

ICMA quarterly report

Assessment of Market Practice
and Regulatory Policy

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Message from the ICMA Chairman and Chief Executive

This is the last Quarterly Report before ICMA's AGM and Conference, which this year will take place from 22 to 24 May in Copenhagen. We thought it would be useful in this introduction to set out some key themes for the Association and update you on some of our activities.

Trust in the markets, an appropriate and clear regulatory environment, transparency in dealings with clients and authorities, standardisation of process and procedures, and the efficiency and effectiveness of the international debt capital markets are all central to ICMA's work. They are all essential to enable the international markets to play a full role in financing the return to economic growth which is desperately needed in so many countries. They underpin all our efforts, and, with bank lending becoming both more expensive and more constrained over the last few years the demands being placed on the capital markets are continually increasing.

In light of this we have recently published a paper entitled *Economic Importance of the Corporate Bond Markets*, which seeks to raise the awareness of policy makers, politicians and the general public about the crucial role this market plays in financing the economy. It highlights

how important it is to have a regulatory regime which helps rather than hinders its development.

An important new initiative we have taken in this regard has been to enhance our service to issuers with the formation of the ICMA Corporate Issuer Forum involving senior funding officials from many of Europe's most active corporate issuers. The first meeting in late March went well and this forum complements the two other issuer forums we provide, for financial institutions and for sovereigns, supranationals and agencies.

The regulatory agenda is vast, covering all areas of the markets. As a result, we have set out ICMA's priorities for 2013 in January's *Quarterly Report*. Since the beginning of the re-regulation phase, we have voiced concerns that the approach to regulating international markets has been insufficiently "joined up" and also that the cumulative impact of the many



by Cyrus Ardalan and Martin Scheck

different strands of regulation on the operations of the international debt capital markets has not always been adequately considered. Despite our strenuous efforts to improve the situation, the concerns persist and there are a number of clear examples where both have affected the operation of markets – the decline in secondary market liquidity is a case in point.

We are also experiencing delays to the planned regulatory timetable, which is not surprising given the scale and pace of regulatory reform. The pace of regulation needs to be balanced against the importance of consulting sufficiently to get it right. Notwithstanding this, these delays prolong the period of regulatory uncertainty. This causes practical difficulties for many of our members, whether issuers, intermediaries or investors. We do our best to help through our many committees and councils, by keeping our guidelines, rules and recommendations always up to date, and by facilitating the dialogue between the market and its regulators, in particular in the implementation phase of new regulations to help ensure they are clear, practical and workable.

Repo is an important focus for ICMA – we have nurtured the growth of this market for over two decades. We updated the industry standard Global Master Repurchase Agreement in 2011; and we provide significant education, research and legal help as well as

providing annually updated legal opinions on enforceability in over 60 different countries worldwide. The repo market has assumed even greater importance since the crisis has led to a shift from unsecured financing to secured financing, and it is also a major tool for central banks in their management of monetary policy. So we have been particularly dismayed to see the latest Commission proposal for a Financial Transaction Tax under enhanced cooperation among 11 EU Member States. Irrespective of the political considerations behind such a tax, the fact is that its imposition in its current form would have a dramatic negative impact on the repo market. Hence we believe that repo transactions should be exempted.

Education in all its forms is part of our commitment to restoring trust in the financial markets. This takes the form of round tables, seminars, conferences, member conference calls and other events, as well as more formal courses on the interpretation of our rules, recommendations and standard agreements, and also ICMA Executive Education (ICMA EE). We run ICMA EE jointly with the ICMA Centre, which is part of Henley Business School, and ICMA EE courses are run in many European cities and all over the world. ICMA EE has just appointed a new academic director and a new head of business development, which will enable us to provide an extended service to our members and other market participants. There are courses at all levels – introductory,

core and specialist – and they combine both academic and market input on financial market topics. We regularly review our education offering and adjust where necessary – for example, we recently introduced a one-day “primer” on regulation, which seems to be very popular.

