ISMA
INTERNATIONAL SECURITIES MARKET ASSOCIATION

Minutes of the European repo council's 2nd general meeting held on September 25, 2003 in Luxembourg

Location: Centre de Conférence Européen
1 rue de Fort Thüngen
Luxembourg

Time: 11.00 – 13.45

The following members of the European repo committee were present:

Mr. Ulf Bacher, Dresdner Bank AG, Frankfurt
Mr. Jean Begonin, Credit Suisse First Boston (Europe) Limited, London
Mr. Stefano Bellani, J. P. Morgan Europe Ltd., London
Mr. Eduard Cia, Bayerische Hypo- und Vereinsbank AG, Munich
Ms. Clarice Calderoni, UniCredit Banca Mobiliare S.p.A., Milan
Mr. Godfried De Vidts (Chairman), Fortis Bank, Brussels
Mr. Oscar Huettner, Barclays Capital Securities Limited, London
Mr. Andrea Masciovecchio, IntesaBci S.p.A., Milan
Mr. Grigorios Markouizos, Citigroup Global Markets Ltd., London
Mr. Edward McAleer, Morgan Stanley & Co. International Ltd., London
Mr. David McClean, Nomura International plc, London
Mr. Mark Painting, Goldman Sachs International, London
Mr. Pierre Renom, BNP Paribas, London Branch
Mr. Ashraf Rizvi, UBS AG, London Branch
Mr. Rudolf Sellinger, Bank Austria Creditanstalt, Vienna

Also present:

Ms. Bassma El-Amin substituting for Mr. Andrew Lubin, Deutsche Bank AG, London Branch

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Apologies:

Mr. Nicolas Truong, Société Générale S.A., Paris
Mr. Cameron Dunn, Merrill Lynch International (MLI), London
Mr. Michael Murray, Confederación Española de Cajas de Ahorros (CECA), Madrid

Also present:

Mr. John L. Langton, Chief Executive and Secretary General, ISMA, Zurich
Mr. Adrian Tgetgel, Associate Counsel, ISMA, Zurich
Ms. Peri Avsar, Assistant Counsel, ISMA, Zurich

The following member firms were represented at the meeting:

ABN AMRO Bank N.V., Amsterdam
Banca Intesa S.p.A., Milan
Banca d'Intermediazione Mobiliare IMI S.p.A., Milan
Banca Nazionale del Lavoro S.p.A., Rome
Bank Austria Creditanstalt AG, Vienna
Barclays Capital Securities Limited, London
Bayerische Hypo- und Vereinsbank AG, Munich
BNP Paribas, Paris
CCF, Paris
CDC IXIS Capital Markets, Paris
Citigroup Global Markets Limited, London
Commerzbank AG, Frankfurt
Confederación Española de Cajas de Ahorros (CECA), Madrid
Crédit Agricole Indosuez, Paris
Crédit Lyonnais S.A., Paris
Credit Suisse First Boston (Europe) Limited, London
Deutsche Bank AG, Frankfurt
Dexia Bank Belgium NV/SA, Brussels
Dresdner Bank AG, Frankfurt
Fortis Bank, Brussels
Goldman Sachs International, London
HBOS Treasury Services plc, London
HSBC Bank plc, London
ING Bank N.V., Amsterdam
ING Belgium SA/NV, Brussels
J.P. Morgan Europe Ltd., London
J.P. Morgan Securities Ltd., London
Landesbank Baden-Württemberg, Stuttgart
Morgan Stanley & Co. International Ltd., London
Nomura International plc, London
Raiffeisen Zentralbank Oesterreich AG, Vienna
Société Générale S.A., Paris
UBS AG, London Branch, London

UniCredit Banca Mobiliare S.p.A., Milan
WestLB AG, Düsseldorf

The following member firms were not represented at the meeting:

Aurel Leven Securities, Paris
Bayerische Landesbank Girozentrale, Munich
Bear, Stearns International Limited, London
Caboto SIM S.p.A., Milan
Canadian Imperial Bank of Commerce (CIBC), London Branch
Daiwa Securities SMBC Europe Limited, London
Danske Bank A/S, Copenhagen
GNI Limited, London
Lehman Brothers International (Europe), London
Lloyds TSB Bank plc, London
Merrill Lynch International (MLI), London
Mizuho International PLC, London
MPS Finance Banca Mobiliare S.p.A., Siena
NIB Capital Bank N.V., The Hague
The Royal Bank of Scotland plc, London
Tokyo Mitsubishi International plc, London

1. <u>Opening of the meeting by the chairman of the European repo committee (ERC committee)</u>

In his introductory remarks, the chairman first welcomes the council members, observers and guests and then thanks Clearstream International for hosting today's meeting.

He then reports on ISMA's fifth European repo survey that was published today and e-mailed to all council members just five minutes ago.

Thereafter, he informs the council that Ms. Avsar is acting for the last time as secretary of today's meeting. He thanks Ms. Avsar for her work and her support of both the ERC committee as well as the ERC council.

Subsequently, he introduces Mr. Adrian Tgetgel, who joined ISMA's secretariat in Zurich as Associate Counsel on September 1, 2003. Mr. Tgetgel is a qualified Swiss lawyer. Amongst other tasks, he is responsible for miniting ERC council and ERC committee meetings and for managing all legal and administrative matters pertaining to the ERC council and the ERC committee at ISMA's secretariat.

2. Approval of the minutes of the European repo council (ERC) general meeting held on February 10, 2003 and dated March 10, 2003

The minutes of the ERC general meeting held in Frankfurt on February 10, 2003 and dated March 10, 2003 are unanimously approved.

3. Determination of the chairman of ISMA's international repo committee (IRC) / Composition of the IRC

Ms. Avsar informs the council that, subject to the ERC's determination at today's meeting, ISMA's board re-appointed Mr. De Vidts on June 27, 2003 as a member and chairman of the IRC for a term of office to expire at the ERC's general meeting due to be held in spring 2006.

She then raises the question whether any member of the council has an objection to Mr. De Vidts' re-appointment as a member of the IRC until spring 2006.

Since there are no objections, Ms. Avsar notes that, in accordance with ISMA rule 1012.2, the ERC general meeting determines Mr. De Vidts as a member of the IRC for a term of office to expire at the ERC's general meeting due to be held in spring 2006. ISMA's board will be informed accordingly.

The ERC general meeting also notes that, in 2001, it had determined Mr. Ulf Bacher from Dresdner Bank AG, Frankfurt as a member of the IRC for a term of office to expire at the ERC's general meeting due to be held in spring 2004.

4. Election of the chairman and vice-chairman by the European repo committee on May 8, 2003

The chairman confirms that, following the elections to the ERC committee at the last ERC general meeting on May 8, 2003 the ERC committee appointed him as chairman and Mr. Bacher as vice-chairman of the ERC committee for the term of another year to expire at the ERC's general meeting due to be held in spring 2004.

5. Recent market events and issues

The chairman updates the ERC on the following matters addressed by the ERC committee since the last council meeting:

5.1. Securities lending and repo committee (SLRC)

The chairman updates the council on the topics recently discussed by the SLRC and reiterates the purpose and role of this committee, which is chaired by a representative from the Bank of England.

He then refers the council to a draft of a joint publication entitled “An Introduction to Securities Lending” written by Securities Finance International Ltd. and commissioned by the International Securities Lending Association (ISLA), The London Stock Exchange (LSE), The London Investment Banking Association (LIBA) and The British Bankers Association (BBA).

The definitive version of the document will be distributed by the Bank of England shortly.

5.2. Shaping of EUR denominated bond transactions to maximum lots of EUR 50 million or GBP 50 million

The chairman informs the council that he has recently given a presentation on the shaping of EUR denominated bond transactions to maximum lots of EUR 50 million or GBP 50 million to the SLRC and the contact group on euro securities issues (Cogesi) which is chaired by the European Central Bank (ECB).

He points out that since this issue does not only affect participants active in the repo market but also all other market participants, he requested the ECB and the Bank of England to examine this issue.

Furthermore, he reports that both ICSDs (Clearstream and Euroclear), in principle, support the view of the ERC committee that a maximum ticket size for settlement purposes would be beneficial to the market as a whole and would improve settlement efficiency.

He also reports that at its meeting held on September 17, 2003 ISMA’s market practices committee (MPC) concurred with the ERC committee’s and the ICSDs' respective views, and that there is consensus within the MPC that while it is not feasible for ISMA to impose a mandatory maximum ticket size, market participants should nevertheless be strongly encouraged to split their transactions into maximum ticket sizes (for settlement purposes only) as follows:

(i) for transactions in EUR denominated securities: EUR 50 million and multiples thereof, if applicable;

(ii) for transactions in USD denominated securities: USD 50 million and multiples thereof, if applicable;

(iii) for transactions in GBP denominated securities: GBP 50 million and multiples thereof, if applicable;

(iv) for transactions in YEN denominated securities: YEN 5 billion and multiples thereof, if applicable.

The chairman reports that there was consensus within the MPC that the shaping of trading tickets for settlement purposes as described above should now be raised with ISMA's committee of reporting dealers (CRD committee) at its next meeting scheduled to be held on November 11, 2003 and, subject to the CRD committee's endorsement, to be communicated in due course to ISMA's membership by means of a letter from the MPC chairman.

In this respect, the chairman confirms that the ICSDs and CSDs in Europe will also be asked to make a respective recommendation to their members as well.

The ERC will be updated in this respect at the next meeting.

