

Summary of discussion

4th meeting of the European Post Trade Group (EPTG)

04 February 2013, 10.30 a.m. – 4.30 p.m.

Hosted by ESMA, 103 rue de Grenelle, 75007 Paris, 6th floor

Participants

Rodrigo Buenaventura (ESMA) - Chairman

Paul Bodart (T2S Board)

Werner Frey (AFME)

Alberto Giovannini (independent expert)

George Handjinicolaou (ISDA, Derivatives)

Perrine Herrenschmidt (EACH, CCPs, deputising for Marcus Zickwolff)

Markus Kaum (Munich Re, Issuers)

Dan Lambeth (JP Morgan, asset management)

Yvon Lucas (T2S Board)

Joël Mérére (Euroclear, CSDs)

Peter Norman (independent expert)

Nathalie Piscione (ESMA)

Alain Pochet (BNP Paribas, Banks)

Chris Redmond (DG-Markt)

Simonetta Rosatti (ECB)

Helmut Wacket (T2S Programme Office)

Dan Watkins (JP Morgan, asset management)

1. Chairman's introduction and members' updates

The Chairman welcomed members of the EPTG. The summary of discussion of the 3rd meeting of 19 October 2012 in London was approved.

Dan Watkins joins the EPTG as representative for the buy side. Dan Lambeth is his alternate.

Jean Michel Godeffroy will no longer participate in the EPTG as Paul Bodart now represents T2S in his new role as a member of the T2S Board.

Rodrigo provided information on the activities of ESMA:

- EMIR technical standards are being discussed by the European Parliament's European and Monetary Affairs Committee (ECON) and a vote on a motion is expected on 4 February.

- ESMA continues working on the EMIR technical standards related to collateral, contracts having a direct, substantial and foreseeable effect within the Union and CCP colleges.
- On EMIR implementation, ESMA is analysing the outcome of a simulation of notifications for the purpose of the clearing obligation. It is working with competent authorities on the exemptions for intra group transactions and pension arrangements. It is preparing for the set-up of and participation in CCP colleges. For trade repositories, ESMA is preparing for registration, drafting a consultation on fees to be charged, and identifying key matters to focus on for supervision.
- The European Commission has mandated ESMA to prepare technical advice on the equivalence assessment for CCPs, trade repositories and duplicative or conflicting requirements for several countries starting with the US and Japan.
- Regarding the CSDR proposal, ESMA is performing preparatory work.

Chris presented an overview of the EC initiatives and work:

- The Commission and ESMA participated in negotiations at the last meeting of the OTC Derivatives Regulators Group (ODRG) in Bern. The principals will meet in Brussels in early February. The Group aims at addressing the international consistency of the implementation of the reform of the derivatives markets.
- The European Parliament is expected to vote on the CSDR on 4 February. However, the Irish Presidency has not prioritised it in the European Council so far.
- The work on the SLL is progressing well.
- Concerning close out netting, the Commission will participate to the Unidroit meeting scheduled early March in Rome.
- The T-BAG Report will be published by the end of Q1.

An update of the work performed by the T2S Harmonisation Steering Group was provided by Yvon:

- The draft third report of the Harmonisation Steering Group (HSG) has been reviewed following comments received in the scope of the consultations. It sets “traffic lights” for compliance with industry standards that were agreed in relation to T2S harmonisation activities.
- Progress has been made but more is necessary to harmonise market practices especially for corporate actions. The T-FAX and the corporate action sub Group are working on these questions.
- The HSG will raise post trade harmonisation issues which may potentially be considered for inclusion in the EPTG Action List. These issues stem from the T-FAX recommendations for further harmonisation action at EU level (e.g. account segregation due to tax or registration rules).

- Some aspects of T2S harmonisation activities depend on developments by different bodies e.g. EU commission for tax issues or segregation of accounts.

Helmut informed the Group on T2S developments:

- Keeping in mind the necessity to limit the impact on T2S development, some change requests have been accepted, others are being reviewed.
- Discussions are ongoing on migration waves.
- A joint conference on “Post-trade harmonisation and financial integration in Europe” will be held by the ECB and the EU Commission on 19 March.