As a concluding comment, ICMA is in robust shape and we will continue to play our part, with the support of our members, in tackling these challenges. Interaction with our members remains at a high level, and our large and broad membership of both buy and sell side, wholesale, and retail financial institutions provides us with a unique forum for engaging on key policy and market practice issues. Our committee structure allows us to hear directly the concerns of the industry and we coordinate and cooperate with other associations as and when needed. Thank you for your support and we look forward to welcoming many of you to our AGM and Conference in Copenhagen.

Cyrus Ardalan

Chairman of the ICMA Board

Martin Scheck

Chief Executive



Quarterly Assessment by Paul Richards

A single European capital market?

It is 50 years this summer since the birth of the Eurobond market, which began by bringing together borrowers and investors – both institutional and retail – through the issue of bonds in US dollars and other freely convertible currencies internationally outside the US in response to the imposition of the Interest Equalisation Tax in the US. Since then, the abolition of exchange controls in Europe, the development of the EU single market in financial services and the introduction of the euro have enabled the domestic and international sectors of the capital market in Europe to become more closely integrated with the objective of creating a single European capital market.

A single European capital market

A single European capital market depends on the integration of national markets across borders, which in turn depends on the provision of equal access for market firms across borders from one national market to another, with any obstacles to equal access being removed.

A convergence in yields across borders does not necessarily imply that national markets are integrated but, if markets are integrated, convergence in yields for similar risks should follow.

A single European capital market does not require that the characteristics of national markets are all the same: for example, national governments in the euro area continue to issue their own debt; and, although there is a single currency in the euro area, other EU countries issue their own national currencies.

Nor does a single European capital market imply that market practice for different classes of financial instruments need be the same: for example, sovereign bonds are generally auctioned and have limited terms and conditions, whereas international corporate bonds are generally syndicated and have more extensive terms and conditions.



A single European capital market would help to finance the recovery.

2 Given the scale of bank deleveraging in response to the international financial crisis over the past five years, the international capital market has a particularly important role to play in financing the economic recovery in Europe from the crisis. A single European capital market would help to finance the recovery, both by increasing competition and efficiency and by reducing the cost of capital for issuers when raising money from investors. This Quarterly Assessment, which covers developments until the end of the first quarter of 2013, considers the extent to which the new regulatory framework in response to the crisis is helping to achieve a single European capital market. Within this regulatory framework, ICMA plays an important role in the international capital market by setting standards of good market practice.

European capital market integration

3 While Monetary Union currently involves the 17 countries in the euro area¹, the single market in financial services is designed to cover the 27 countries in the EU as a whole²; and it also applies to three countries which are not members of the EU but which are members of the European Economic Area (EEA)³.

4 In response to the international financial crisis over the past five years, the EU single market in financial services has changed in two main ways:

- First of all, financial regulation in the EU has become more intrusive in application and broader in scope in an attempt to prevent a repetition of the crisis.
- Second, the euro-area authorities have begun to take steps which are designed to make the euro area much more closely integrated than the rest of the EU.

EU financial regulation

5 In the first case, in response to the crisis, financial regulation – agreed in the EU by the European Commission, European Parliament and the Council of Ministers at *Level 1* – has become more intrusive in application (eg through the imposition of higher capital and liquidity requirements) and broader in scope (eg through its application to a wider range of *financial institutions*) across the EU as a whole. Financial regulation has also become more intrusive in application and broader in scope in relation to EU *financial markets* (eg market issuance, trading, clearing, settlement, collateral and credit ratings). To promote market integration and help ensure a level playing field across the EU as a whole, more new EU financial services legislation at Level 1 takes the form of Regulations, which apply directly in each Member State, and less takes the form of Directives, which need to be transposed by Member States into national law.