5.3. Repo seminar for central bank officials from the accession countries to be held on October 6/7, 2003

In light of the impending entry of the ten accession countries into the EU, the ERC and ECB are currently organising a repo seminar for central bank officials from these accession countries on October 6/7, 2003 in Rome with the support of the Bank of Italy.

The seminar will hopefully enable the ERC committee to better evaluate the requirements of these countries and make the central bank officials more familiar with the current practices of the international/European repo market.

5.4. Real time settlement / bridge problem of ICSDs

As mentioned previously, the ERC committee is reasonably content with the way the bridge is currently working. The ERC committee will nevertheless continue to monitor the situation and clearly welcomes the initiative taken by the two ICSDs to upgrade the bridge to allow for real time intra-day settlement by early 2004.

5.5. 2nd professional ISMA /ACI repo seminar to be held on November 17/18, 2003

The second professional ISMA/ACI repo seminar will take place on November 17/18, 2003 at Deutsche Bank AG in Frankfurt.

The brochure of this seminar is being distributed at today's meeting.

5.6. ISDA's 2002 agreement

At the July 14, 2003 ERC committee meeting the Co-head of ISDA's European office, Mr. Richard Metcalfe confirmed that, unless there is clear market demand, ISDA would not proceed to expand ISDA's 2002 agreement in order to allow users of the agreement to also document their repo transactions under this agreement.

Following a detailed discussion, during which the advantages as well as the disadvantages of a single agreement versus a "product specific" agreement (such as the GMRA) were carefully balanced, the ERC committee resolved that, for the time being, there is no need for the inclusion of repo definitions in ISDA's 2002 agreement from the committee's perspective. At the same time, however, the ERC committee also reiterated its view that it basically supports a closer cooperation between the various market associations with a view to the ultimate promulgation of a single, multi-product agreement also covering repo transactions.

The board of ISMA was informed of the ERC committee's position accordingly.

5.7. Stock lending annex to GMRA

Also at its July 14, 2003 meeting, the ERC committee, following discussions with ISLA's chairman, Mr. Mark Hutchings, also confirmed that for the time being, there is no concrete need for ISMA to produce a stock lending annex to the GMRA.

The ERC committee recommended, however, that ISMA and ISLA stay in contact in this respect since the committee observes a trend among firms to combine their different desks and to create "cross-product trading desks".

6. Update on GMRA related matters

Ms. Avsar presents her report on the following topics:

6.1 Legal opinions

On April 4, 2003 ISMA published updated legal opinions from 33 jurisdictions and for the first time a legal opinion for Spain (including guidance notes for the use of the GMRA with Spanish debt securities which are attached to the opinion). In 16 jurisdictions this exercise was conducted jointly with The Bond Market Association (TBMA).

As mentioned previously, based on a request from the ERC committee, ISMA recently instructed Greek counsel to draft a legal opinion on the GMRA. ISMA expects to be able to publish the Greek legal opinion by late autumn this year. It remains to be seen whether and to what extent a new Greek law containing a specific provision on netting that was recently enacted will enable the opinion giver to remove the qualifications as to the efficacy of netting.

The finalisation of the Polish legal opinion will be postponed until after the new bankruptcy law will come into force on October 1, 2003.

In relation to the legal opinion for Croatia, some outstanding points - such as the issue of re-characterization and the treatment of margin on insolvency - need to be discussed further with Croatian counsel. It is expected that the Croatian opinion will be available towards the end of this year. In this respect, it is noteworthy that the National Bank of Croatia recently joined ISMA as an associate member.

In discussions with The Association of Norwegian Stockbroking Companies and the Norwegian Central Bank, ISMA continues to monitor developments in Norway where it is currently not yet possible to obtain a clean legal opinion.

In relation to the EU accession countries, the ERC committee recently determined Hungary, the Czech Republic and Slovenia as the most important countries in respect of which ISMA should consider obtaining a legal opinion. In this respect, the members of the ERC committee are currently analysing within their respective legal departments which specific legal questions should be looked at for these countries and to revert to ISMA in due course.

An important topic recently discussed within the ERC committee is whether and, in the affirmative, by which deadline ISMA should discontinue updating legal opinions on the GMRA 1995 in order to create an incentive for market participants to migrate from the GMRA 1995 to the GMRA 2000. While the ERC committee, at its meeting on May 8, 2003, decided to recommend to ISMA that no legal opinions on the GMRA 1995 should continue to be sought as from December 31, 2004 onwards, the committee reversed its decision at its meeting on July 14, 2003, essentially due to the fact that a number of members of the ERC continue to document the bulk of their repo transactions on the basis of the GMRA 1995. The committee therefore decided to recommend to ISMA to continue seeking opinions on both the GMRA 1995 as well as the GMRA 2000 for the time being. At the same time, the committee encouraged ERC members to document new repo transactions under the GMRA 2000 instead of the GMRA 1995.

Based on the ERC committee’s recommendation, ISMA will therefore continue to arrange for an update of the legal opinions for both the GMRA 1995 as well as the GMRA 2000 for the time being.

6.2 Annexes

ISMA continues to await feedback from the relevant organizations in Switzerland and Australia required to update the respective annexes to the GMRA 1995 in order to make them compatible with the GMRA 2000.

7. Differences between the GMRA 1995 and the GMRA 2000

Mr. Raffan of Freshfields Bruckhaus Deringer gives a slide presentation on the differences between the GMRA 1995 and the GMRA 2000. A copy of the presentation is attached to these minutes (attachment 1).

In response to Mr. Bacher’s request to extend the mini close-out provisions of the GMRA in order to provide for a “total close-out”, Mr. Raffan states that this request could be looked at as and when ISMA and TBMA consider it necessary to review the GMRA 2000 in order to reflect new market practices.

8. Harmonisation of the legal infrastructure – The Securities Account Certainty project

Mr. Löber of the European Central Bank gives a slide presentation on the harmonisation of the legal infrastructure – The Securities Account Certainty project. A copy of the presentation is attached to these minutes (attachment 2).

9. STEPS report (Euribor – ACI Short Term European Paper Task Force paper)

Mr. Haeuser of Dresdner Bank AG, Frankfurt gives a slide presentation on the Euribor – ACI STEP Task Force. A copy of the presentation is attached to these minutes (attachment 3).

10. Harmonisation between the time periods of ISMA’s buy-in rules and the time period in the mini close-out provisions of the GMRA

Mr. McClean of Nomura International plc, London gives a slide presentation on the harmonisation of the time periods in ISMA's buy-in rules and the mini-close out provisions in the GMRA. A copy of his presentation is attached to these minutes (attachment 4).

After the presentation the chairman reports that at the most recent MPC meeting on September 17, 2003, a consensus emerged that a scenario “0/2/3 business days” is the most appropriate scenario and therefore should be presented to ISMA’s council of reporting dealers for endorsement. The chairman further reports that the MPC also concluded that, in the event it should indeed be decided to shorten the minimum time period between a failure to deliver and the execution of a buy-in from 12 to five business days, the corresponding time period in ISMA's sell-out rules should equally be shortened accordingly in order to mirror the revised buy-in procedures. Finally, the MPC committee concluded at its September 17, 2003 meeting that in the event the council of reporting dealers would reject the shortening of the minimum time period between a failure to deliver and the execution of a buy-in as outlined above, the MPC would request ISMA's board to act as the ultimate arbiter in this respect.

The chairman requests council members to discuss this issue with their respective cash and repo dealers in order to achieve the desired harmonization between the time periods of ISMA's buy-in rules and the time period in the mini close-out provisions of the GMRA.

In response to Mr. Bacher's question which price to choose when processing a buy-in for guaranteed delivery, Mr. Langton states that, according to ISMA rule 454, the instructed buy-in agent is obliged to purchase on the buy-in day "in the best available market" for guaranteed delivery. In other words, it is up to the buy-in agent to justify the price for which he has bought the respective securities. In general terms, Mr. Langton points out that approximately only 1 % of all buy-ins that are initiated are ultimately executed.

11. <u>Cancellation of repo trades in case of a failure ("French fails")</u>

With reference to the issue concerning cancellations of repo trades in case of a failure in the French repo market the chairman reports about the «specialities» of this market and the mechanics of French trading platforms.

He reiterates that in a professional market place "a trade is a trade", and cannot simply be cancelled unless it is otherwise bilaterally agreed. Dealers should regard themselves bound to a deal once the price and any other key commercial terms have been agreed. There is no reason at all to cancel a trade when settlement fails, not even overnight trades.

12. <u>ECB Public consultation paper on the measures to improve the collateral framework of the Eurosystem: response of the ERC committee</u>

Mr. Begonin of Credit Suisse First Boston (Europe) Ltd. updates council members briefly on the ERC's response to the ECB's public consultation paper on the measures to improve the collateral framework of the Eurosystem.

13. Equities / cross-product trading

Mr. Kraushaar of Dresdner Kleinwort Wasserstein, Frankfurt refers to and summarizes his presentation on Equity Finance – Short Term Products Principal Trading 2003. A copy of his presentation is attached to these minutes (attachment 5).

14. Repo trading practice guidelines / Business day convention

Mr. Maschiovecchio refers to and summarizes the new business day convention which is contained in the amended ERC repo trading practice guidelines dated August 20, 2003.

The chairman informs the council that these amended repo trading practice guidelines have been approved by the international repo committee on August 20, 2003 and will become effective from October 1, 2003. The amended guidelines will be sent to all council members and published on ISMA's website by no later than October 1, 2003.

15. ISMA's fifth semi-annual European repo market survey / Comparison of ISMA's semi-annual European repo survey with the European Central Bank's survey

Mr. Comotto updates the council on the results of the 5th European repo market survey which was conducted by the ISMA Centre at the University of Reading and highlights the differences between the ISMA repo survey and the ECB survey.