Alain indicated that it is important for banks that segregation of accounts are workable, treatment of tax harmonised, and access to infrastructure is open and fair.

Werner noted that settlement at T+2 by the end of next year might be difficult particularly for the less automated buy side. It was noted that this important piece of harmonisation is supported by most market players and does not require changes of law in most countries where these rules are set by the stock exchange. Furthermore, it was stressed that reducing the settlement period to T+2 relates to and should happen before the launch of T2S, but does not impact settlement discipline.

2. Perspectives on collateral

Simonetta provided an update on the initiatives related to collateral.

- In the scope of collateral harmonisation, the Contact Group on Euro Securities Infrastructures (COGESI) has established 3 workstreams:
 - on eligibility requirements in order to analyse gaps and overlaps in collateral acceptance criteria,
 - on links between ICSDs and money market operations in order to analyse shifts between early secured settlement and end of day unsecured adjustments,
 - on minimum common features for CCP and CSD interoperability to support velocity of collateral.
- On repo, the COGESI is working on 2 projects to improve the use of collateral for 2014:
 - allow the use of collateral that is not held at the issuer CSD, through links, for the purpose of CCBM operations,
 - allow the use of triparty services for cross-border collateral management purposes.
- The Committee on the Global Financial System (CGFS) established by the FSB has performed a survey in order to analyse whether there is a collateral shortage. The outcome of the survey is expected in February.

In December, the ECB organised a workshop on a potential repo database in order to discuss means of enhancing transparency such as a register or survey. This initiative took place in the context of the ongoing international Shadow Banking work led by the Financial Stability Board (FSB). ESMA suggested that trade repositories that are used for derivatives as required by EMIR and will be approved in the scope of MIFID, should also be used for repo.

The Group discussed information that is currently available on collateral, such as statistics published by the ECB on ECB eligible collateral, and noted that there would be some merit in an in-depth survey related to the supply and demand of collateral at the European level that could be led by the European Systemic Risk Board (ESRB).

Based on proposals from the Working Group on Margin Requirements (WGMR), some industry representatives stressed the operational issues for funds that would have to provide collateral in securities and cash, and that the need of collateral could be up to \$18 trillion for the global market. Some other members questioned the accuracy of this particular estimate and suggested much lower figures.

3. EPTG Action List

All sponsors have been invited to submit an outline of their respective actions as per the distributed draft template for sponsor proposals.

Action 1: Diversity of communication protocol (sponsor – Joël Mèrère)

- The objective to eliminate national differences in the communication protocols used by clearing and settlement providers will be met for CSDs participating in T2S.
- However, this goal should be achieved in all European markets, including e.g. the UK.

Action 2: CCP services to buy-side (sponsor - George Handjinicolaou deputising for Markus Zickwolff)

- Documentation: there is a need to standardise the relationship between clients and Clearing members. For this purpose, ISDA is working with the Futures and Options Association (FOA).
- Clearing certainty: the client needs to know that the trade will be accepted by the clearing member and the CCP. It is therefore necessary to determine whether the credit check is performed at trading, clearing member or CCP level. It is currently performed by the clearing member. Standards on clearing certainty and margin processes, documentation processes, operational issues and risk management issues are currently developed by several working Groups.
- The number of layers in the chain (CCP, Clearing member, client, client of client) and the protection of clients requires risk management analysis

including features such as segregation, or practices like re-hypothecation. ESMA pointed to the need to have sufficient access for clients to CCP clearing.

The Group noted that, for this action, more contact and coordination is required between clearing members and CCPs. The buy-side confirmed its willingness to partner with ISDA.

As several Groups are working on these topics, the action will be moved to the EPTG Global Issues List.

Action 3: Intraday settlement, operating hours / deadlines (sponsor – Joël Mérére)

- ECSDA investigated this issue in 2009. It will now re-examine this area on an EU-level basis in the context of the work performed by the ECB regarding end of day collateral in order to identify potential gaps with the assistance of AFME.
- The Group will get the result of the mapping exercise at the next EPTG meeting.

