

Summary of discussion

5th meeting of the European Post Trade Group (EPTG)

21 May 2013, 10.30 a.m. – 4.30 p.m. CET

Hosted by the ECB, Kaiserstrasse 25, Frankfurt

Eurotower, 36th Floor, Room CII

Participants

European Central Bank	Ms Daniela Russo	Chairperson
AFME	Mr Werner Frey	
BNP Paribas	Mr Alain Pochet	
EACH	Mr Marcus Zickwolff	
ECSDA	Mr Mathias Papenfuss	
ESMA	Ms Nathalie Piscione	
European Commission	Mr Patrick Pearson	
European Commission	Ms Agata Malczewska	
Euroclear	Mr Joël Mérére	
ICAP Plc	Mr Godfried De Vidts	
ISDA	Mr George Handjinicolaou	
JP Morgan	Mr Dan Lambeth	
Munich RE / DAI / European Issuers	Mr Markus Kaum	
Independent expert	Mr Alberto Giovannini	
Independent expert	Mr Peter Norman	
T2S Board	Mr Paul Bodart	
T2S Board	Mr Yvan Lucas	
ECB-T2S Programme Office	Mr George Kalogeropoulos	
European Central Bank	Ms Fiona Van Echelpoel	
European Central Bank	Ms Simonetta Rosati	

1 Chairperson's introduction and approval of the agenda

The Chairperson welcomed members of the EPTG and in particular Mr Mathias Papenfuss (Clearstream Banking) recently appointed Chairman of ECSDA, and Mr Godfried De Vidts, invited by the ECB to present the on-going work on triparty interoperability under the item on collateral harmonisation.

2 Members' updates

Ms Nathalie Piscione (ESMA) reported that:

- A consultation paper is being prepared on the EMIR RTS that specify the contracts that are considered to have a direct, substantial and foreseeable effect within the Union;
- ESMA follows up with EBA and EIOPA on the work of the Working Group on Margin Requirements in order to prepare for the development of the EMIR RTS related to the exchange of collateral;
- An update is being prepared to the Questions and Answers on the EMIR RTS which is available on the ESMA's website;
- ESMA published Guidelines and recommendations for the colleges of CCPs.

Mr Pearson (European Commission) reported that:

- The Irish Presidency has taken the CSDR as a priority during the second part of its term. This will be maintained by the next (Lithuanian) Presidency as well. The Presidencies would like to achieve a general approach in the Council during the summer and start the *trialogue* with the European Parliament and the Commission soon after, so that the final text of the regulation could be adopted before the end of the year.
- A meeting of Member States experts will be held on SLL on 24 May in view of a proposal, including conflict of laws, expected for autumn.
- Work is continuing on the cross-border recovery and resolution for non-banks. The part regarding CCPs will be finalised in the second half of 2013, reflecting the work of CPSS-IOSCO in the same field. It will have to be seen if insurance companies, CSDs and trade repositories will also be covered, however there will be a Commission Communication on the subject.
- Progress is being made also in the field of definition of equivalence between EU, JP and US regulation

Ms Russo (ECB) reported on:

- Two work-streams at global level on recovery and resolution of financial market infrastructures, more precisely (a) the FSB is finalising their work on the application of resolution core attributes, with a new annex which will include normative statements on FMIs and (b) CPSS-IOSCO are working on recovery of FMIs. There will be a report for public consultation before the summer and the ECB intends to organise an event to present it and trigger feedback.
- The Eurosystem is reviewing the Eurosystem User Standards for SSSs and the ECB intends to organise a meeting with ECSDA on 11 June (the T2S Board will also be invited given the importance of eligible links for the purpose of autocollateralisation).
- The ECB will organise a meeting (to be Co-chaired with the EC) on quantitative disclosure requirements for due diligence purposes, a debate that is relatively more advanced in the USA where the Payment Risk Committee published a template for CCP disclosure. It would be important to discuss and possibly align templates at international level otherwise FMIs that work globally may encounter difficulties.