6 Under the new institutional structure at *Level 2*, the three European Supervisory Authorities (ESAs) – ie the European Banking Authority (EBA), the European Securities and Markets Authority (ESMA) and the European Insurance and Occupational Pensions Authority (EIOPA) – set regulatory technical and implementing standards at EU level rather than at national level. By establishing a Single EU Rulebook, the ESAs should also help create a single European capital market. However, the process is not straightforward, for a number of reasons:

- The ESAs are not able at Level 2 to resolve political differences which the European Commission, Council of Ministers and European Parliament have not themselves been able to resolve at Level 1. So the ESAs have to work at Level 2 with the consequences of the legislative outcome at Level 1, even when the Level 1 legislation is too detailed to give the ESAs the flexibility they need in setting standards at Level 2. And when framing legislation at Level 2, the Commission is not obliged to accept ESA drafts and technical advice unaltered, though the Commission is transparent when it takes a different course.



The ESAs have to work at Level 2 with the consequences of the legislative outcome at Level 1.

1. This will increase to 18 countries if Latvia is admitted on 1 January 2014.

2. This will increase to 28 countries with the admission of Croatia, which is due on 1 July 2013.

3. Iceland, Liechtenstein and Norway.



The authorities consider that this is a price worth paying, on the grounds that the new regulations will help avoid a repetition of the crisis, but they may also have the effect of delaying the economic recovery.

- EU legislation at Level 2 – to set regulatory technical and implementing standards – does not on its own necessarily ensure consistency and convergence in practice between the approaches taken by different national regulators. So the ESAs supplement their regulatory technical and implementing standards at Level 2 with recommendations and guidelines, under which national regulators are obliged to “comply or explain”, but they are not obliged to follow them.
 - There is an inherent tension in the ESAs’ work at Level 2 between the need to provide clarity and certainty to market firms so that they can implement new legislation, on the one side, and the desire to provide flexibility, on the other side, so as to take account of changes in market structure in future, sometimes in response to the new regulations themselves.
 - Delays in reaching agreement at Level 1 extend the period of uncertainty in the market. They also reduce the time available for the ESAs to set regulatory technical and implementing standards at Level 2, and to give sufficient time properly to consult the market, unless implementation dates are themselves put back. Consulting the market is important, in particular to avoid unintended consequences, including the impact of one regulation on the others.
 - In some cases, new EU legislation is designed to maximise harmonisation and thereby avoid “gold plating” by national authorities. But in others, the standards set are a minimum, allowing Member States to set higher standards of their own at national level, if they wish.
- 7 In addition, the process of creating a single European capital market is by no means yet complete. For example:
- Cross-border bank branching has traditionally been promoted across the EU single market: but, since the crisis, national authorities have increasingly encouraged the foreign branches of banks to become separately capitalised national subsidiaries.
 - In response to the crisis, legislation has been proposed so as to separate trading from banking, or wholesale from retail, activities within banks in the EU (eg in the UK, France and Germany): but the legislation proposed is slightly different, and may diverge further if and when implemented.
 - Wholesale markets are more integrated across the EU than retail markets, which continue to operate largely along national lines: one of the unintended consequences of the EU Prospectus Directive is to make pan-European offerings of debt securities to retail investors relatively expensive to document.
 - The market infrastructure underpinning the securities markets is not yet fully integrated in all EU countries.
- 8 Some of the new EU financial regulations introduced in response to the crisis also have unintended market consequences, or raise new issues which are not yet resolved. For example:
- The new financial regulations are intended to increase market transparency and safety, but may have the unintended consequence of reducing market liquidity. They are also costly for the market to implement, and the costs are likely for the most part to be passed on to customers. The authorities consider that this is a price worth paying, on the grounds that the new regulations will help avoid a repetition of the crisis, but they may also have the effect of delaying the economic recovery.
 - The new central counterparties (CCPs) being set up in response to the crisis so as to make securities markets more resilient also have the effect of creating new financial institutions which are potentially “too important to fail”, however well they are capitalised.
 - It is not always clear where the balance should lie between the provision of market infrastructure as a public good, on the one side, and competition between infrastructure providers, on the other side.

- Similar questions arise about the extent to which corporate tax rates across the EU should be coordinated, and the extent to which it is legitimate for Member States to compete for investment by reducing the rates at which corporates are subject to tax.