Mr. Comotto expresses his hope that more firms will contribute to ISMA's survey in the future.

The results of ISMA's 5th European repo market survey are available for downloading on ISMA's website (www.isma.org).

16. Clearstream's new borrowing and lending programme called Bond Advanced Management for Borrowing and Lending (BAMBL)

This agenda item is not discussed due to a lack of time.

The chairman informs council members that Mr. Hartung of Clearstream Banking Frankfurt will give a presentation on Clearstream's new borrowing and lending programme (BAMBL) at Deutsche Börse's workshop this afternoon (attachment 6).

17. London Clearing House / Clearnet

Due to the absence of the chief executive of The London Clearing House (LCH), Mr. David Hardy, and the chief executive of Clearnet, Mr. Patrice Renault, Mr. John Burke of LCH gives a presentation on the merger of LCH and Clearnet. A copy of his presentation is attached to these minutes (attachment 7).

18. Any other business

No comments are being raised.

19. Next meeting

The next general meeting of the ERC will be held on Tuesday, March 16, 2004 at Euroclear in Brussels.

Council members will be advised on the exact commencement time in due course.

October 132003
TH/AT/PA/ys

The Chairman | The Secretary

Godfried De Vidts | Adrian Tgetgel

Attachments

Attachment 1
ERC general meeting, 25.8.03

GMRA 2000: why use it?

Michael Raffan
25 September 2003

FRESHFIELDS BRUCKHAUS DERINGER

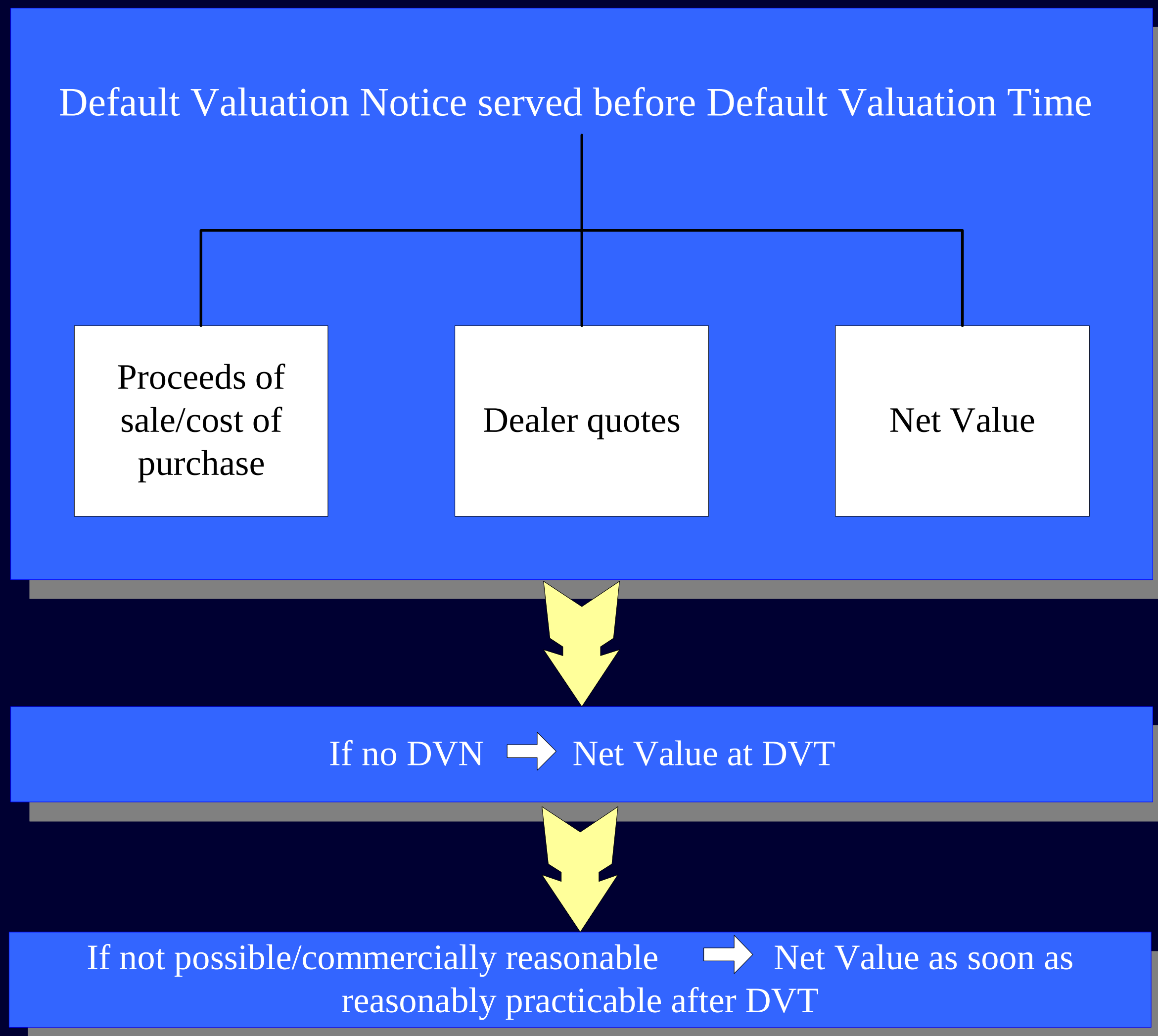
Introduction

- Revised structure
- Forward transactions
- Agency annex: transactions for multiple principals
- Improved default provisions
- Supported by legal opinions in 33 jurisdictions

Events of default

- 2 new events of default –
  - Failure to deliver (if parties elect)
  - Failure to pay amount due following mini close-out

Default valuation: a summary



Default valuation: key concepts

- Greater flexibility – less rigid valuation mechanism
- Default Valuation Time – close of business on 5th dealing day after default (GMRA 95: 2 days)
- Net Value – fair market value determined by non-defaulting party
- Allowance for transaction costs
- Consequential loss still excluded but can recover cost of replacement transaction or of replacing/unwinding hedge

Special default notice

- If non-defaulting party unable to serve default notice can serve “special default notice”
- Event of default treated as occurring at time specified in notice

Legal opinions (1)

Austria
Belgium
Finland
France
Germany
Ireland
Italy
Luxembourg
Netherlands
Portugal
Spain

Canada
England
Japan
Switzerland
USA

Legal opinions (2)

Abu Dhabi	Hong Kong
Australia	Kuwait
Bahamas	NL Antilles
Bahrain	New Zealand
Bermuda	Saudi Arabia
BVI	Singapore
Cayman	Sweden
Denmark	Thailand
	Turkey

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Legal opinions (3)

- Available to ISMA members at www.isma.org
- Updated annually

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FRESHFIELDS BRUCKHAUS DERINGER

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Harmonisation of the legal infrastructure - The Securities Account Certainty project

EUROPEAN CENTRAL BANK

Klaus M. Löber
Senior Legal Counsel

Attachment 2
ERC general meeting, 25.8.03

EU activities related to clearing, settlement and collateral

- Commission's **Action plan for financial services** of 11 May 1999
  - EC Directive of 19/5/1998 on settlement finality in payment and securities settlement systems (98/26/EC)
  - EC Regulation of 29/5/2000 on insolvency proceedings (1346/2000/EC)
  - EG Directives on the reorganisation and winding-up of credit institutions of 4/4/2001 (2001/24/EC) and of insurance undertakings of 19/3/2001 (2001/17/EC)
  - Directive on financial collateral arrangements (2002/47/EC)
- Final report of the **Committee of Wise Men** on the regulation of European Securities Markets of 21 February 2001
- Report of the **Giovannini Group** on Cross-border Clearing and Settlement Arrangements in the EU of November 2001
- Commission's communication on **clearing and settlement** in the EU of 28 May 2002

Giovannini report on clearing and settlement

Findings of the Second Report on EU Clearing and Settlement Arrangements (April 2003) of the Giovannini Group :

- **Existing fragmentation in the EU complicates significantly the post-trade processing of cross-border securities transactions relative to domestic transactions and creates barriers to the efficient delivery of clearing and settlement services**
- **Barriers can be divided into three main groups:**
  - **national differences in technical requirements and market practice;**
  - **national differences in tax procedures; and**
  - **legal issues**

Giovannini report on clearing and settlement

Legal issues:

- Netting and Conflict of law issues about to be solved (by the Collateral Directive and the Hague Convention)
- Considerable differences remain as regards national substantive securities laws - legal uncertainty remains even when it is known which law is applicable

Giovannini report on clearing and settlement

Uncertainties to be removed:

- Upper-tier attachments - some jurisdictions allow the attachment of securities at a higher-tier intermediary;
- Certification of securities is an essential requirement in some countries but prohibited in others;
- In some countries instruments, issued in a country where they are treated as securities, are not recognised as securities; and
- In any cross-border environment, a holder of securities may have to deal with so many issues of legal diversity that the complexity of itself amounts to an unacceptable level of legal uncertainty.