Action 4: Pre-settlement processes harmonisation (sponsor – Dan Watkins)

- The sell-side has conducted a lot of work in this area that can be harnessed rather than reinventing the wheel.
- The timing of confirmation has been improved. About 85% of the buy-side confirm on T+1, and 98% of equity trades are confirmed automatically. However there is a difficulty with the small players compounded by absence of a regulatory drive to further improve the situation. Cost is the main obstacle – this points to the need for a no-frills solution for smaller buy-side players.
- A Working Group has been set up to work on solutions for the part of the business that is not following the ESMA confirmation guidelines. The emphasis will be on co-ordination and engagement.

Action 5: Registration procedures (sponsor – Alain Pochet)

- Alain presented the solution proposed by the Task Force on adaptation to cross-CSD settlement (T-FAX). In order to harmonise the registration process, a political will is necessary to change laws to allow nominee account and issuers should accept the linkage of rights to settlement processes.
- Markus highlighted the importance to issuers that any solution did not make it more difficult for issuers to identify who their shareholders are.
- It was agreed to merge action 9, related to cross-border shareholder transparency, with this action.

Action 6: Withholding tax procedures (sponsor – Patrick Pearson)

- The costs generated by these procedures are significant.

- The reports that are prepared by the OECD, DG TAXUD and T-BAG will constitute a good basis for developing a proposal to address them.
- The Commission is hoping to organise a conference at the end of 2013 based on these three reports to persuade Member States to implement their recommendations.
- There is an opportunity for the EPTG members to mobilise their constituencies to help get Member States to implement the necessary measures.

Action 7: Financial Transaction Tax (FTT) procedures (sponsor – Patrick Pearson)

- DG MARKT met with DG TAXUD to discuss a potential harmonised collection mechanism. The Commission would like to understand more about the different ways that the tax could be collected and which players should be involved given the financial instruments in scope, e.g. CSDs, CCPs, or trading platforms?
- The proposal has been put on a fast track procedure, and the College of Commissioners will review and adopt a proposal by 14th February. Negotiations would then start with the intention of having an FTT in place in the enhanced cooperation zone by 1st January 2014. There is therefore a limited window for the development of a proposal for a harmonised tax collection process.
- Joel stressed that it would be difficult to use CSDs as the CSD reporting was not developed for tax purposes. Alain noted that only the person that initiated the transaction could have the information required for tax purposes. Should the mechanism therefore work on a declaratory basis?
- DG MARKT will facilitate a meeting with DG TAXUD and representatives from market infrastructures and banks with the assistance of Joël to help develop this proposal by the end of Q1.

Action 8: Exchange Traded Funds (ETFs) (sponsor – Alain Pochet)

- ETFs are concentrated among large players (8 to 9 names in the world) that represent around 60% of that market. The EU represents around 6% of the global trading volumes.
- Four holding structures for ETFs co-exist in Europe.
- This is a composite market that is fully domestic. ETFs are so far not used as collateral, but Alain will investigate the potential for this further.
- The biggest issues are to foster competition in Europe and to make sure that ETFs remain attractive from a price/operational cost point of view.
- Alain will investigate whether there is support for harmonisation.

Action 9: Cross-border shareholder transparency (sponsor – Markus Kaum)

- A Working Group has been set up to develop a solution. It focuses on the content of messages and the changes to existing systems.
- Chris noted that shareholders transparency is being dealt with in the Securities Law Legislation and that the processing of corporate action is under examination.
- This action is merged with action 5 related to Registration procedures.
- The objective is not to redefine the registration model, but to come with a list of concrete obstacles that prevent cross-border disclosure of shareholders in the different EU jurisdictions.

4. Global Issues List

- The Global List will be reviewed at the next meeting.

5. Organisational matters

- Communication:
 - It is agreed to publish the Summary of Conclusions and the index of the EPTG Global Issues List.
 - It was confirmed that Chris (and his successor) is the single internal contact person and it was agreed that the members of the Secretariat are the external contact persons for their respective constituencies.
- Helmut Wacket and Chris Redmond are moving to other responsibilities respectively within the ECB and Bank of England. George Kalogeropoulos will replace Helmut in the EPTG. The successor to Chris will be communicated by Patrick Pearson.
- The 5th meeting of the EPTG will be hosted and chaired by the ECB in Frankfurt early May (date tbd).
- Action
 - Circulate the T-FAX report and the Harmonisation report – T2S Team