Mr George Kalogeropoulos (ECB-T2S Programme Office) reported on T2S harmonisation work:

- Since the last meeting the third T2S Harmonisation Report was published (on 19 March). The outline of the fourth Report will be discussed in June, with publication expected in Q1 2014.
- The T2S community is carrying out two surveys with CSDs (1) on messages interaction with T2S (the T2S best practices regarding non-matching T2S message fields) and (2) on numbering of T2S cash and securities accounts
- The T2S Corporate Actions Sub-group launched the annual gap analysis on the T2S Corporate Actions standards. The results will be included in the fourth T2S harmonisation Progress Report

3 Global List – General Review

The Group discussed the structure and purpose of the global list, and agreed that it would be useful to make it available on the EPTG web page. It was agreed to improve the layout to make the document more useful for public use, with the following measures:

- An introductory text should be added explaining the nature of this document, i.e. it is a practical tool for the group to share information on harmonisation initiatives on-going outside the EPTG. The purpose is to be aware of the wider context and avoid duplication of efforts (in fact, the global list provides also the broader backdrop necessary to understand what and why the EPTG has undertaken some actions directly, i.e. the items included in the Action List)

- The text will also recall the history of efforts to improve harmonisation, and link the overview to the past initiatives (Giovanni barriers, EGMI group).
- The list should emphasise what is the issue/problem that an on-going initiative is addressing
- There is no need to include in the list names of individuals, it is more useful to have names of relevant entities and constituencies.
- The list should clarify where the entity in charge of the definition of a solution is different from the one in charge of monitoring and the one of implementing it.

As regards the content of the list, it was clarified that the collateral harmonisation items relate to the industry initiatives (not to the central bank collateral procedures) and it was agreed to remove the item on Trade Repositories - TRs (as the latter are already covered in detail by existing regulation).

As follow-up, an edited version of the global list would be first discussed by the Secretariat members (in a meeting or teleconference) and then circulated to the group for comments.

4 EPTG Action List

4.1 Brief General Update on Action List Items

The sponsors of the various actions reported on developments since the last EPTG meeting (Action List item 5 on withholding tax procedures was covered under a dedicated agenda item), mentioning among others the following:

- The objective to eliminate national differences in the communication protocols (action 1) used by clearing and settlement providers will be met for CSDs participating in T2S. However, it is not yet clear what needs to be done for non-T2S markets.
- ECSDA had agreed to update its 2009 survey related to CSDs' operating hours and intraday settlement areas (Action List Item 2), , on an EU-level basis in the context of the work performed by the ECB regarding end of day collateral movement. The purpose is to identify potential gaps with the assistance of AFME. The results are not available yet and will be presented to the Group at a next meeting.
- Cross-border shareholders transparency (Action List Item 4): this initiative aims at identifying a list of concrete obstacles that prevent cross-border disclosure of shareholders in the different EU jurisdictions. A group has been set-up, and the composition is being defined. A more detailed report on the work plan of this group will be provided at the next EPTG meeting.
- The Commission reported on the work concerning the potential procedures for collection of financial transaction tax (Action List Item 6): in April 2013 the DG TAXUD and DG MARKT met with ECSDA, EACH and FESE to discuss the implementation aspects of the financial transaction tax collection. Regarding the legislative process, Member States

representatives will meet again soon in Brussels. Questions had been raised on the possible impact of the tax on the repo market. Similar industry concerns on the side effects of the new legislation had been raised to the attention of the European Parliament. The Irish (and next, Lithuanian) Presidency are looking on possible ways to improve the legislative text (which is under the enhanced co-operation procedure).

- As regards the harmonisation of operation processes for exchanged traded funds (ETFs) (action 7), it was remarked that progress in this area would benefit from a strong player taking the lead. In order to mobilise market players, it would be important to understand what is the investment needed.

4.2 Focus on EPTG Action List Item 6 – Withholding tax procedures (sponsor – Patrick Pearson)

Mr Pearson presented the main elements of the Tax Barriers Business Advisory Group (T-BAG) report on “Workable solutions for efficient and simplified fiscal compliance procedures related to post-trading within the EU” (subject to its publication ahead to the meeting) and the main features of the OECD TRACE Implementation Package for the Authorised Intermediary System - A standardised system for effective withholding tax relief procedures for cross-border portfolio income.

He emphasised how simplified withholding tax procedures would enable significant economic gains for the Member States implementing the EC 2009 recommendation (2009)7924 and to remove any remaining fiscal barriers affecting the post-trade environment, which prevent a level playing field between local and foreign intermediaries in the tax collection services (Giovannini Barriers 11 and 12). The current inefficiencies in this field have been estimated to represent an opportunity cost of up to 2 € billion a year. Data shows that the Member States that implemented the Recommendation (and use the OECD TRACE authorised intermediary package) already realised sizeable benefits. However, not all Member States have realised or taken sufficient action on a voluntary basis to capture such benefits.

