

Minutes of the European Repo Committee meeting held on January 23, 2014 in Berlin

Present:	Mr. Godfried De Vidts	ICAP (Chairman)
	Mr. Constantino Toribo Garcia	Bankia
	Mr. Eugene McGrory	BNP Paribas
	Ms. Maria Arauzo Arranz	Caixabank
	Mr. Grigorios Markouizos	Citigroup
	Mr. Andreas Biewald	Commerzbank
	Mr. Romain Dumas	Credit Suisse
	Mr. Tony Baldwin	Daiwa Capital Markets
	Mr. Ronan Rowley	Deutsche Bank
	Mr. Olly Benkert	Goldman Sachs
	Mr. Jean-Michel Meyer	HSBC
	Mr. Andrea Masciovecchio	Intesa SanPaolo
	Mr. Stefano Bellani	J.P. Morgan
	Mr. Rajen Patel	Morgan Stanley
	Mr. Ulf Bacher	Newedge Group
	Mr. Sylvain Bojic	Société Générale
	Mr. Guido Stroemer	UBS
	Mr. Eduard Cia	UniCredit Bank
On the phone:	Mr. Andy Dyson	ISLA
	Ms. Lalitha Colaco Henry	ICMA (Secretary)
	Ms. Lisa Cleary	ICMA
Also Present:	Ms. Charlotte Bellamy	ICMA (acting Secretary)
	Mr. Andy Hill	ICMA
	Mr. John Serocold	ICMA
Apologies:	Mr. Stephen Malekian	Barclays Capital
	Mr. Nicholas Hamilton	JP Morgan (ERC Ops Group Chairman)
	Mr. David Hiscock	ICMA
	Mr. Richard Comotto	ICMA Centre (was not required to attend)

Welcome by the Chairman

The Chairman thanked Commerzbank for kindly hosting the meeting and welcomed everyone in attendance and on the phone.

The Chairman noted that at the European Repo Council annual general meeting, held on January 22 in Luxembourg, 19 members had been elected to the Committee. He outlined the provisions

of ICMA Rule 1014.8 which states that *"if a member of a regional committee is not present at three consecutive meetings of that regional committee, that member shall be deemed to have resigned from the regional committee."*

Mr. De Vidts was reconfirmed as Chairman of the Committee. Mr. Cia and Mr. Markouizos were confirmed as Vice-Chairmen of the Committee.

1. Minutes of the previous meeting

The draft minutes of the last ERC Committee meeting, held on December 4 2013 in Munich, were unanimously approved without comment and accordingly will be published on the ICMA website.

2. BCBS Leverage Ratio Consultation

The Chairman said that the ERC had been very effective in putting forward its concerns regarding the proposed treatment for securities financing transaction (SFT) exposures, as set out in the BCBS's consultation on a Revised Basel III Leverage Ratio Framework (published June 2013). The BCBS had subsequently published its final full text of [Basle III's leverage ratio framework and disclosure requirements](#)¹ on January 12, 2014. The final standard now allows limited netting for SFTs with the same counterparty to reduce the leverage ratio's exposure measure, where specific conditions are met. The final text makes provision for those transactions carried out pursuant to a qualifying Master Netting Agreement.

However, the Committee felt that the language of the final text could still prove problematic and that the scope of the SFT text required further clarification. Footnote 22² and the final sentence of para 33(i)(c)³ caused concern. For example, if it is possible for one side of a trade to fail would this mean that the transaction could not be netted? Other issues relate to the fact that the provisions for netting seem to apply only to cash proceeds and not to collateral, and there is a need for clarification regarding appropriate trade value date. Concern was also expressed with the treatment of forward starting repo.

As the Basle III leverage ratio framework and disclosure requirements text is final the ERC will raise these issues with the European Banking Authority and national regulators when the EBA looks to draft implementing legislation for Europe. Mr. Hill will discuss the matter further with individual Committee Members with a view to discussions with the Basle Committee and/or the EBA.