Euro-area integration

9 In the second case, the euro-area authorities have responded to the crisis by taking new steps towards the integration of the euro area beyond the original provisions for Monetary Union, under which a single central bank (the ECB) issues a single currency (the euro). In particular, there is now to be a renewed emphasis on:

- fiscal integration in the euro area through the Fiscal Compact, though it has so far been implemented in a flexible way by the European Commission at national level and its enforceability has yet to be tested; and
- European Banking Union (EBU) through the creation of the Single Supervisory Mechanism (SSM), which is to be run by the ECB, though other essential steps towards EBU, including euro-area bank resolution and euro-area retail deposit guarantees, have not so far been agreed.

These proposals all apply to the euro area, not to other countries in the EU, unless they are allowed – and choose – to opt in, as in the case of the SSM.



The international financial crisis has shown that financial market integration in the euro area is not complete.

10 In practice, the international financial crisis has shown that financial market integration in the euro area is not complete. In the run-up to the launch of the euro in 1999 and the subsequent period before the crisis began (in 2007/08), there was a significant convergence in sovereign and other bond yields (eg between Germany and Greece) along the yield curve. But after the crisis began, this trend went into reverse, with increasing market concerns about liquidity risk and solvency risk in the case of some banks and, in the case of some governments, concerns about “convertibility” or “redenomination” risk (ie the risk of the euro area breaking up). The resulting contagion led to fragmentation (or “Balkanisation”) of markets along national lines:

- Many banks were no longer willing to lend to each other on an unsecured basis, particularly across borders, and retreated within national boundaries (ie “home bias”).
- Differences between conditions in national money markets made the transmission of a single euro-area monetary policy difficult.
- Yield differentials on sovereign bonds – eg between peripheral euro-area countries and Germany – increased to levels unprecedented since the launch of the euro.
- The market for the new issue of corporate bonds, particularly in the peripheral countries, and the liquidity available for trading them, dried up.

11 The euro-area authorities responded in three main ways:

- the provision by the ECB of over €1 trillion in Longer-Term Refinancing Operations (LTROs) to the banks in December 2011 and February 2012;
- the announcement by the President of the ECB on 26 July 2012 that “within our mandate, the ECB is ready to do whatever it takes to preserve the euro and, believe me, it will be enough”; and
- the subsequent announcement by the ECB on 6 September 2012 of the Outright Monetary Transactions (OMT) programme to buy in the secondary market the debt of governments in the euro area which have agreed policy conditions with the European Stability Mechanism (ESM).



There may also be longer-term systemic implications from the terms of the official bail-out of Cyprus, if they are intended to set a precedent.

12 There are still a number of market concerns about the outcome. For example:

- The OMT programme has not yet been put to the test; and it is not clear what would happen if the bond yields of a government in the euro area rose to unsustainably high levels, but the government concerned did not have sufficient political support to apply for a bail-out from the ESM, which is currently a precondition for activating the OMT programme⁴.
- The ESM is not yet being used directly to recapitalise banks so as to help break the link between sovereigns and banks under which the bail-out of banks by the sovereign risks bankrupting the sovereign. The Cyprus bail-out involves official loans to the sovereign, while the bank recapitalisation is financed largely by bailing *in* uninsured depositors and bondholders of the Bank of Cyprus, and transferring insured depositors from Laiki Bank and winding it up.
- There may also be longer-term systemic implications from the terms of the official bail-out of Cyprus, if they are intended to set a precedent. It was originally proposed that bank depositors should be subject to a levy, including those with deposits under €100,000, thereby circumventing the provisions of the EU bank deposit guarantee scheme. The original proposal was later amended in the final agreement to include only uninsured deposits (above €100,000) and exclude insured deposits (under €100,000), but the agreement had to be enforced in Cyprus by the imposition of capital controls. Although described as temporary, capital controls are not consistent with the Treaty guarantee on free flows of capital across borders, on any other than an exceptional basis. A euro in a country subject to capital controls is not in practice the same as a euro in a country without them, except in the limited amounts to which the capital controls do not apply.

- Finally, the eventual agreement in Cyprus was only reached after the ECB stated that, if it was not reached by a deadline, ECB approval for emergency liquidity assistance to the banks in Cyprus would be withdrawn. In these circumstances, failure to reach agreement by the deadline would have been likely to lead to the exit of Cyprus from the euro area.