The Report contains proposed solutions concerning a common authorised intermediary agreement”, documentation of beneficial owners, common procedures for relief at source, and reporting, control and oversight. Furthermore, T-BAG also proposed the creation of a common EU web-site providing the necessary guidance on the application of the treaty benefits to different types of beneficial owners, as well as practical proposals for simplified procedures. Finally, the group identified how the remaining procedural and legal barrier may negatively affect T2S participation on a remote basis.

As a follow-up, DG MARKT will carry out discussions with the relevant stakeholders (industry, OECD, Member States It is not excluded that there may be legislative follow-up (bearing in mind that the topic at stake is not about harmonising taxes, but rather harmonising the process for tax collection).

AFME expressed interest in participating in forthcoming discussions.

4.3 T2S Harmonisation Steering Group Proposal: selected TFAX Recommendations for possible action by EPTG

The T2S Harmonisation Steering Group (HSG) identified three areas where further harmonisation at the EU level could greatly benefit the post-trade procedures. The T2S Community could not define the relevant rules and standards on these issues since there are underlying EU regulatory differences on registration, taxation procedures etc. The HSG was mandated by the T2S Advisory Group to raise the issues to the EPTG, where all relevant EU stakeholders participate, for potentially further action. The three areas are:

- **Non harmonised CSD account segregation practices which have to be duplicated/replicated along the CSDs holding chains:** The issue at stake is not to challenge any particular CSD account segregation model, but rather to share the concerns of the T2S Community on the impact of non-harmonised CSD account segregation rules on cross-border settlement (and in particular on T2S real time DvP processing). More specifically in the context of cross-border settlement in T2S, if the different issuer CSDs maintain certain account segregation rules which need to be propagated along the holding chain, this will impact both investor CSDs and intermediaries back offices as well as the management of the T2S message interaction processes. First, all issuer CSD participants will have to replicate the issuer CSD legacy account structure in their books. Second, T2S instructing parties will need to include/add/maintain the issuer CSD account specificities in their messages to T2S (otherwise cross-border matching will not be possible in T2S). These issues are present today, prior to T2S. However, continuation of non-harmonised practices and rules post-T2S launch will undermine heavily the smooth cross-CSD settlement process in T2S. It will hinder efficient cross-CSD settlement because as a result, an investor CSD would have to set-up a multiplicity of accounts to “replicate” the segregation practice of each issuer CSDs it has holding relations with.
- **Non-standardised securities** in the context of T2S can be defined as securities that are compliant with the first three T2S eligibility criteria (i.e. ISIN, held in CSD accounts and book-entry form), but are non-fungible from a settlement perspective. “Fungible” from a settlement perspective means that amounts/fractions of a certain security (designated by a specific ISIN) are interchangeable during the settlement process and that no additional security identifier relating to a specific balance, or part of a balance, is required to complete the settlement process. According to the URD, non-fungible securities may still be entered in and processed by T2S under specific conditions. These additional identifiers are usually stemming from the issuer’s registration requirements or other national regulations. As a result of this, it is necessary that the investor/intermediary transmits the additional identifiers to the issuer CSD before settlement can take place, interrupting or hindering the straight-through processing. While there does not seem to be a relevant number of such securities relevant for T2S it cannot be excluded that this issue may still be relevant for non-T2S markets which may decide to connect to T2S at a later stage. Therefore, the HSG invited the EPTG to assess whether ‘non-standardised securities issuance’ could be considered in the Action List of the EPTG’s work and/or potentially raised to the relevant EU actors for follow

up action. The purpose would not be to harmonise the processing of the remaining non-fungible securities, but rather to eliminate them (or eliminate the additional requirements that make them non-fungible from a settlement perspective).

- **Bond stripping:** Some markets impose limitations with respect to the parties allowed to instruct the stripping or reconstitution of bonds such that only primary and recognised dealers are allowed to instruct. The TFAX analysis identified four options for instructing bond stripping and reconstitution in T2S with the aim to enable CSDs to do the necessary validations of primary or recognised dealers for bond stripping and reconstitution processes. Likewise, some markets, primary dealers are required to have accounts in the issuer CSD. This creates an obstacle to cross-CSD settlement, as it limits the primary dealers in the choice of the CSD for conducting bond stripping or reconstitutions.

The group agreed that these areas that may be worth looking into, however with different order of priorities. More specifically it was agreed that

CSDs accounts segregation practices: The EPTG members recognised the importance to harmonise CSD account segregation practices for the cross border environment of T2S. However, the EPTG agreed that it is difficult to assess the exact scope for harmonisation in the absence of an exhaustive inventory of current approaches in place in the different markets. The EPTG invited ECSDA to do a fact-finding survey on the existent CSDs account segregation rules and practices with high priority. T2S has non-exhaustive information for some markets, which it could share with ECSDA. AFME expressed interest to carry out a survey among its members on the national CSD account segregation rules they are faced with.