Giovannini Securities Account Certainty project

Call for an EU Securities Account Certainty project:

- In modern securities markets, in the vast majority of cases securities are held through intermediaries and recorded in electronic accounts
- As a consequence, a harmonised legal framework across the EU should be created under which, whenever securities have been entered into a book-entry system,
  - it is the accounts that establish and provide evidence as regards proprietary rights in those securities and
  - the legal nature of ownership (i.e. proprietary rights) of securities would be the same across the EU, both for domestic and cross-border situations

Giovannini Securities Account Certainty project

Call for an EU Securities Account Certainty project:

- No European Securities Code - no full harmonisation of substantive securities and deposit laws or the terms of securities (i.e. the rights and obligations of issuers and the way securities are issued)
- No tax, accounting or competition aspects addressed
- Not applicable to directly held physical securities

Giovannini Securities Account Certainty project

Main principles:

- **investors' ownership rights**: the extent and exact nature of proprietary rights of investors whose securities are held on an account with an intermediary must be clear and transparent
- **protection from insolvency of the intermediary**: investors' assets are not available to the creditors of the intermediary nor to the intermediary itself
- **tradability**: that dealings take place by debits and credits to the relevant account, and the bona fide acquirer can rely on such credits
- **protection for acquirers**: priorities between competing interests are determined by the order in which they are recorded to the relevant account; acquiring in good faith is safeguarded
- **investor protection**: those entities maintaining securities accounts must have adequate protection mechanisms in place (including as arise from being supervised) to avoid shortfalls and to deal with shortfalls should they occur

Giovannini Securities Account Certainty project

Follow up:

- A second **Commission's communication** on clearing and settlement in the EU (scheduled for Autumn 2003) to take up the proposals made by the Giovannini Group
- The **Securities Account Certainty** project would have to be endorsed by the Member States
- If endorsed, the **detailed provisions** of the substantive law reform will have to be elaborated (ideally by the end of 2005).
- Involvement of **practitioners, academics and public authorities** will be crucial for the acceptance of the reform project, which needs to be exact, fair and **globally consistent**.

International Institute for the Unification of Private Law (UNIDROIT)

- In 2001, UNIDROIT has set up a Study Group on the *Use of securities held with intermediaries as collateral.*
- A Position Paper regarding **harmonised substantive rules regarding indirectly held securities** was published in August 2003
- The Study Group considered inter alia:
  - Upper-tier attachments
  - Transfer formalities
  - Collateral dispositions
  - Finality and irrevocability
  - Insolvency protection
- Envisaged aim: Creation of an **international instrument**

European Financial Market Lawyers Group (EFMLG)

- Established in 1999 by the ECB and composed of in-house lawyers of leading European credit institutions
- Aim: Initiatives to harmonise the EU financial markets
- Recent activities include:
  - Report on the legal framework for rights evidenced by book-entries and dematerialisation of securities (June 2003)
- Website: www.efmlg.org

EFMLG report on book-entry rights

EFMLG recommendations

- The EFMLG supports the Giovannini Group's proposal for an EU Securities Account Certainty project
- Community legislative action should be taken to harmonise the legal regime governing the holding and transfer of financial instruments by way of book-entries in the EU
- A statutory regime based on book-entries would be instrumental to take full advantage of the effects of such harmonisation measure and of the huge advances in computer technology

Status report on the ACI STEP project

“The Short-Term Paper Market in Europe”

Recommendations for the development of a pan-European market

Ralf Haeuser Dresdner Bank AG Frankfurt

Attachment 3
ERC general meeting, 25.8.03

ACI STEP Background

- With the introduction of the euro
  - ECB conducts one single monetary policy for the euro area
  - Previously national money markets have been successfully integrated into a euro area money market
  - New central bank payments system TARGET
  - Uniformed price references for the unsecured money market (EONIA and Euribor) and the repo market (Eurepo)
- But the short term securities markets in the euro area (CP/CD) have remained mainly domestic in nature - insufficient level of development and integration

ACI STEP Mandate

- Short term securities markets in the euro area:
  - Difference of legal systems across the euro area
  - Lack of a single settlement system
  - Lack of homogeneity of the features and the terms and conditions
  - Limited investor demand (still segmented on a national basis)
- End of 2001 the ECB Money Market Contact Group asked the ACI to adress **short term initiatives** on the euro area short term securities market
- The „Euribor ACI Short Term Paper Task Force“

ACI STEP Task Force

• Thierry Roland, Chairman	HSCB CCF, Paris
• Ralf Haeuser, Secretary	Dresdner Bank, Frankfurt
• Claudia Benci	Banca Monte de Paschi di Siena, Siena
• Eric Chouteau	CDC Ixis, Paris
• Francisco Galiana	Santander Central Hispano, Madrid
• Mary Jose Rodriguez	Fortis Bank, Brussels
• Armin Steppan	RZB, Vienna
• Geert Wijnhoven	ING, Amsterdam

Special Guest:

• Roberto Schiavi	ECB

ACI STEP Findings

- The findings of the ACI STEP Task Force:
  - Issuers, investors and dealers see a good potential for the development of a more harmonised European Short Term Paper Market (CP/CD)
  - No new product shall be established but more harmonisation of the existing European Short Term Paper Markets
  - Integration of the European Short Term Paper Markets requires a high level of information being avaílable
  - To reach a critical mass is the key factor of success
  - A more favorable market environment in terms of flexibility, distribution and cost is required

STEP Reports

- Publication of two reports in September 2002:
  - "The Short-Term Paper Market in Europe" by the Euribor ACI STEP Task Force
  - "The Money Market: legal aspects of short-term securities" by the European Financial Markets Lawyers Group
- Published on the website of the ECB (www.ecb.int) and the ACI (www.aciforex.com)

Recommendations relative to Information and Disclosure

R01. The Task Force recommends that all domestic markets use a standard format in English for the Information Memorandum of Commercial Papers, or that an English version be available.

R02. The Task Force also recommends that the English version should be available at the ECB, and that a yearly review should be implemented in order to update the presentation of the issuer.

Recommendations on staistical data

R03. The Task Force recommends the creation of primary index on short term paper issues, calculated by the ECB, in order to improve the transparency of the market.

R04. The ECB to be in charge of collecting and publishing statistics on the STEP market and to elaborate indices

Recommendations relative to ECB eligibility

R05. The Task Force recommends that Euro Short Term Papers should be eligible as Tier 1 to ECB's operations as far as the eligibility criteria are met

Recommendations on legal aspects

R06. The Task Force recommends that Short Term Papers should be classified in the same way in each transposition of the **UCITS directive** so that they could be purchased without restriction by UCITS, independently of the country of residence of the UCITS, of the issuer and of the dealer.

R07. The task force supports the exclusion of money market instruments from the scope of the proposed **Prospectus Directive** and recommends to replace the wording „less than twelve months“ by „(…) up to and including one year“.

Recommendations relative to Clearing and settlement and to the domestic legislators

R08. Medium term, the Task Force recommends that same day settlement should be possible for all domestic and cross border transactions.

R09. We recommend that domestic legislations in the euro area adopt a common format for the market.

ACI STEP Consultation

- The recommendations:
  - Express the view of the members of the Task Force
  - Basis for a much broader consultation with investors, issuers, dealers, regulators,…………..
- ACI STEP Public Consultation hosted by the ECB
- To ensure the final report will correctly reflect the consensus of the market participants

ACI STEP Enlarged Task Force

- Meeting of the ACI STEP Enlarged Task Force more representative of the various participants in the Short Term Paper Market
- Hosted by the ECB on 11th march 2003 with 47 participants:
  - ACI representatives from different countries
  - European Financial Markets Lawyers Group
  - ECB, Banque de France
  - Investors: FEFSI, AXA, DEKA Investment
  - Issuers: EACT, General Electric, Volkswagen
  - EFC Working Group on EU Government Bonds and Bills

ACI STEP Enlarged Task Force

- EIB
- Clearing systems:: ECSDA, Clearstream, Euroclear, AIAF (Spanish Stock Exchange)
- Regulators: European Commission, Committee of European Securities Regulators
- IPMA ECP, International Paying Agents Association
- Capital Markets Daily
- European Repo Council

ACI STEP Enlarged Task Force

- Detailed discussions of the report
  - Strong support for the recommendations
  - No significant critisism or changes of the recommendations
- But several points requesting further specification and therefore establishment of sub-working-groups on
  - Minimum common features of the Information Memorandum for a STEP wholesale market
  - Requirements for the calculation of the primary index and the publication of market statistics
  - User requirements with respect to settlement systems

ACI STEP Label

Proposed general defining features of STEP:

- Maturities of one day or more but not exceeding one year
- Issuance with a minimum amout of EUR 200.000 or the equivalent in a freely convertible currency
- Short term paper programmes based on the legislation of an EU Member State (CPs, CDs, others) by different groups of issuers
- Publication and regular update of a standard information memorandum for STEP in the English language
- Electronic settlement in book-entry form
- Provision of statistical data on all STEP issues

ACI STEP Label - implementation

- Publication by the ACI of the final report and recommendations for „The Short Term Paper Market in Europe“, based on the consensus of market participants, before the end of this year
- The label „STEP“ becomes officially adopted by a Market Convention as a harmonised framework for Short Term European Paper under which different types of existing programmes for short term paper may qualify
- More liquidity, efficiency and transparency for a good growth of the European Short Term Paper Markets !!!!!!!

HARMONISATION OF BUY-IN TIMEFRAMES FOR CASH AND REPO TRANSACTIONS

Attachment 4
ERC general meeting, 25.8.03

The Issue

- Large discrepancy between cash buy-in and repo mini close-out procedures creates potential for serious buy-in risk

- This can ultimately lead to reduced liquidity as people become more aware of it

- Low interest rate environment is leading to an increase in fails, so the problem can become more acute

Cash Transaction Buy-In

- Governed by ISMA buy-in procedures
- Trade due to settle on S.D.
- If trade does not settle, on S.D.+5 business days (or any day thereafter) Buyer can issue a buy-in pre-advice notice to Seller stating their intention to issue a buy-in notice 2 business days later. This notice must be issued <u>before</u> 10 a.m. London time.
- Two business days later (on S.D.+7 business days) the buy-in notice is issued <u>before</u> 10 a.m. London time.
- Five business days later (on S.D.+12 business days) the buy-in can be executed.

