International
Capital
Market
Association

Minutes of the ERCC Committee call held on 20 July 2020 (14:30 – 16:30 UK time)

Committee members:	Mr. Gareth Allen	UBS Limited (ERCC chair)
	Ms. Emma Cooper	Blackrock (ERCC vice chair)
	Mr. Charlie Badran	AXA IM
	Mr. Dan Bremer	BAML
	Mr. Eugene McGrory	BNP Paribas
	Mr. Peter Fejfer Nielsen	Citi
	Mr. Andreas Biewald	Commerzbank
	Mr. Romain Dumas	Credit Suisse
	Mr. Jean-Michel Meyer	HSBC
	Mr. Lav Lukic	J.P. Morgan
	Mr. Antony Baldwin	LCH Limited
	Ms. Amandine Triadu	Mizuho
	Mr. Richard Hochreutiner	Swiss Reinsurance
	Mr. Harald Bänsch	UniCredit Bank
Other participants:	Mr. Nicholas Hamilton	J.P. Morgan (ERCC Ops co-chair)
	Mr. James Upton	LCH (ERCC Ops co-chair)
	Ms. Zhan Chen	ICMA
	Ms. Lisa Cleary	ICMA
	Mr. Richard Comotto	ICMA Centre
	Mr. Godfried De Vidts	ICMA ERCC Special Advisor
	Mr. Andy Hill	ICMA
	Mr. Leland Goss	ICMA
	Mr. Martin Scheck	ICMA
	Mr. Alexander Westphal	ICMA (ERCC Secretary)
Apology:	Mr. Nick Dent	Barclays
	Mr. Jean-Robert Wilkin	Clearstream
	Ms. Marije Verhelst	Euroclear
	Mr. Paul van de Moosdijk	PGGM
	Mr. Sylvain Bojic	Société Générale

1) Minutes from previous meetings

The Committee approved the minutes of the last ERCC Committee virtual meeting held on 19 May without further comments.

2) Repo Market conditions

Gareth Allen introduced the usual tour de table on current repo market conditions, noting that conditions have largely returned to normal following the Covid-19 induced stress earlier in the year. In particular, spreads and haircuts have come back down to normal levels more quickly than expected. Other members of the group generally confirmed this assessment. Some members also noted recent pressure on spreads of certain specials versus GC, likely as a result of the ECB's TLTRO III programme.

Richard Comotto introduced an idea for a qualitative survey among ERCC members on credit and liquidity conditions in the repo market. The aim of the survey would be to collect structured feedback from ERCC members on a regular basis as a useful complement to the data collected through the European Repo Survey. A draft survey was circulated to Committee members ahead of the meeting. It was agreed that members should attempt to complete the survey by the end of the month in a trial-run. Subsequently the survey will be extended to all other ERCC member firms.

3) Intraday liquidity

Following up on previous ERCC discussions, an ERCC Ops sub-group spent a considerable amount of time over the past months to look at the topic of intraday liquidity. As a result, a detailed slide deck has been put together which consolidates and elaborates on the discussions over the past years and sets out some proposed next steps. James Upton, co-chair of the ERCC Ops group presented the key elements covered in the slides. In terms of next steps, Mr. Upton explained that the ERCC Ops is seeking more granular settlement statistics to support the analysis, in particular to better understand the reasons for the relatively low usage of night-time settlement and related bottlenecks. In addition, the group is also planning to share the analysis with a few other relevant stakeholders, including ISLA and AFME, in order to broaden the discussion.

ERCC Committee members commented on the slides and discussed next steps. Overall, members were very supportive of the work and agreed that the slide deck contained a number of sensible proposals most of which are not expected to be overly contentious. Members expressed their hope that the initiative will lead to some concrete results and agreed that this would be a good topic to discuss more in detail with the ECB directly. The traditional annual meeting between the ERCC Committee and the ECB would be a good opportunity to do so. Members agreed that ICMA should reach out to the relevant contacts at the ECB to set up a meeting in September or October. It was suggested that ICMA could, along with the meeting request, submit a query for more granular settlement statistics to support the intraday liquidity analysis.

