English and represented the basis for United States (US) law (many major bond trading institutions were domiciled in the US at the time) as well as for other major markets in Asia, which has led to the natural acceptance of English as a practical language in relation to the issuance of Eurobonds. Thus, the instance of governing law effectively influenced the selection of English as the default language of the Eurobond market as a form of natural progression.

This goes to show the close connection between language and governing law, as well as the concept of enforcement of provisions under such governing law. This ABMI Brief series will further explore the significance of governing law and its enforcement in greater detail in selected editions.

investors in another regional market or where an issuer from one market would like to issue bonds, notes, or *sukuk* (Islamic bonds) in another regional market.

Such issuances are also referred to as cross-border (intraregional) bond offerings and they are actively supported through the ASEAN+3 Multi-Currency Bond Issuance Framework (AMBIF), which will be explained in detail in a later brief in this series. For these types of issuances, the use of English becomes an important conduit to allow the issuance of and investment in bonds in multiple regional markets.

⁴ The International Chamber of Commerce (<https://iccwbo.org/>) is the largest, most representative business organization in the world. Its more than 45 million members in more than 100 economies have interests spanning every sector of private enterprise. Its mission includes the following: “[The International Chamber of Commerce] makes it easier for businesses to trade internationally.” One of its tools in achieving this is the use of the English language.

⁵ Origins of the Eurobond market adapted from International Capital Market Association. About ICMA. <https://www.icmagroup.org/About-ICMA/history/history-of-the-eurobond-market/>.

The discussion of the use of English in bond issuance-related documentation and disclosure in this brief is based on descriptions in the ASEAN+3 Bond Market Guides and AMBIF Implementation Guidelines. It is intended to help regulatory authorities, other market stakeholders, and observers to compare the practices related to the use of English in regional markets.

English as an official domestic language. A number of jurisdictions in ASEAN+3 recognize English as one of the official languages. These markets may allow bond offering documents and marketing material in any of the official languages but might prefer documentation and disclosure information in English as a matter of course.

Use of English as the standard business language. In markets where English is already accepted as the business language (or one of the business languages), market participants communicate in English; create, reference, and execute English language business documents; and rely on these documents for their decision-making; they include issuers, professional investors, and financial institutions that provide financial intermediary services such as securities underwriting or custody services. The concept of disclosure (for fundamental practices) was already explained in ABMI Brief No. 3 and will be explained in greater detail in one of the next ABMI Briefs.

Use of English with a view of the intended parties. Where issuers or underwriters target international investors or interested parties in other markets, the need for these investors to understand relevant information naturally leads to the presentation of such information in a language in which said parties wish to consume the information. This often justifies the use of English as a means of communication and may also lead to underlying documents, such as contracts, being written in English. In such cases, an underwriter's due diligence likely also results in an assessment in English to support the marketing efforts. In ABMI Brief No. 2, it has been established that professional investors, due to their nature, can be assumed to be able to consume English information and, hence, the intermediaries servicing these professional investors are able to compile and communicate such information, and respond to related queries, in English.

Acceptance of English in court. Here, a distinction is made between the conduct of court proceedings in English and the ability of the court to accept evidence presented in English. Where English is (one of) the official language(s) or an accepted business language,

court proceedings may be conducted and documented in English, and evidence in English (including contracts and business documents in that language) will be accepted. In a jurisdiction where English is not an official language, court proceedings cannot be expected to be conducted in English, though evidence may still be accepted in an original English version, subject to any additional requirements or restrictions that may apply.

Use of English in a bond market segment. In line with the characteristics of professional bond markets or market segments in ASEAN+3 (see ABMI Brief No. 1), and the nature and general expectations of professional investors (see ABMI Brief No. 2), English is a key ingredient in any professional bond market or market segment. However, markets may make a clear distinction between the acceptance of English in market segments frequented by retail investors (typically, the public offering market) or by professional investors. Retail investors are generally not expected to be able to consume information in English; thus, the domestic language will prevail for marketing material and disclosure. In contrast, professional bond market segments are generally considered to accept English as a means of communication and for documentation and disclosure information. There are, however, markets where English as a language for the bond market is not officially accepted.