It was stressed that the outcome of the fact finding will have to be assessed in view of the CSDR and related technical standards.

As a follow-up it was agreed to add “in square brackets” the item to the EPTG Action List, and consider it at the next meeting, together with the outcome of the ECSDA fact-finding and the AFME survey, which will serve as a basis to further focus the EPTG action.

- **Non-standardised securities:** *ECSDA will carry out a fact finding among its members to assess how relevant these securities still are today. The item is not added to the Action List but put on hold, to avoid delaying the fact-finding on CSDs accounts segregation practices. It will be reconsidered after the next EPTG meeting.*
- **Bond stripping:** *it was agreed that AFME would gather factual information on this issue, and come back to the EPTG. The item is not added to the Action list, pending further analysis on whether it may or may not be an issue for this group.*

5 Collateral Harmonisation Developments

5.1 COGESI Report on collateral eligibility Requirements

Mrs Fiona van Echelpoel reported about the main outcome of the work done by COGESI to compare different collateral requirements (details on the report can be found on the ECB website where the

report has been meanwhile published¹). The report was prepared by the ECB's Contact Group on Euro Securities Infrastructures (COGESI) in cooperation with the ECB's Money Market Contact Group (MMCG), and is aimed at improving transparency by highlighting the differences between, and similarities in, the collateral requirements faced by the financial industry. It provides a comparison of the rules for the eligibility of collateral. The comparison covers (i) the collateral policies followed by different central banks (including European central banks, as well as the central banks of the United States and Japan), (ii) the regulatory frameworks in place and (iii) the practices of central counterparties (CCPs). It is envisaged to carry out periodic follow-up to keep the annexes to the report up-to-date.

In the following discussion, it was remarked that:

-it would be important to also consider the impact of the different haircuts applied (the ECB confirmed haircuts is an aspect that it is already envisaged to further investigate)

-it is important not only to ensure that the right collateral is available at the right time in the right place (which implies efficient collateral handling and securities settlement procedures) but also to ensure clarity on the rights on collateral in case of insolvency procedures.

-once certain securities are considered "liquid" or of "good quality" and accepted as collateral (e.g. by a CCP or by central banks) there is a feedback effect making such securities even more desirable by market participants, and thus more liquid.

5.2 Improvement of interoperability between triparty services

Mr De Vidts reported on the work being carried out by the European Repo Council (ERC) to foster interoperability between triparty services, in particular with reference to the CCP-cleared segment of the repo market. The objective is to enable access to CCP irrespective of where the collateral for the repo is held in custody. An initiative was on-going (despite some difficulties) which will lead to the signature of a Memorandum of Understanding between the main parties involved, and this industry initiative is being supported by the ECB².

Ms Russo underlined that this work concerns the enhancement of interoperability and does not have a harmonisation focus, thus is being reported to the group for information. The issue is directly relevant to materialise the benefits of access. The CPSS-IOSCO recommendation on access (reflected also in EMIR) says clearly that a FMI cannot deny access to another FMI unless it can prove that this would create a risk which the FMI cannot manage. This applies to both horizontal and vertical links in the industry. Non-compliance will lead to authorities having to consider adequate measures to ensure respect of regulation and oversight principles.

Another point that was emphasised is the shift in banks preferences observed, during and after the crisis, from unsecured to secured funding in the money market, and the consequent need for post-trade infrastructure to allow same-day DVP settlement late in the afternoon. This will be covered in the future in T2S for the T2S markets, but the issue is still relevant prior to migration to T2S.

¹ <http://www.ecb.europa.eu/pub/pdf/other/collateralframeworksen.pdf>.

² The MoU was meanwhile signed on 15 July, for further information see <http://www.ecb.europa.eu/press/pr/date/2013/html/pr130715.en.html>.

6 Other

The EPTG will prepare an annual report of its activities which will be published on the group webpage. The Group Secretariat (together with P. Norman) will prepare an outline as a basis to share the preparation of the work among group members.

The Action List sponsors were reminded to send a description of their respective activity (problem, objective of initiatives undertaken and possibly timeline, next steps) as agreed at the previous meeting.

The group will discuss the outline and the production of the report at its next meeting.

7 Next Meeting

- The 6th meeting of the EPTG will be hosted and chaired by the European Commission in Brussels in October (date tbd).