¹ Alternatively, see: <http://www.bis.org/publ/bcbs270.htm>

² Footnote 22 provides: *"This latter condition ensures that any issues arising from the securities leg of the SFTs do not interfere with the completion of the net settlement of the cash receivables and payables."*

³ The final sentence of para 33(i)(c) states: *"To achieve such equivalence, both transactions are settled through the same settlement system and the settlement arrangements are supported by cash and/or intraday credit facilities intended to ensure that settlement of both transactions will occur by the end of the business day and the linkages to collateral flows do not result in the unwinding of net cash settlement."*

3. FTT

The Chairman said that it looked like repo will be exempted from the FTT proposals. Mr. Dyson noted that the proposals for securities lending are moving in the right direction but they have yet to be finalised. It was noted that the FTT proposals have been interpreted in Germany as excluding repo while all other transactions would fall within scope. The Chairman also said that proposals for how the tax will be collected are proving to be tricky and are currently being debated in Brussels. Official text is not expected before the summer. It will be necessary to monitor developments closely.

4. FSB Shadow Banking workstream (including data repository)

Mr. Dyson said that, following the FSB's August 29 publication [Policy Framework for Addressing Shadow Banking Risks in Securities Lending and Repos](#),⁴ the WS5 had held a roundtable in early January, seeking feedback on the consultations and the haircut proposals. Eligible names, haircut floor structures etc. had all been discussed. There was pressure from the US to tighten the proposed haircut floors on the basis that they are not rigorous enough. This pressure probably stems from concerns in the US markets over the fire sales of assets. ISLA does not believe that the linkage between SFTs and the fire sale of assets is appropriate in the European market.

Mr. Dyson also noted that the FSB data experts group on securities financing markets would next meet in March, in London. The group is tasked with developing standards and processes for data collection and aggregation at the global level to ensure consistent data collection by national/regional authorities by the end of 2014. The FSB will be chairing the meeting. ISLA have been invited to attend and expect a similar invitation will have been extended to the ERC.

The Chairman said that the ERC Operations Group was monitoring the progress of WS5 closely. The ERC Operations Group had also done a considerable amount of work conceptualising a trade repository for repo. A commission proposal for a mandatory trade repository for repo was expected. The industry wants the repo market to be transparent.

Finally, Mr. Dyson said that it was still not clear if the Commission's proposals for structural reform in the EU banking sector (follow-up to the Liikanen proposals) would contain any elements relating to shadow banking. This issue will need close monitoring as a recent Liikanen paper had confused re-use and re-hypothecation. The Chairman thanked Mr. Dyson for his update and Mr. Dyson left the meeting.

5. CSD Regulation, Article 7

The CSD Regulation received political agreement on December 18 2013, with the final text expected shortly. The Chairman noted that there was considerable concern about the clarity of the final agreement. The ECB are also said to be concerned. Accordingly, a new T2S Taskforce has been set up to look at the practical aspects of the move to T+2 and the possibility of mandatory buy-ins under the CSD Regulation. Mr. Rob Mason of RBS, who sits on the ERC Operations Group, is representing the ERC on the Taskforce. The ERC Operations Group is monitoring the situation

⁴ Alternatively, see:
http://www.financialstabilityboard.org/publications/r_130829b.htm

carefully. The Chairman concluded by saying that any questions should be directed to Mr. Serocold.

6. European Long-Term Investment Funds (ELTIFs)

In June 2013, the Commission proposed a new investment fund framework designed for investors (including non-banks) wishing to invest in companies and projects for the long term. These private European Long-Term Investment Funds (ELTIFs) will only invest in businesses that need money to be committed to them for long periods of time. The proposals set out that an ELTIF will not be able to engage in short selling of assets, gain exposure to commodities, enter into securities lending or securities borrowing agreements, enter into repurchase agreements or use financial derivative instruments unless these instruments are used for hedging purposes.

It was noted that potential buying interest may be curtailed if the bonds cannot be financed in the short term. Although pension funds and insurance companies may buy with the intention to hold, they are not excluded when they need to adjust portfolio's they may want to sell. However, with no repo possibility, they may not buy in the first place. The Chairman referred to Mr. Hill's paper on the systemic risks of inhibiting collateral fluidity. While ELTIFs do not appear to be of direct interest to the Committee, it is worth monitoring the restrictions/limitations being imposed more generally on the ability of fund managers to enter into repo or reverse repo transactions. It would be worrying if policymakers were to impose such restrictions because of a mistaken belief that repo and securities lending transactions are inconsistent with long term investing. Mr. Serocold said he would prepare a short note on ELTIFs so the Committee could consider whether any further action is warranted.