Use of English from a practical perspective. In some markets, the domestic language prevails for any regulatory process and formal interaction with regulatory authorities. At the same time, these authorities are also considering how to facilitate the practical use of English in draft or working documents pending finalization among related parties. This includes draft versions of key disclosure documents or marketing materials. Some examples are given later in this brief.

Table 1 provides an overview of where and how English is presently accepted and used in ASEAN+3 markets.

Specific Uses of English in the Bond Market

The intention of **Tables 1 and 2** is to compare the use of English across the region's bond markets, as well as to produce a more detailed look at English usage in the context of bond, note, or *sukuk* issuance and disclosure documentation. As can be seen in both tables, the acceptance or prescription of the use of English in AMBIF markets ranges from the full acceptance of English in a non-English-speaking market (e.g., TOKYO PRO-BOND) via a practical compromise between

Table 1: Acceptance and Use of English Across ASEAN+3 Bond Markets

Economy	General Usage				ASEAN+3 Bond Market or Market Segment		
	English as Official Language	English Speaking	English as Business Language	English Accepted in Court	Public Offer Market	Private Placement Market	Professional Market (AMBIF)
Brunei Darussalam	Yes ^a	Yes	Yes	Yes	Yes	Yes	N.A.
Cambodia	No	No	No	No	Partly yes ^b	Partly yes ^b	Partly yes ^b
China, People's Republic of	No	No	No	No	No ^{c d}	Partly Yes ^c	N.A.
Hong Kong, China	Yes ^a	Yes	Yes	Yes	Yes	Yes	Yes
Indonesia	No	No	No	No	No ^{b c}	Partly yes ^c	N.A.
Japan	No	Partly yes	Partly yes	Partly yes	No ^c	Yes	Yes ^d
Korea, Republic of	No	No	No	No	No ^e	Partly yes ^c	N.A.
Lao PDR	No	No	No	No	No	No	N.A.
Malaysia	No	Yes	Yes	Yes	Yes	Yes	Yes
Philippines	No	Yes	Yes	Yes	Yes	Yes	Yes
Singapore	Yes ^a	Yes	Yes	Yes	Yes	Yes	Yes
Thailand	No	No	No	No	Partly yes ^c	Partly yes ^c	Partly yes ^c
Viet Nam	No	No	No	No	No	No	N.A.

AMBIF= ASEAN+3 Multi-Currency Bond Issuance Framework; ASEAN+3 = Association of Southeast Asian Nations plus the People's Republic of China, Japan, and the Republic of Korea; Lao PDR = Lao People's Democratic Republic; N.A. = not applicable.

Notes: Shaded economies represent the AMBIF markets as of November 2023. Entries reflect official policy and do not consider selected compromises that may exist as part of market practices; please see text for possible such exceptions or practical compromises.

^a Indicates English is not the only official language.

^b Listing includes or permits disclosure in English.

^c Indicates the existence of qualifications, concessions, or exceptions.

^d A comprehensive explanation is provided in the next section.

^e The Government of the Republic of Korea recently announced the introduction of mandatory disclosure in English from 2024, initially applied to large listed companies and gradually to be extended to all issuing companies.

Source: ASEAN+3 Bond Market Forum.

regulations and market expectation (e.g., Cambodia) to the need to adhere to domestic laws and regulations not specifically set for the bond market (e.g., Indonesia).

Table 2 provides details on the use of English in the professional bond markets in ASEAN+3 at the time of the compilation of this brief. The individual categories used to track English usage are explained hereafter.

Regulatory application and approval process. This includes instances where an issuer or their intermediary is required by law, regulations, or rules to submit an application and/or ask for approval from the regulatory authorities for the issuance of a bond, note, or *sukuk*.

In professional bond markets, a formal approval may often not be necessary, but elements of the application process (such as a notice or registration) as well as use of a disclosure document and supplementary documentation are typically evident in all markets.

A submission of application forms and supporting document(s) should be expected in the official language(s) of any jurisdiction; this might already include English (as is the case in some ASEAN+3 economies), with regulatory authorities in other markets permitting the use of draft documents in English among deal parties until the final submission of relevant documents in the official language of the market.