Repo Transaction Mini Close-Out

- Governed by GMRA.
- Return leg of repo trade due to settle on S.D.
- If trade does not settle, on S.D.+1 business day (or any day thereafter) Seller (the Seller on a repo transaction is the *Buyer* on the return leg) can terminate the transaction by giving written notice to the Buyer before 5 p.m. London time. The Seller then has until 5 p.m. the following business day to execute a buy-in, otherwise the transaction is closed at the default market value at that time.

- Two major points of discrepancy

  - Earliest possible buy-in is S.D.+12 bus. days for cash trades

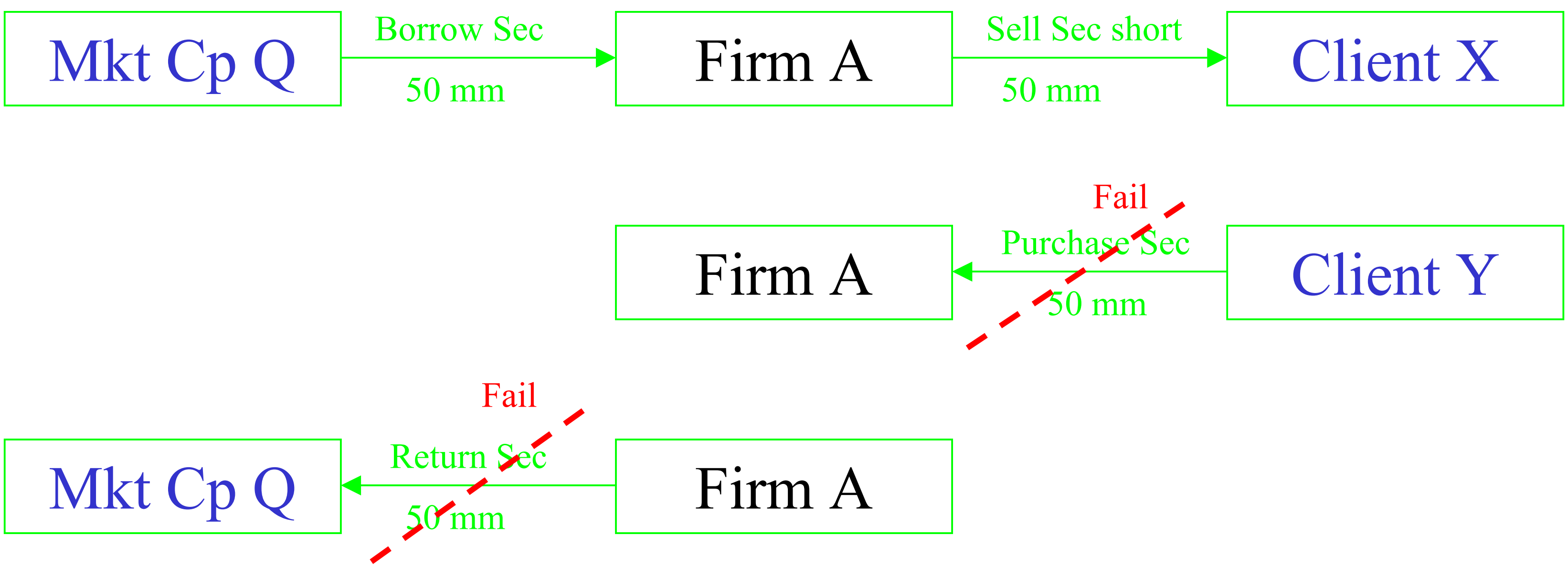
    S.D.+1 bus. day for repo trades

  - Subsequent to the issue of the buy-in notice a repo trade can be immediately bought-in whereas a cash trade cannot be bought in for 5 business days.

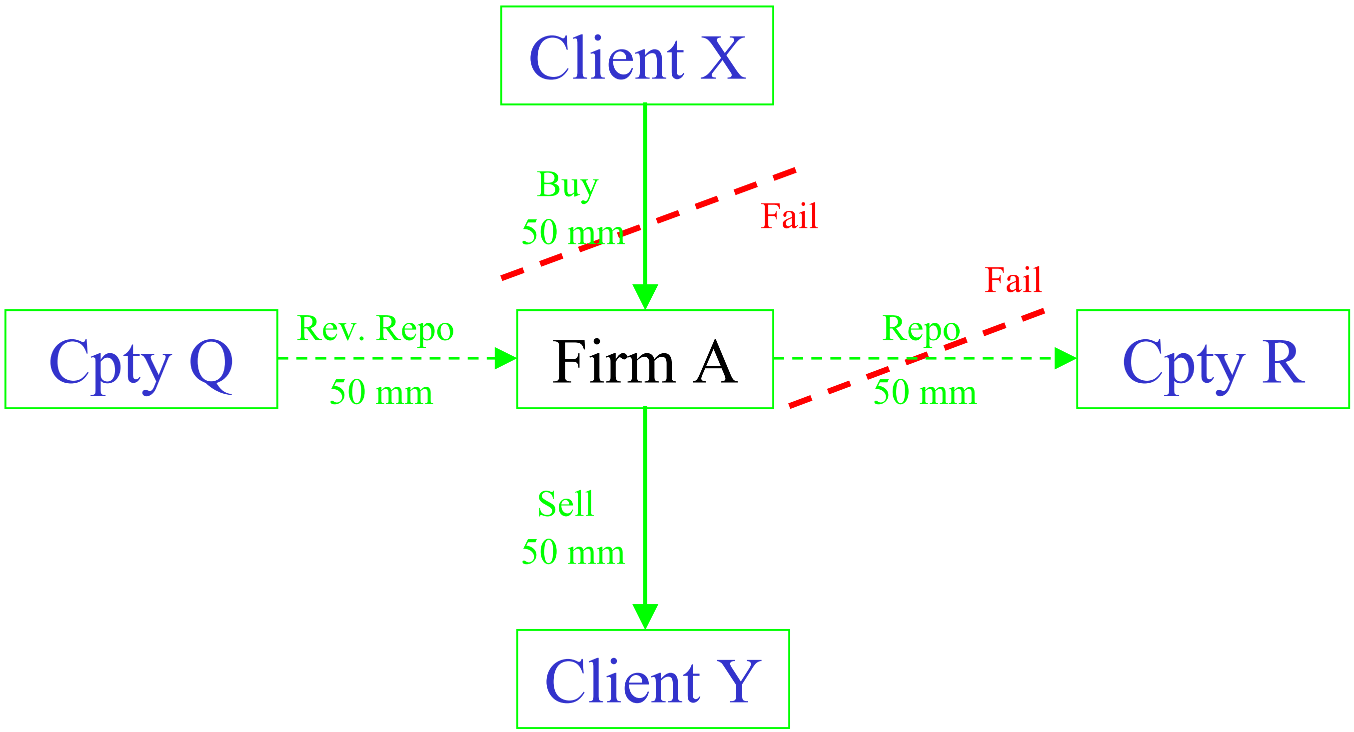
- **NB** In the new GMRA 2000 agreement the termination period for repo transactions has been extended to 5 business days.

Examples of Possible Mismatches in Buy-In Provisions

- Marketmaker sells securities short, then reverses the securities to make its delivery. Subsequently, the marketmaker buys back its short position but fails to receive the securities. If repo gets closed and the marketmaker fails to return the securities, it can be bought-in under GMRA rules, whilst only able to buy-in the cash purchase under ISMA rules.



- Marketmaker buys and sells securities on same day as reversing and repoing same type of securities. The reverse repo and cash sale transactions settle, whereas the repo and cash purchase transactions fail. Even though the marketmaker's books are flat, it finds itself subject to buy-in risk.



Further Complications

- Physical versus cash settlement of buy-ins – different procedures for repo and cash.

- Different buy-in timeframes for the same security in different settlement locations, e.g. Euroclear versus domestic, DTC versus Euroclear.

N.B. ISMA timeframe is by far the longest globally.

Additional points

- Longer buy-in periods equal increased counterparty risk

- The low interest environment increases the tendency to fail – particularly if the cash buy-in timeframe is longer than the repo buy-in timeframe (reduces incentive to cover positions on repo).

Future Action

- Meeting between ERC and CRD on 11th November – requesting ISMA to shorten the buy-in period in the cash market to five days.