7. LCH.Cleernet Term DBV service (Term £GC)

The Chairman suggested that CCPs serve a useful function but perhaps they have gone too far? The Committee expressed a variety of views about the benefits/disadvantages of mandatory CCP clearing. Note was made of the regulatory push for market participants to use CCPs as much as possible. Mandatory CCP clearing could strengthen the pool of participants and also result in efficiency and liquidity benefits. However, this was a minority view. Concerns were expressed with the fact that when trading with CCPs, counterparties give up their risk management, which could increase systemic risk in terms of liquidity procyclicality. Most members felt that CCPs would not want mandatory CCP clearing to be introduced and that there would be certain assets that CCPs would not want to clear. Additionally, risks in the system would increase dramatically if the whole market were to be cleared by CCPs – this would be further heightened if there was only one or a limited number of CCPs. Regulators are slowly coming to realise that the case for mandatory CCP clearing needs to be weighed carefully, given the potential for dramatically increasing systemic risk in the system. Notably, the US Fed is not seeking, at this time, to require mandatory CCP clearing.

The Chairman said that Mr. John Burke would be invited to the next ERC Committee meeting on March 4, at which time Committee members could raise any concerns directly.

7a. Semi-annual repo survey

It was agreed that Mr. Comotto should present the findings of the semi-annual repo survey to the Committee prior to its publication. The next survey will be based on 11th June, with the results published in October 2014. Accordingly, Mr. Comotto will be asked to attend the September Committee meeting to present his findings.

8. Repo Indices

The Chairman reminded the Committee of the close association between the ERC and the Eurepo Steering Committee. The Eurepo Steering Committee comprises 7 members with the ERC holding two of those positions. Currently, Mr. Andreas Biewald holds one seat. It was agreed that Mr. Rajen Patel would hold the other. A letter would be sent to the EBF accordingly.

Mr. Romain Dumas gave an update on the work of the ERC secured benchmark working group (WG) which is working with the EBF to change the existing Eurepo benchmark. The WG met with the ECB and the EBF in September, at which time the ECB emphasised the need for a single pan-European number based on actual transactions. Accordingly, the WG are focusing on building a pan-Eurozone daily index capturing the weighted average of all centrally cleared, electronically transacted 1-day repo transactions. The Committee discussed the merits of including voice-brokered GC CCP cleared trades, which was considered to be important to ensure that shifts in market practice (i.e. increasing use of voice-brokers vs. electronic platforms and vice versa) would not skew the index. However, it was recognised that focusing on electronic trades would guarantee most transparency and another layer of regulation.

The way forward is likely to be the development of a single rate and if private initiatives contribute data, they would receive a compatibility stamp. A calculation agent would control and run the algorithm. The Committee felt that sub-indices would need to have the same governance as the “master rate”. The Committee expressed concern about the value of a single benchmark, particularly as an index for tradable products. It was agreed that any sub-indices would be used heavily by the market, though the “master rate” might also prove to be useful. The next meeting with the EBF is scheduled for March.

9. Triparty Settlement Interoperability

Together with Mr. Cia and Mr. Markouizos, the Chairman attended the January 6 meeting. However, it is clear that Euroclear has been stalling progress on triparty settlement interoperability. The next meeting is scheduled for February 4. It is becoming increasingly clear that the ECB is losing patience with industry efforts. After the March 3 COGESI meeting, the ECB will be publishing a report that would include insights on this issue.

10. Repo trade repository

Discussed under agenda item 4.

11. ERC Operations Group update

Mr. Serocold said that T2S, by design, does not support repo, so a solution for repo needs to be developed. On T+2, the market needs to raise its game on affirmations and confirmations in order to be ready for the move to T+2 on time.

The Chairman noted that there is a lack of preparedness for T2S. Mr. Hamilton and the Chairman have asked Rule Financial to carry out a high-level study on what needs to be done by the industry in advance of the roll-out of T2S. The deadline for this work is October 16. It is anticipated that the paper will set out a target operating model, explaining what will happen and when, i.e. how final settlement will be affected. Individual houses will then be able to develop their own flows internally off the basis of the paper.