Table 2: Use of English in Regulatory Processes, Documentation, and Disclosure in Professional Bond Markets or Market Segments in ASEAN+3

Economy	Market	(Regulatory) Application and Approval Process				Listing or Registration Process				Continuous Disclosure
		Application	Key Disclosure Document	Supporting Documents	Interaction with Regulators	Application	Key Disclosure Document	Supporting Documents	Interaction with Authority	
BN	Offers to SI	✓	✓	✓	✓	N.A.	N.A.	N.A.	N.A.	✓
KH	PO to Prof.		☑	☑	✓		☑		✓	✓
CN	Exchange					✓	✓	✓	✓	✓
	CIBM									
HK	Prof. Inv. only	N.A.	N.A.	N.A.	N.A.	✓	✓	✓	✓	✓
ID	PO to Prof.		☑	☑	✓					☑
	Not via PO		☑	☑	✓	N.A.	N.A.	N.A.	N.A.	☑
JP	TOKYO PRO-BOND	N.A.	N.A.	N.A.	N.A.	✓	✓	✓	✓	✓
KR	QIB	N.A.	N.A.	N.A.	N.A.	☑	☑	☑	☑	☑
LA										
MY	Offers to SI	N.A.	✓	✓	✓	✓	✓	✓	✓	✓
PH	QB	N.A.	N.A.	N.A.	N.A.	✓	✓	✓	✓	✓
SG	Wholesale	N.A.	N.A.	N.A.	N.A.	✓	✓	✓	✓	✓
TH	PP-II	✓	✓	✓	✓	✓	✓	✓	✓	✓
VN										

ASEAN+3 = Association of Southeast Asian Nations plus the People's Republic of China, Japan, and the Republic of Korea; BN = Brunei Darussalam; CIBM = China Inter-Bank Bond Market; CN = People's Republic of China; HK = Hong Kong, China; ID = Indonesia; II = institutional investors; JP = Japan; KH = Cambodia; KR = Republic of Korea; LA = Lao People's Democratic Republic; MY = Malaysia; N.A. = not applicable; PH = Philippines; PO = public offer; PP = private placement; Prof. = professional; QB = Qualified Buyer; QIB = Qualified Institutional Buyer; SG = Singapore; SI = sophisticated investors; TH = Thailand; VN = Viet Nam.

Notes: ✓ indicates that English is accepted; ☑ indicates that English is accepted under certain conditions. Shaded economies represent the AMBIF markets as of November 2023.

Source: ASEAN+3 Bond Market Forum.

Basically, the same applies to program listings where multiple bonds are expected to be issued under one program.

Application. As the name suggests, an application is a formal document requiring the issuer or their agent to declare the intention to issue (or list or register) a bond and, if so applicable, to ask for the approval from the relevant regulatory authority. Application forms are often templated in the local language or may be

bilingual. Their purpose is to comply with law, regulations, and rules governing the regulatory process for bond issuance and the mandate of the regulatory authority.

Key disclosure document. A key disclosure document is a formal document that is expected to contain significant information on the issuer and the instrument to be issued. Key disclosure documents in professional bond markets may follow a formal template used in international markets or at least contain the same or

similar information, quite often in the same manner and sequence. As such, they are—typically—expected to be provided in English. ABMI Brief No. 3 explained the disclosure fundamentals, and a future brief will focus on explaining individual documents and related disclosure practices in greater detail.

Supporting documents. These are formal documents (e.g., business or identification certificates) or financial and other information on the issuer and their business, or their agents. If an issuer is domiciled in an English-speaking economy, the documents are likely to automatically be issued in English. Look for details on supporting documents in the context of disclosure in one of the next ABMI Briefs.

Interaction with regulators. Interactions with regulators refer to potential inquiries or formal submissions and correspondence between the issuer or their agents and the regulatory authorities.

Listing or registration process. The listing or registration process comprises the activities to be undertaken by an issuer or their agents to list or profile-list a bond, note, or *sukuk* on an exchange, or to register an issuance with an organized over-the-counter market. The authorities reviewing and approving listing or registration applications tend to be self-regulatory organizations with the mandate to regulate and govern their assigned market segments.

Continuous disclosure. Continuous disclosure represents the obligation of the bond issuer to supply investors, regulators, and the market at large (as may be applicable) with relevant information on the issuer's business and overall condition for investors to decide whether to invest in or continue to hold a bond and how to value it.