4) Regulation

a) SFTR

Alex Westphal and Richard Comotto provided an update on the latest SFTR developments, covering in particular the initial feedback from the initial SFTR reporting go-live on 13 July (applying to banks, investment firms, CCPs and CSDs). The initial feedback has been very positive. No significant issues have been observed and trade repositories (TRs) have reported

surprisingly high acceptance rates for submitted reports (around 95%). While this is in itself very good news, it is still too early to draw any conclusions in terms of pairing and matching, which is likely much more challenging, in particular when it comes to collateral related information. This is partly due to some underlying problems with the ESMA rules, which in many cases prevent pairing and matching.
While still early days, the initial feedback is encouraging and indicates that the extensive cross-industry implementation work undertaken by ICMA and other associations has had a significant positive impact, in particular ICMA's detailed best practice recommendations developed by the ERCC SFTR TF.

In terms of next steps Mr. Westphal and Mr. Comotto mentioned the following:

- **Reporting issues:** Following up on the reporting go-live, ICMA is currently putting together a list of issues encountered by members which may require further best practice guidance. The plan is to keep this "issue log" up to date and to also share the document with ESMA and NCAs for information.
- **SFTR public data:** SFTR requires the trade repositories to publish on a weekly basis a limited set of data points. ICMA will be collecting and aggregating this data and make it available on the ICMA website. The first publication is planned for 22 July, covering the first week of reporting. *[Post-meeting update: The consolidated data is available on ICMA's SFTR public data webpage.]*
- **ESMA consultation:** On 9 July, ESMA published the latest SFTR consultation, a set of draft Guidelines on the calculation of SFT positions by the TRs. ICMA is currently reviewing the document with members in view of preparing a response ahead of the deadline of 15 September.

b) CSDR

Andy Hill updated members on the latest developments in relation to CSDR mandatory buy-ins and ICMA's related work. Following the latest advocacy efforts and discussions with regulators, there is now an open rumour that the implementation of the CSDR settlement discipline provisions may be delayed even further, likely by one more year to February 2022. This is very good news and partly addresses industry concerns expressed by ICMA and other stakeholders, most recently in response to an ESMA questionnaire that had been sent out in preparation for the formal Commission review of the CSDR level 1 text which is expected to be launched in Q3-Q4 2020. This potential delay is key to allow sufficient time for a subsequent broad review of CSDR, which is hoped to also cover the settlement discipline provisions. ICMA has advocated that such a review should be based on a comprehensive market impact analysis to assess the scale of the problem that the settlement discipline provisions are trying to solve and to understand whether there are less draconian (and more proportionate) means than mandatory buy-ins through which the desired outcome can be achieved (e.g. a recalibration of cash penalties). In case it is decided to maintain buy-ins as part of the settlement discipline measures the review would of course be an opportunity to at least revise the most problematic aspects of the current provisions. *[Post-meeting update: On 28 July, ESMA confirmed that they are* *working on a proposal to delay the entry into force of the CSDR settlement discipline regime until 1 February 2022 in response to a request by the European Commission.]*

c) BRRD 2

Lisa Cleary informed members about recent proposals by the EBA in relation to the ongoing review of the Bank Recovery and Resolution Directive (BRRD). On 15 May, the EBA published some draft Regulatory Technical Standards (RTS) for the contractual recognition of stay powers under BRRD2 (art.71) for public consultation. From a repo perspective, the main concerns with the proposals are as follows:

- Requirement to provide description of the relevant resolution powers – Is this appropriate between professional market participants (particularly between those with existing provisions in place)? Is it appropriate in short form contracts?
- FSB Key Attributes (KAs) – Any deviation from the FSB KAs creates further fragmentation and undermines well established resolution stay mechanisms developed between market and authorities (both in relation to resolution regimes, as well as market documentation mechanisms).
- Timing - The document remediation required is significant (irrespective of the mechanism used) and the implementation timeline unrealistic, especially when existing regulatory documentation projects (e.g. CSDR) are already presenting challenges.
- Requirement that relevant BRRD provision be governed by member state law - This is unnecessary and will create uncertainty rather than ensure enforceability. Does this create a potential disruption to netting?