Equity Finance
Short Term Products Principal Trading
2003

Global Co-Head of Short Term Products Principal Trading
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Attachment 5
ERC general meeting, 25.8.03

Contents

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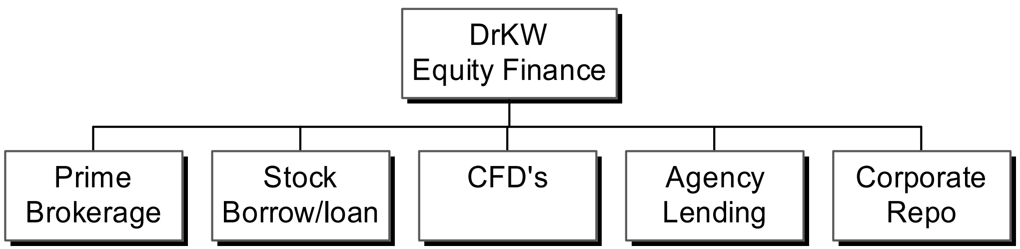
Equity Finance Division

Locations

- Frankfurt
- London
- New York
- Tokyo
- Zurich

Products



Underlyings

- Equities
- ADR’s & GDR’s
- Convertible Bonds
- Corporate Bonds

Country Coverage

Europe

- Austria
- Belgium
- Denmark
- Finland
- France
- Germany
- Italy
- Ireland
- Netherlands
- Norway
- Portugal
- Spain
- Sweden
- Switzerland
- United Kingdom

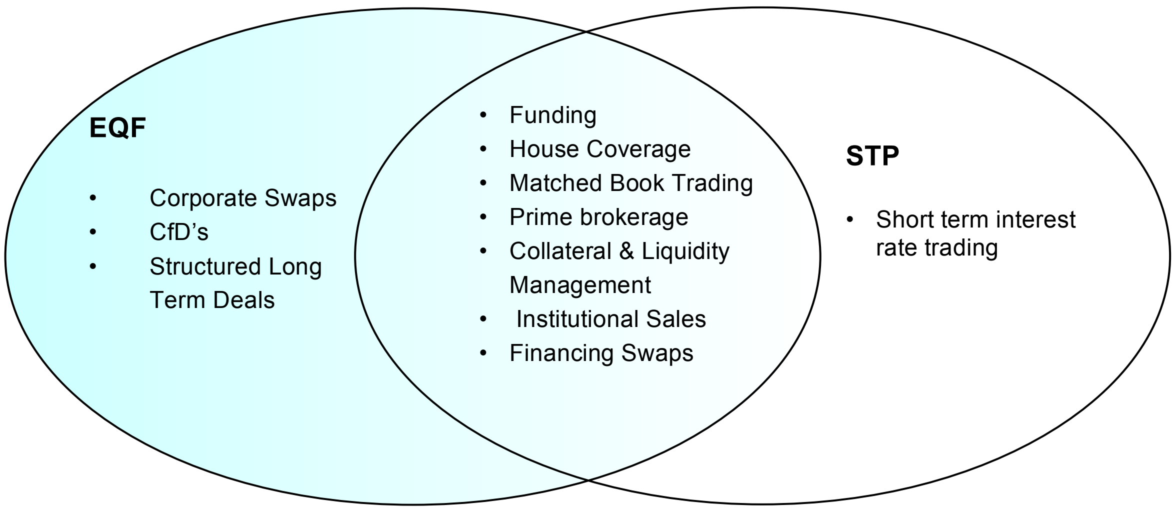
America

- Canada
- United States

Asia

- Hong Kong
- Japan
- Malaysia
- Singapore
- Thailand

Equity Finance (EQF) & Short Term Product (STP) Functions & Activities



Securities Lending & Borrowing / Repos / Swaps / CfD's / Derivatives / Bonds & Bills / FRN's / CP's / Deposits / Loans / IR Futures / IR Options / Corporate Repos

Competitive Advantage

Stock Borrow/Loan

- Credit, funding & balance sheet strength
- Access to a vast pool of captive assets
- Significant access to the lender community, with several exclusive clients
- Well established market presence with a great breadth and depth of local market knowledge and experience
- 24 hour global coverage with desk in Frankfurt, London, NY, Tokyo and Zurich

CFD’s

- Standardised agreement covering most countries
- Offers advantages over cash equities for non-exchange members, such as short selling, Stamp Duty avoidance (where applicable) and leverage
- Integration of product with the portfolio trading desk, cash market makers and Prime Brokerage team for maximum strategy flexibility
- Unique online trading, position monitoring and confirmation systems

Equity Swaps

- Dresdner as a counterparty offers superior balance sheet strength and credit quality
- Complete portfolio of products from liquid pairs to index swaps
- Can operate in several locations and legal entities, facilitating yield-enhancement and tax-minimising strategies
- The team has extensive derivative structuring experience and capabilities

Competitive Advantage Continued

Prime Brokerage

- Superior exclusive asset base
- Balance sheet
- Competitive leverage; sophisticated and flexible margin models
- Experienced Prime Brokerage staff with a wealth of multi-vendor expertise
- Cross-margining capabilities
- Technology; in-house developed fully dedicated PB front-end system
- Front-to-back Internet portal through Prime Brokerage, EQ Finance, OPS Tracker
- Fully dedicated operations unit
- Flexibility; response times for new requirements
- Dedicated Quantitative Analyst who can provide active support and modelling

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clearstream DEUTSCHE BÖRSE GROUP

The new lending program BAMBL

and

other recent developments

Luxembourg, 25 September 2003

Gerd Hartung

Attachment 6
ERC general meeting, 25.8.03

Agenda

- BAMBL - a new lending facility in CBF
- Other recent developments
  - Eurex Clearing as automatic borrower in EOC
  - Domestic Market Settlement - delivering through CBF
  - New links into CBF
  - New settlement model

BAMBL - a new lending facility in CBF
- Additional liquidity to improve interoperability -

The target is to ...

- … reinstate a level playing field for German participants in the complete Bund market, i.e. overcome the infrastructural problems which had been further intensified through the decommissioning of the free-of-charge lending facility in EOC in March 2003
- … avoid significant additional costs for the participants
- … allow for a smooth transition to the environment after the introduction of the New German Settlement Model

The solution implemented does enhance liquidity through a new lending facility for the night-time processing such that CBF participants can essentially guarantee deliveries to their international counterparts.

BAMBL - a new lending facility in CBF
- Key elements -

clearstream | DEUTSCHE BÖRSE GROUP

Key elements

- BAMBL (**B**ond **A**dvanced **M**anagement for **B**orrowing and **L**ending) is a case-by-case lending facility which will allow CBF customers to borrow Bund assets for the night-time processing (STD) free of charge, provided assets are returned in first same day settlement run (SDS) latest
- Borrowing need has to be communicated to CBF lending desk by 16:30 latest. Returns to be advised by 8:30 next morning
- Every borrower also acts as a lender
- Designed as an interim solution that will be transferred into a permanent facility for fixed income lending after the introduction of New German Settlement Model
- Facility can not cover real fails (e.g. squeeze of an asset)

BAMBL - a new lending facility in CBF
- Where we are -

clearstream | DEUTSCHE BÖRSE GROUP

Launch

- Simulation started 26 May 2003.
- Live since 01 July 2003

Participants

- Discussed with CBF customer base including the German Finance Agency. Fully supported by the members of the German Repo community. Some major players have signed, other have passed simulation and are expected to go live in the coming weeks.

Pricing

DS latest

ay after 1. SDS (CBF grants a discount of 5 bps for all of 2003)

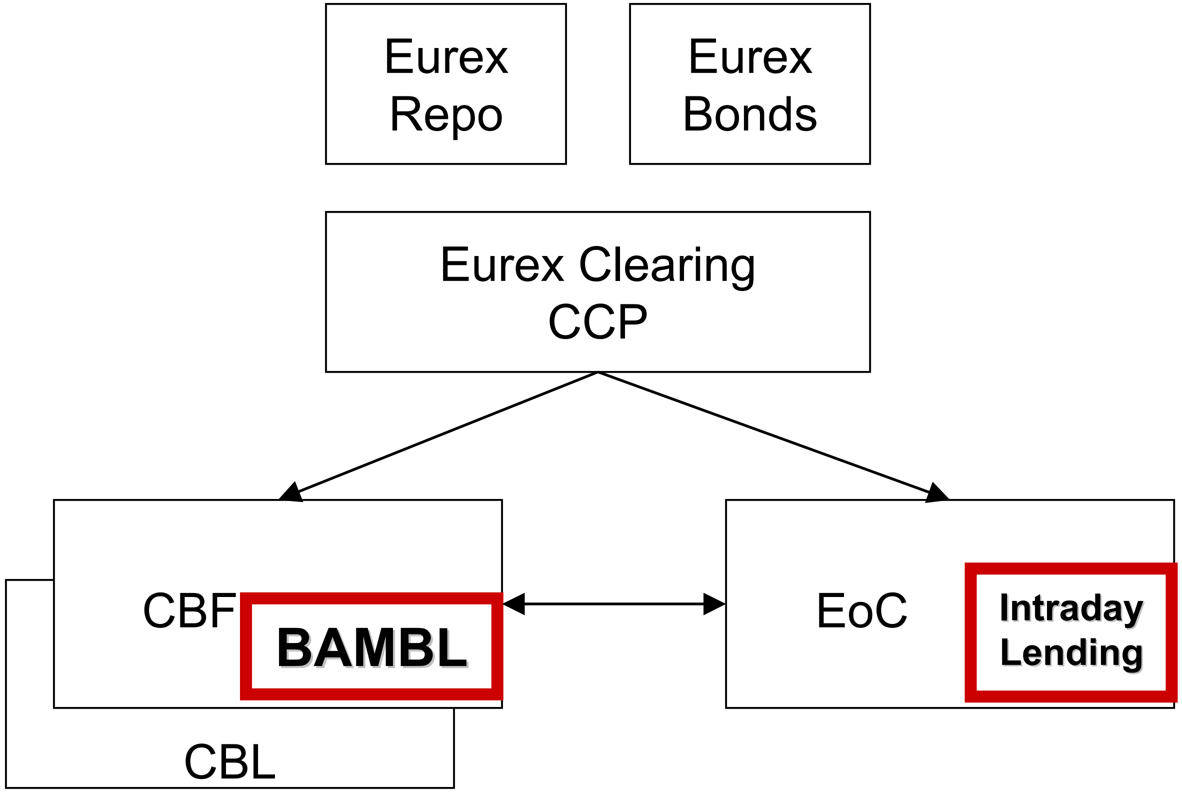
ll rate, if loan is not closed before 14:00 (rate updated on a

osed before 14:00 (rate updated on a monthly basis - same level

s automated securities lending rates)