12. Regulatory update

Mr. Serocold said that changes to the leverage ratio had been outlined at the European Repo Council meeting the previous day. He reminded members that the BCBS Quantitative Impact Study on the proposed regulatory framework for haircuts and securities financing transactions needed to be completed and returned to national regulators.

13. Legal update

Ms. Cleary said that there had been some discussion within ICMA about ceasing to update the legal opinions for the 1995 version of the GMRA but as yet there were no agreed deadlines for this to happen. On the securities lending side, ISLA are looking to do with same thing with the older versions of their agreements, but with agreed deadlines. The Committee agreed that it be put to the ICMA Board that a reasonable deadline for ceasing coverage of the 1995 GMRA be agreed. It was suggested that coverage cease in the 2016 legal opinions. If the market knew that coverage of the 1995 GMRA would cease from a specific date, they would stop using the old agreement and would shift to using the newer versions.

Ms. Cleary mentioned that it had been decided not to seek a Romanian legal opinion or to develop a domestic Romanian annex.

Ms. Cleary reported that the GMRA Working Group had developed and finalised FATCA language which required sign-off by the ERC Committee for recommendation to the IRC Committee. Ms. Cleary will circulate papers shortly.

Ms. Cleary was asked about whether there will be a view from ICMA regarding Clearstream's CRC. It was noted that the CRC is a standard form agreement for use in the triparty repo context. The CRC has not been developed as a substitute to the GMRA and differs from it in a number of significant ways. The GMRA is governed by English law and the CRC is governed by Luxembourg law. Also, as a standardised multilateral agreement, the CRC could not be negotiated on a bilateral basis like the GMRA is. This is an important distinction for users for whom it is essential to modify certain terms of their documentation to reflect their individual credit, tax and capital adequacy profiles as well bespoke requirements which will vary on the basis of jurisdiction or counterparty type. And of course the ICMA GMRA has over 15 years become the most widely used agreement for cross-border repo transactions and is supported by legal opinions on its validity in more than 60 jurisdictions. In essence, as we understand it, the CRC sets out only to

streamline the triparty agreement as one document for all clients of Clearstream Luxembourg. The Committee requested that Ms. Cleary consider the possibility of developing standardised documentation for use with counterparties unable to enter into lengthy documentation negotiations. Accordingly, Ms. Cleary was asked to report back on this issue at the next Committee meeting on March 4.

14. Guide to Best Practice in the International Repo Market

There was some discussion among Committee Members about when a forward repo starts, especially in the case of term GC or term specials. The Repo Survey states (1.7.2) *“Forward-forward repos are defined for the purposes of this survey as contracts with a purchase date of Monday, December 16, 2013, or later. There is therefore an overlap with corporate/next transactions. If the latter cannot be identified separately, it is accepted that they will be recorded as forward-forward repos.”* In other words, the survey says T+3. The GMRA defines a Forward Transaction as a *“Transaction in respect of which the Purchase Date is at least [three] Business Days after the date on which the Transaction was entered into”*. The word “three” is in square brackets, meaning the clause can be amended depending on prevailing market practice. The Committee agreed that the conventionally earliest purchase date for standard Euro GC and Euro specials settlement is either T+2 or T+3, depending on time of day of execution, and that forward starts should be defined as T+4 or later.

In relation to business days and deadlines for serving notices and making margin calls (para 2.11), Ms. Cleary suggested that Committee members should discuss this with their legal / negotiation teams. The Committee suggested that it was best practice to specify a deadline for making margin calls, but not for serving notices.

Regarding open repos (para 2.17), Ms. Cleary said that there had been some discussion about whether there is a need for parties to agree a time for the service of termination notices to be effective same day. The GMRA sets out that termination shall *“occur after not less than the minimum period as is customarily required”* for delivery. It had been proposed that specific times be given for major markets and that parties using collateral from other markets be recommended to agree times. The options for the Committee are (1) keep the proposed revised text or (2) essentially delete the recommendation altogether. The Committee was asked to provide feedback directly to Ms. Cleary.