When English is not a Domestic Language (including Case Studies)

While English is commonly spoken and used in some markets, other markets in ASEAN+3—including Indonesia, Japan, the Republic of Korea, the PRC, and Viet Nam—do not widely use English; hence, in many

cases, legal documents must be in or be translated into the local language when submitted to regulatory authorities, market institutions and also to courts, as necessary. Since English is not an official language in these markets, it can sometimes be difficult to use it, whether in contracts, official documents, or correspondence, and, consequently, in various aspects of private international law.

Importantly, a lack of the use of English in regulatory or market activities does not make these markets less significant, liquid, or desirable. In fact, even these markets increasingly set the conditions for an increasing acceptance of English usage in many aspects of day-to-day market activities. This begins with the availability of law and regulation texts in English—now fairly common among ASEAN+3 economies—and ranges from regulatory authorities' and market institutions' websites in English to the additional availability of disclosure information in English and the acceptance of English working documents in regulatory submissions.⁶

For an illustration of these aspects, a number of examples are shown below. Each market has found practical ways in which to adopt international market practices and/or expectations from international market participants within the confines of their legal and regulatory frameworks. Other markets are reviewing their frameworks and working toward a greater acceptance of the use of English in capital markets; for example, the Government of the Republic of Korea just announced the introduction of phased-in mandatory disclosure in English for listed companies from 2024.

Acceptance of English as an Alternative —The Example of Japan

In Japan, the English-Language Disclosure System allows foreign companies to submit documents in English, dating back to an amendment of the Securities and Exchange Act in 2005 and further developed through a gradual expansion of its scope in the Financial Instruments and Exchange Act (FIEA) as the succeeding legislation from 2011. The English-Language Disclosure System is practiced in both the public offering market as well as the professional TOKYO PRO-BOND Market (TPBM).

⁶ Information on these practices is provided in the ASEAN+3 Bond Market Guides and AMBIF Implementation Guidelines. The ASEAN+3 Bond Market Guides are an ADB flagship publication series, explaining in great detail regional domestic bond markets, their participants, and practices. The AMBIF Implementation Guidelines are explanatory documents for each of the professional domestic bond markets or market segments participating in the ASEAN+3 Multi-Currency Bond Issuance Framework, or AMBIF, a cross-border activity under the Asian Bond Markets Initiative. Both publication series are available for download from *AsianBondsOnline*, which is also sponsored by the Asian Bond Markets Initiative.

General Disclosure in the English language in Japan.

In principle, issuers of certain securities are obligated to submit registration statements, annual reports, and other disclosure documents in the Japanese language.

Under the FIEA, if an issuer of a bond in Japan is a foreign company, it is permitted to submit continuous disclosure documents in English in place of the above-mentioned Japanese documents and in cases where these English documents are deemed to be adequate in consideration of public interest and investor protection in Japan. This, however, is limited to those documents that were disclosed in a foreign market pursuant to governing laws and regulations, including the rules of a stock exchange or an equivalent institution.

In cases where a foreign company submits these English documents (including those required as supplementary documents), such a company shall be deemed to have submitted registration statements, annual reports, and other disclosure documents pursuant to the FIEA.

The system currently applies to almost all documents submitted by foreign companies that have disclosure obligations under the FIEA.

Listing on the TOKYO PRO-BOND Market with English Disclosure. At the same time, concise information disclosure in English for the TPBM professional investor market is also available under the rules of the Tokyo Stock Exchange for the TPBM, its bond market segment dedicated to professional investors. Foreign companies are, hence, able to raise funds without the disclosure of relevant information in Japanese. In addition, it is also possible for Japanese domestic issuers to exercise information disclosure in English if their bonds are listed on the TPBM.

Whereas conventional samurai bond issuance (the issuance of bonds by foreign issuers in Japan) requires full Japanese-language disclosure, the TPBM allows concise English-language disclosure or a combination of the two. A foreign issuing entity may decide to present disclosure materials in Japanese and English at the time of the issuance and later follow with English-language disclosure.