The consultation deadline is 15 August. Based on feedback from members, both in the ERCC Committee and the Legal Working Group, ICMA will decide whether to prepare a formal consultation response. *[Post-meeting update: The ICMA primary market constituency are working on a response and it may be appropriate to submit a consolidated ICMA response once we have established our position. Please also note that ICMA is in communication with ISDA and ISLA on this file.]*

5) Benchmark reform

Lisa Cleary briefly recapped the implications of the ongoing benchmark transition from a repo/GMRA perspective. One of the amendments made in the GMRA 2011 was to remove references to LIBOR (note that these relate only to professional expenses and interest on late payments) and replace these with the concept of 'Applicable Rate'. If parties to a GMRA 1995 or GMRA 2000 update their documentation using the 2011 GMRA Protocol it is possible to amend the aforementioned boilerplate LIBOR references on a multilateral basis by making the relevant elections in Annex 5 of the protocol (subject to both parties adhering to the protocol and making the same elections). The same language may of course be adapted for bilateral amendments. Despite the obvious advantages, the uptake of the Protocol remains limited. It would be important to understand if there are any concerns with the Protocol. Lisa Cleary encouraged members to share feedback and thoughts on possible challenges that firms face in signing up to the Protocol.

With respect to benchmark references made in bespoke terms (pricing or otherwise), parties should make appropriate bilateral amendments to their documentation. ICMA has not produced standard form wording for this.

6) Legal updates

Lisa Cleary updated members on a couple of other relevant legal developments discussed by the ERCC's Legal Working Group, including:

- A recent statement by Chinese authorities regarding netting in China, which is still being assessed but looks like a positive clarification.
- The process for the legal opinion updates 2021 will start in due course. Any requests to expand counterparty or jurisdiction scope would need to be submitted as soon as possible.
- In the UK, the recently adopted Corporate Insolvency and Governance Act will require some updates to the English legal opinion. These have been commissioned and should be available in September or October.

7) Update from the ERCC Operations Group

ERCC Ops co-chair Nicholas Hamilton briefly updated on other recent discussions in the ERCC Operations Group, beyond the work on intraday liquidity (see above). In particular, he focused on the group's active involvement in the relevant ECB working groups on market infrastructure related issues:

- Following a close assessment of Covid-19 impacts, it has been decided to delay the implementation of the ECB's T2-T2S consolidation project by 12 months. This will also result in a delay to the go-live of the Eurosystem Collateral Management System (ECMS) by 6 months to mid-2023 (both subject to endorsement by the ECB's Governing Council). In this context Mr. Hamilton also mentioned a couple of recent system outages in T2S which have exposed some communication gaps that should be addressed going forward.
- Implementation of the detailed proposals for the harmonisation of collateral management practices and processes which have been developed by the CMH-TF is under way, and is being coordinated by the AMI-SeCo National Stakeholder Groups (NSGs).
- A new contact group has been set up by the ECB to follow up on the previous "EDDI" proposals. ICMA is represented on this new Debt Issuance Market Contact Group (DIMCG) from an association-wide perspective, but more specific input from the ERCC on collateral related aspects would be important.
- The attendance in the ERCC Ops group continues to be a challenge and more participation from ERCC member firms would be important given the breadth of the group's agenda.

8) Common Domain Model & FinTech update

Andy Hill provided a short update on ICMA's work to extend the Common Domain Model (CDM) to repo. A series of workshops is currently being held to develop repo use cases in the CDM. To make sure that the work is fully reflective of industry needs and practices it would be important to encourage additional active contributors to join the group.

Lisa Cleary invited members to share feedback on potential demand and challenges in relation to the use of negotiation platforms in the context of repo, as a basis for further engagement with the relevant solution providers.

9) ERCC Guide to Best Practice

Andy Hill provided a brief update on the latest discussions in relation to the ERCC Guide to Best Practice. The latest set of proposed amendments has been finalised and will be incorporated into an updated version of the Guide which is due to be published in late summer. For the time being, the update will not include the proposals in relation to compensation for settlement fails with negative rates. Discussions on this issue are still ongoing as the feedback from ERCC member firms on this question was inconclusive.

10) AOB and further dates

The next Committee meeting could be scheduled for September. As mentioned above, ICMA will also reach out to the ECB to set up the usual annual meeting (in virtual format) between the ERCC Committee and the relevant DGs at the ECB (DG Market Infrastructure and DG Market Operations).