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Private credit

Lawyers navigate Europe's expanding private credit market

The region's multiple currencies, laws and regulations make deals more complex than for US counterparts

Barings' London office: the firm priced Europe's first mid-market private credit CLO late last year © Chris Batson/Alamy

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Private credit markets are continuing to grow in Europe, with companies and investors taking their lead from the US by embracing more complicated types of financing for deals.

One recent example came in the form of Europe's first mid-market private credit collateralised loan obligation, valued at €380mn, which was priced by investment firm Barings late last year.

In the US, private credit CLOs are increasingly competing with the publicly traded CLOs issued by banks. They are pools of loans sliced up into bond tranches that are mostly below investment grade.

According to data from the Loan Syndications and Trading Association, the US market for private credit CLOs grew 16 per cent in 2024 compared with the previous year, making up almost a fifth of all CLO issuance on that side of the Atlantic. Europe’s overall CLO market is smaller but growing: €48bn was issued in 2024 compared to €26bn the year before, according to Deutsche Bank figures.

Aaron Scott, partner at Dechert, who worked with Barings on the €380mn deal, says it has “created a lot of interest and a lot of hype in the market” and predicts the market for private credit CLOs is “probably going to continue to grow” in Europe.

Lawyers are helping to create new types of financing to meet demand in a private credit market that rating agency Moody’s forecasts will grow to $3tn in assets under management by 2028.

The scale of the US…makes it much easier to structure a diverse portfolio

Aaron Scott, Dechert

Private credit is an increasingly systemic part of financial markets, after rules put in place following the 2008 financial crisis forced traditional lenders to tighten requirements, restricting their capacity to offer higher risk loans. In a recent report, Moody’s said that lessons from the US should be heeded as it predicted a pick-up in investor demand in Europe for private capital financing.

“Europe is poised for accelerated growth in private credit,” the report said, warning this growth would bring “the kind of concerns US investors are already familiar with: opacity, rising leverage and concentration risk through the dominance of a few alternative asset managers.”

But unlike the homogenous US market, funding private credit deals in Europe is more complicated, with participants forced to navigate different currencies and multiple legal and regulatory frameworks to put deals together.

“It’s just slightly harder in Europe,” says Scott, adding: “The scale of the US . . . [makes it] much easier to structure a diverse portfolio.”

Despite this, the market is moving forward. Barings registered for a second middle-market private credit CLO in July, according to a filing in Ireland.

This nascent form of financing throws up new challenges for law firms, he adds. "They [Barings] were reaching out to rating agencies to try to see whether the portfolio of loans they have is diverse enough to structure one of these private credit CLOs."

The most complex aspect of structuring a deal in Europe is the different tax systems. "There were lots of fun tax things to deal with," Scott says. He also had to ensure that rating agencies were comfortable with the deal and its various loan elements: "We're having to provide quite a lot of analysis to the agencies."

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> **Aymen Mahmoud, McDermott, Will and Schulte**

Aymen Mahmoud, European head of finance at McDermott, Will and Schulte, says private credit lenders are considerably more flexible than traditional banks, an aspect that companies and investors appreciate, despite the potentially higher funding costs.

"[They're] able to do more structures, able to do more geographies, able to navigate tax and structuring complexity," he explains.

Another reason why companies are turning to private credit is shorter turnaround times, according to Mahmoud. "Private credit has grown massively and is able to deploy at a rate that's far more quick than the banks," he says. "If you see a big geopolitical event, the large cap bank world closes down and that's something that private credit doesn't have to deal with, it's a massive shift."

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Mahmoud worked on the $2bn private credit refinancing of US healthcare software provider RLDatix, which involved working in US dollars and sterling. "The company needs lots of different currencies in lots of different places . . . You've got to make sure that works from a tax [and] operational perspective," he adds. He says the software company "could have gone to the banks" for funding, but chose the private credit route because of the lenders' perceived greater flexibility.

But some investors have become more cautious, concerned about systemic risk in private credit markets that have yet to experience a significant downturn. Singapore’s GIC sovereign wealth fund warned recently that valuations were rising and spreads were tighter.

Earlier this year, the Federal Reserve’s Boston branch warned that bank lending to the private credit industry was of particular concern in terms of systemic risk.

Mahmoud believes concerns are overblown. “You still have to report to your shareholders, your shareholders still have to think you’re doing the right thing . . . there’s a lot more accountability than some people might like to infer.”

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