Ms. Cleary said that, to date, feedback on para 2.23 (relating to initial margin) had been that initial margins should be expressed as a ratio rather than a percentage based on 100%. The Committee agreed that it can be expressed as “either/or”. Accordingly, the wording in the Guide needs to be amended to reflect this.

The drafting of the provisions regarding charges for late payments (paragraphs 2.31 – 32) had been intended to deal with complaints that some parties had sought to impose ICSD overdraft rates on late payments contrary to the language in the standard GMRA. The Committee agreed that the Guide should be amended to include a recommendation that the imposition of ICSD overdraft rates should be discouraged.

Ms. Cleary said that earlier feedback on the low or negative rates provisions (para 2.48 – 50) indicated that the sentence in para 2.50 (“The impact of low or negative repo rates on the frequency of delivery failures.”) should be deleted as there is no specific reference to low rates in

the paragraph. Any comments that Committee members may have should be communicated to Ms. Cleary directly.

Ms. Cleary said that earlier feedback on the provision regarding mini close-outs (para 3.1) had indicated that a pre-notice advice is still useful. The Committee agreed that a pre-notice is still helpful to have and so the Guide should be amended to recommend the provision of such advice. The Committee discussion was not focused on aligning the timing with an OTC cash trade but focused instead on commercial courtesy.

Ms. Cleary said she would email the Committee to confirm her understanding of the discussion. The Chairman concluded that the Guide should be ready for publication at the end of January.

15. AOB and upcoming dates

“Regulation and Collateral Fluidity: The Systemic Risks of Inhibiting Collateral Fluidity” – The Chairman said that Mr. Hill is working on this paper, which is a follow-up to the earlier ICMA paper, [“Avoiding Counterproductive Regulation in Capital Markets: A Reality Check”](#).⁵ The Committee was sent a draft of the paper and was asked to provide comments to Mr. Hill. Workshops with the ECB and the Bank of England are being set up to discuss the paper. The Collateral Fluidity paper should then be finalised by the end of March and presented at a one day conference in Brussels being hosted jointly by the ERC and the EBF on April 3. The first panel session will discuss why collateral is important, to be moderated by the Chairman with panellists including Mr. Benkert, Mr. Markouizos, Mr. McNulty and Mr. Zimmerhansl of HSBC. Ms. Daniela Russo will give one of the keynote speeches while Mr. Manmohan Singh had been invited to give the other. There will be two further panel sessions – one aimed at regulators discussing how collateral underpins the piping of Europe and the other on operational issues, targeting infrastructure providers. The Chairman emphasised that only 100 places are available at the conference, mainly for regulators, central banks and other key officials engaged in financial policy formulation and implementation. Approximately 20 places will be available for market practitioners, with attendance likely to be by invitation only.

Further dates - Future **European Repo Committee meetings** have been scheduled as follows:

- (1) **March 4 2014**, 2:30 pm – hosted by UBS in London;
- (2) **May 12 2014**, 12:00 pm – 3:00 pm - hosted by Euroclear in the margins of the Euroclear Collateral Conference 2014 in Brussels (note that a buffet lunch will be served);
- (3) **June 17 2014**, 2:00 pm – hosted by ISLA in the margins of ISLA’s 23rd Annual Securities Finance and Collateral Management Conference in Berlin;
- (4) **Mid – end September 2014** (date and timing to be confirmed) – hosted by UniCredit in Munich (the “beerfeste meeting”).

In addition, Committee members were asked to take note of the following dates/events:

- (5) **ICMA Professional Repo and Collateral Management Course** – February 4 – 5 2014, 9 am – 5:30 pm – hosted by Nomura in London

⁵ Alternatively, see: <http://www.icmagroup.org/assets/documents/Regulatory/Other-projects/Avoiding-Counterproductive-Regulation.pdf>

- (6) **“New Regulation and Collateral Fluidity: The Systemic Risks of Inhibiting Collateral Fluidity” Conference** - April 3 2014, 9:30 – 16:00 hosted by the ERC and EBF in Brussels;
- (7) **European Repo Council General Meeting** – October 7 2014 – hosted by MTS in London (timing and further details to be confirmed)

The Chairman:

The Secretary:

Godfried De Vidts
London, March 4, 2014

Lalitha Colaco-Henry