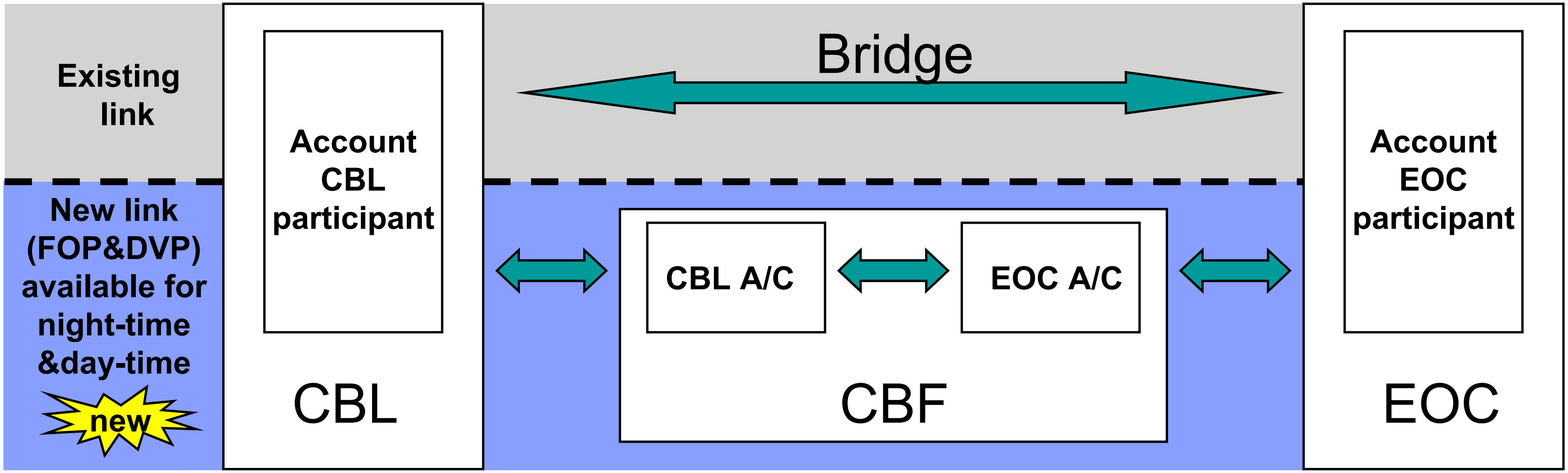
(CBF waives this fee for all of 2003)

Eurex Clearing CCP participates in EOC's "Intraday Lending"



Eurex Clearing supports guaranteed cross border delivery by actively participating in Euroclear Intraday Lending facility and benefits from the BAMBL facility by Clearstream

Domestic Market Settlement
- Providing day-time settlement for German assets -



- Interoperability significantly improved
- All German securities covered (CBF eligible)
- Number of transactions not limited
- Settlement has to be agreed and arranged by counterparts

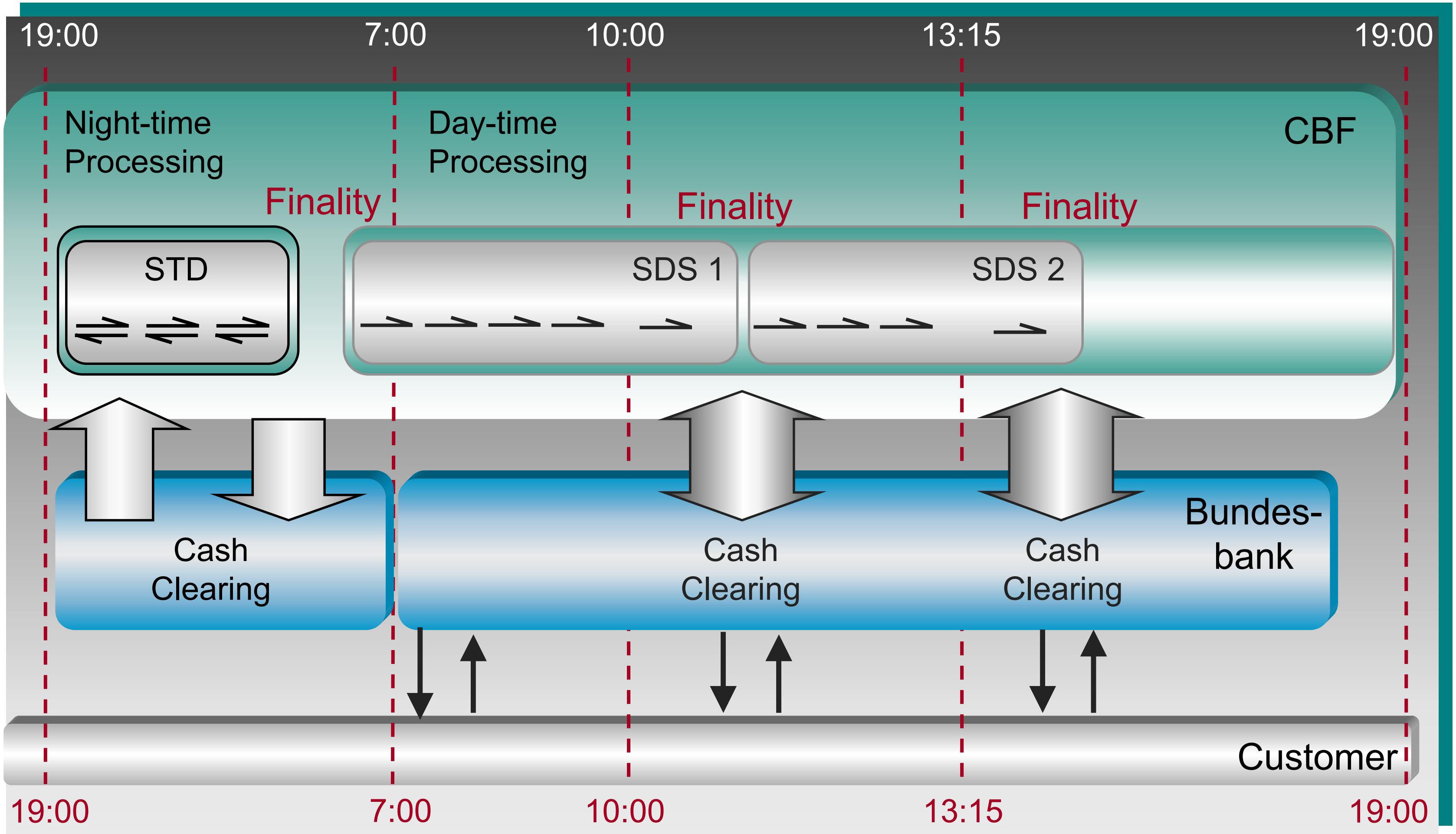
Functionality is also available for other markets, e.g. France and Austria. Further markets are under investigation.

New links to CBF

- **MTS Germany***
  - Introducing CBF as settlement location, using PoA
  - Products: Bubills
- **BrokerTec***
  - Introducing CBF as direct settlement location (not via LCH), using PoA
  - Products: Same-day repos
- **LCH****
  - Risk reduction and improved settlement efficiency for CBF customers through PoA
  - Products: RepoClear (no same-day trades)

*** to be launched in November 2003**
**** launch date not yet confirmed**

New Settlement Model for CBF
Overview



The new model will be launched in November 2003

LCH.Clearnet

General ERC Meeting

25 September 2003

Attachment 7
ERC general meeting, 25.8.03

LCH.CLEARNET

The Central Counterparty of Choice

David Hardy

Chief Executive
LCH

Patrice Renault

Chief Executive
Clearnet

A leading CCP group in Europe

- Creation of Europe's leading CCP organisation
- Structure ensures independence and balance
- Cost savings and value creation
- Major step forward in integration of European capital markets infrastructure
- Responds to market calls for consolidation

Key merger financial terms

- Total deal value €1.2 billion
- LCH and Clearnet valued at €600 million each
- Pre-merger distribution of €150 million by Clearnet
- £23.6 million rebate to LCH users before completion

Balanced governance

- Voting rights capped to ensure independence
  - Euronext 24.9%, Exchanges 20%, Users 3%, Euroclear 9.8% each
- Users being approached to buy shares to balance ownership
  - Offer of 7.6% Euronext stake
  - Users and exchanges 45.1% each, Euroclear 9.8%
- Balanced board
  - Users, exchanges, independents, management
- Balanced regulation

Neutrality

- Commitment to independence in Articles
- Neutral partner to all trading and settlement platforms
  - Equivalence of service to the maximum possible extent
- Robust procedures to manage conflicts of interest
- Stakeholders representation on business stream advisory committees

LCH.CLEARNET

Balanced financial objectives

- For users
  - Competitive fees and tariffs. Aim to reduce user fees
  - 70% of EBIT over €150 million for benefit of users
- For shareholders
  - Commercial model
  - Aim of €150 million EBIT from FY 2006 onwards
  - 30% of EBIT over €150 million for benefit of shareholders
  - Dividend policy: pay out at least 50% of annual distributable profits

LCH.Clearnet Proforma 2002*

- Turnover €531.7m
- EBIT €72.6m
- Net income €54.7m
- Net assets €477.1m

* IFRS as of 31 December 2002

Cost savings

- Expected annual cost savings of c. €35 million by 2007
  - Equivalent to 19% of 2002 cost base
- €23 million savings from avoiding duplicate IT investment
- Benefits for users within own businesses