However, issuers are expected to take measures to ensure that investors are clear about the disclosure language(s) being adopted—for example, by letting them know at the time of issuance that subsequent disclosure will be conducted only in English. Also, an issuing entity may use both Japanese and English in the

same disclosure material for the sake of the convenience of both the issuer and investors.

Domestic and foreign investors benefit from the increased variety of securities in the Japanese market because more domestic and overseas issuers are able to issue in Japan through the TPBM. Overseas investors will likely find it easier to invest in the Japanese market, thanks to increased disclosure in English.

Submission of Documents in the National Language, Disclosure in English—The Example of Indonesia

Law No. 24 of 2009 on the National Flag, Language, Emblem and Anthem, typically referred to as the Language Law or Flag Law, made it mandatory that any contract or agreement involving an Indonesian private entity would have to be drawn up and executed in Bahasa Indonesia.

Consequently, a registration statement for a public offering, including for a public offering to professional investors, and any supporting documents will need to be submitted to the Financial Services Authority (OJK) in Bahasa Indonesia. Similarly, the information memorandum for a private placement, as well as its supporting documents, will need to be submitted to OJK in Bahasa Indonesia. Supporting documents may be in a language other than Bahasa Indonesia if accompanied by a translation into Bahasa Indonesia by a sworn translator. In practice, the original version of the documents that are written in languages other than Bahasa Indonesia will likely also be submitted to OJK.

An information memorandum may be published in English if agreed between parties involved in a private placement (e.g., for the purpose of attracting foreign institutional investors). However, such an English version would not fulfill the prescriptions of the private placement regulation, and a version of the information memorandum in Bahasa Indonesia would have to be submitted to OJK. The submission of issuance documentation in two languages (e.g., as a bilingual version) is acceptable as long as one of them is Bahasa Indonesia.

At the same time, OJK regulations prescribe that (i) issuers of public offerings of debt securities shall present their website in Bahasa Indonesia as well as in foreign language(s), which must include English; and (ii) all annual reports need to be published in Bahasa Indonesia as well as in foreign language(s), which must include English.⁷

⁷ Text adapted from ADB. 2021. *The Bond Market in Indonesia—An ASEAN+3 Bond Market Guide Update*. Manila. <https://www.adb.org/publications/asean3-bond-market-guide-update-indonesia>.

Consideration of Supporting Documents and Disclosure in English—The Example of Cambodia

Presently, all contracts, applications for securities issuance and listing, licensing or accreditation approvals, and securities issuance-related documentation and disclosure items, as well as correspondence with regulatory authorities and market institutions (if so required), must be in Khmer, the official language of Cambodia.

At the same time, the disclosure document for the issuance of debt securities may also be in English. It may be produced first in English as long as the final version of the disclosure document will be available in Khmer at the time the offer of debt securities commences. In any case, the issuer will be required to maintain equivalency of information between document versions in both languages.

The Securities and Exchange Regulatory Commission has been studying whether an application form in Khmer and supporting documents in English may be acceptable.

During the listing eligibility review, the Cambodia Securities Exchange (CSX) accepts draft or working copies of key disclosure and supplementary documents in English. Legally binding contracts and other material information need to be submitted to CSX in Khmer. CSX already accepts and displays initial and continuous disclosure information in both English and Khmer (as available) on its website.⁸

Use of English for the Purpose of International Representation—The Example of the China Inter-Bank Bond Market

In general, issuance documentation, applications and supporting documents, and disclosure information for the issuance of debt financing instruments in the China Inter-Bank Bond Market (CIBM) must be in Chinese, particularly for public offerings. However, concessions are principally available for the issuance of Panda bonds (debt securities issued by foreign issuers in the PRC) for both issuance documentation published in the CIBM and continuous disclosure by the issuer.

Notwithstanding this, issuers in the CIBM may make available to international investors an English version of the issuance announcement and key disclosure document prior to issuance if they so choose, including

for a public offering. This practice has been observed for issuers that are part of an international company or group. Such announcements and initial disclosure information are for the convenience of investors only; the Chinese version remains the official document for the purpose of an offer.⁹

Considerations for the Use of English

Following the exploration of the general use of English in ASEAN+3 and the review of a number of practical examples in this region, we would like to highlight some of the key considerations for English usage.

Key Arguments

In the private placement market, which often demarcates the professional bond market segment in a given economy, the language of issuance documents (e.g., key disclosure document) will be determined by agreement between the issuer, investors, and intermediaries. This typically leads to an acceptance of English, often in conjunction with the acceptance of English law or that of comparable jurisdictions as governing law. This is driven by accepted international market best practices in the bond market.

Similarly, and as described in ABMI Brief No. 2, it is widely accepted that professional investors are able to consume documentation and disclosure information in English, regardless of their domicile. In fact, once investors look for investment opportunities beyond their home market, the need to communicate and process information in English appears imperative. That, in turn, also offers an argument for the permitted use of English in the case of cross-border offerings to professional investors.

It is also recognized that some jurisdictions require translation into the local language for many or all components of bond issuance. Here, it is worth considering that if the official translation in the local language of a typical working document in English is inaccurate, this could create risk through potential misunderstandings or misinterpretations. While related parties to a bond issuance might not seek the resolution of disputes in court, such misinterpretations can become costly and time-consuming in their own right. It is, hence, proffered that contracting parties can carry out transactions in a language different from their local language with a legal opinion—on the equivalence of

⁸ Text adapted from ADB. 2020. *ASEAN+3 Multi-Currency Bond Issuance Framework Implementation Guidelines for Cambodia*. Manila. <https://www.adb.org/publications/asean3-multi-currency-bond-issuance-framework-guidelines-cambodia>.

⁹ Text adapted from ADB. 2020. *The Inter-Bank Bond Market in the People's Republic of China—An ASEAN+3 Bond Market Guide*. Manila. <https://www.adb.org/publications/asean3-inter-bank-bond-market-prc>.

provisions between the languages and underlying legal concepts—that they are satisfied with, even if the relevant documents must be in the official domestic language as a formal requirement for the parties concerned.

A Matter of Practicality and Cost

A common language has other practical benefits, not least the matter of cost savings. Documentation accepted in a common language and presentable in that same language and, preferably, the same format in multiple markets saves the need to translate an existing document into each local language which, in turn, shortens the lead time for bond issuance. Given the fact that documentation and disclosure information can often run into hundreds of pages, even in a professional bond market, the savings can be substantial.

The ability to reuse information does not stop there. Bond issuers that are listed companies are already subject to formal disclosure requirements on their exchange market and, hence, will have substantial issuer information and details on their business available for reuse. Increasingly in ASEAN+3, such general disclosure information is made available, or even mandated to be, in English. One more recent example is the announcement of the Government of the Republic of Korea to phase in mandated disclosure of material information in English from 2024.

Conclusions

The use of English is an indispensable tool for a professional bond market. It appears necessary to ensure the participation of experienced professional investors and financial services providers, such as intermediaries, in professional bond market activities, with a view toward establishing a true intraregional bond market in ASEAN+3.

ABMF has been advocating the use of English in these markets, including through the promotion of AMBIF. However, given the heterogeneous nature of the region's bond markets, English is a recommendation for AMBIF but not a condition. One potential solution explored by ABMF for AMBIF is concessions from regulatory authorities to allow submission of information in English with a local language summary.

At the same time, English is making inroads as the language of choice for, at least, the professional bond markets or market segments in ASEAN+3; this follows the acceptance of English as the language for trade. Given existing legal and regulatory constraints, the complete adoption of English as the language for all

bond market activities, including approval processes and disclosure, should not be expected. Yet, market authorities and institutions are working within these constraints to offer issuers, investors, and intermediaries a better experience. This includes allowing the (i) preparation of working documents in English with a local language translation required only later, upon formal submission; (ii) availability of market material in English; and (iii) ability to create, publish, and maintain disclosure information in English. Some economies have created dedicated markets for professional investors, not only ringfencing interaction among professionals but also the acceptance of English within these markets.

Given that all relevant parties are professionals, and all parties are keen not to incur extra costs and time delays, if possible, in an ever more demanding business environment, it is hoped that policymakers and authorities in the region will give the utmost consideration to the use and application of the English language in the bond market.

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ISBN 978-92-9270-497-1 (print)

ISBN 978-92-9270-498-8 (electronic)

Publication Stock No. BRF230567-2

DOI: <http://dx.doi.org/10.22617/BRF230567-2>

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