Remaining steps

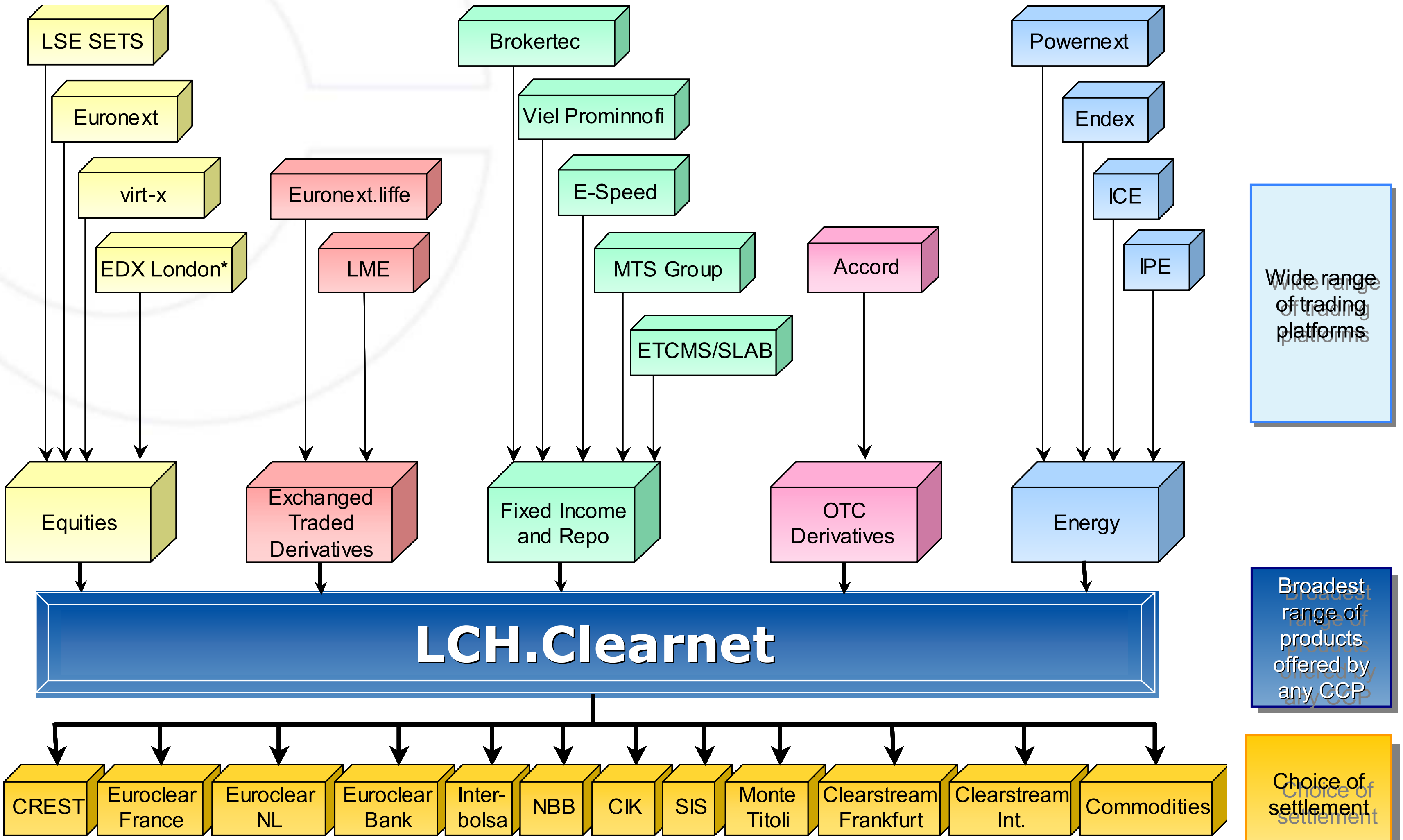
- Works Council opinion ✓
- OFT Clearance ✓
- Finalise 7.6% commitment
- LCH shareholder vote ✓
- Final regulatory clearance
- Court approval of scheme
- Completion expected by end 2003

Leading European CCP group

Market	Leading Provider
OTC interest rate derivatives	LCH.Clearnet
STIR futures and options	LCH.Clearnet
Bond futures and options	Eurex Clearing
Fixed income (repo)	LCH.Clearnet
Equity index futures	Eurex Clearing
Equity index options	Eurex Clearing
Individual equity options	LCH.Clearnet
Cash equities	LCH.Clearnet
Commodities:	
Agricultural and softs	LCH.Clearnet
Metals	LCH.Clearnet
Energy	LCH.Clearnet

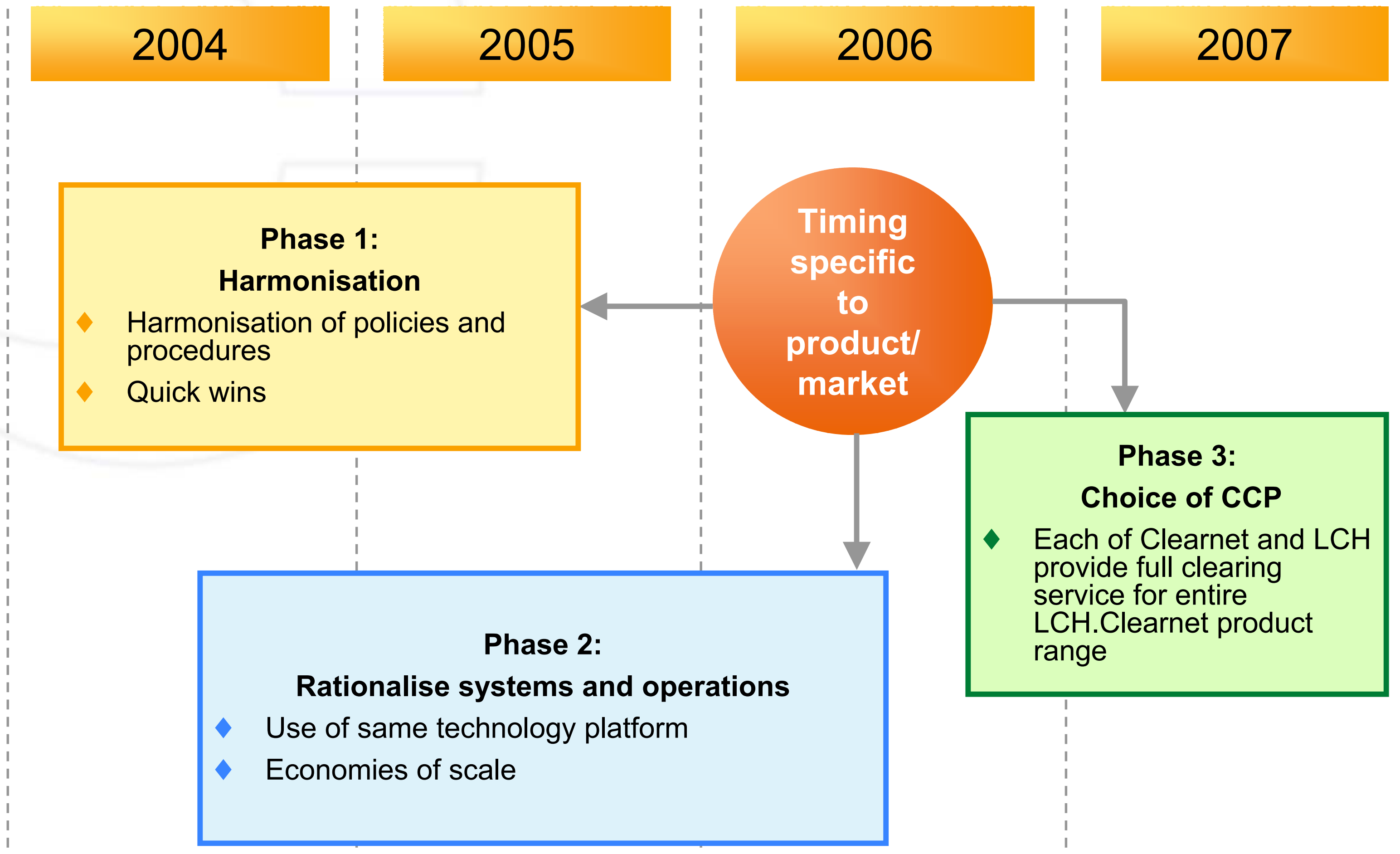
LCH.CLEARNET

Open market infrastructure



* Anticipated during 2003

Three-phased integration



Evolution not revolution

- Minimise disruption for users
- Allows users time to adapt own systems
- No change in supervision for each CCP
  - New MOU for holding company
- Regulatory clearance required for each phase
- Timetable to be agreed with users and exchanges
- User representatives for each business stream

Market benefits

- Competitive tariffs – aim to reduce fees
- Cross margining, collateral pooling
- Default fund savings
- Standardised clearing infrastructure
  - Clearing 21® for exchanges
  - New platform for trading platforms and OTC
  - Reduced back-office costs
  - Greater operational resilience
- More efficient cross-border trading and settlement
- Greater capacity to broader range of cleared markets/products

The LCH.Clearnet value proposition

- Supporting an increasingly Pan-European market
- Delivering market efficiencies
- Benefits for all stakeholders
- Catalyst for further CCP and infrastructure consolidation
- Spreading the CCP model

….. truly the CCP of choice

LCH.CLEARNET

LCH.Clearnet

General ERC Meeting

25 September 2003