13 In addition, longer-term economic problems remain unresolved, such as persistently low growth and very high levels of youth unemployment. These problems are particularly acute in parts of the euro area because of the loss of competitiveness in the countries on the periphery in comparison with countries in the core. They have increasingly found political expression: eg most recently in the substantial vote against austerity in the Italian elections in February; and a vote in the Cypriot Parliament against the original proposal for a bail-out. There appears to be an element of political frustration that votes at national level do not lead to changes in policy at European level.

14 Even so, the authorities' response to the crisis, led by the ECB, has halted and reversed the process of fragmentation in euro-area financial markets, at least for the time being, by reducing the market's perception of convertibility risk. Some reintegration (ie "contagion in reverse") of euro-area markets across borders has taken place. Since mid-2012, there has also been a sharp drop in yield differentials between peripheral government bonds and German bunds, and Ireland has re-entered the long-term bond market, though the yield differential between bank lending rates to businesses on the periphery of the euro area and the core remains very high; and the banks have begun to repay their LTRO borrowings from the ECB, but these are mainly banks in the core of the euro area so far rather than banks on the periphery. Reintegration is still fragile, as the market response to the Italian elections in late February and the terms of the Cyprus bail-out in March has shown.

⁴ It is possible that the previous ECB Securities Market Programme (SMP) could be reactivated, if necessary, though the ECB's preferred creditor status under the SMP would need to be clarified.

Remaining differences within the EU

15 The consequence of the steps being taken to integrate the euro area has been to accentuate the differences between the euro area, on the one side, and the rest of the EU single market in financial services, on the other. All the institutions overseeing the single market have a remit covering the EU as a whole – the Council of Ministers, the European Parliament, the European Commission and the European Supervisory Authorities. But in response to the crisis, increasingly important decisions have been taken within the EU at euro-area level (eg by the Eurogroup); and euro-area institutions have agreed to take on new responsibilities: eg the ESM for official bail-outs; and the ECB both for the OMT programme and for banking supervision.

Differences within the euro area

16 Within the euro area, some differences remain, partly because the new euro-area architecture is not yet complete; and partly because the response to the crisis has divided the euro area between debtor governments which have been bailed out – Greece, Ireland, Portugal, Spain (for its banks) and Cyprus – on the one side, and creditor governments, which are funding the bail-outs, in whole or at least in a substantial part, on the other side. It is not yet clear whether the bail-outs will enable debtor countries to restore their competitiveness within the euro area, or whether further transfers of resources will be needed from creditor countries to debtors over a long period of time.

17 Even within the euro area, there are also cases of “enhanced cooperation”, where the governments of some countries propose to “move ahead” of others. The European Commission’s proposal in February for a Financial Transaction Tax (FTT) – at a minimum of 0.1% for equities, bonds, UCITS, money market instruments, repos and securities lending agreements, and 0.01% for derivatives – is intended to apply initially only to 11 countries in the EU, all within the euro area. But if agreed, the FTT will have a significant impact on other countries as well, as the proposed tax on financial instruments is intended to apply to all financial transactions with an established economic link to the FTT zone. The test for an established link is based on residence or issuance, regardless of where the transaction takes place, and regardless of the maturity of the financial instrument concerned or the number

of links in a transactions chain, with only public bodies and new issues of capital being exempt.

18 Because the FTT, as currently proposed, takes the form of a flat-rate tax on each transaction, it would fall much more heavily on short-term markets than other markets. And because the proposed impact of the FTT is extra-territorial, it would also depend on third countries to collect it. Among third countries, the authorities in the UK and the US have stated that they are opposed to the Commission’s proposal. There are different views about whether or not an FTT along the lines proposed by the Commission and limited to 11 countries would have the unintended consequence of damaging the EU single market as a whole.

Differences between the euro area and the rest of the EU

19 The governments of countries in the rest of the EU have different approaches to the euro area. In the case of Monetary Union, most are committed formally to join in due course (ie when they meet the convergence criteria for membership of Monetary Union); but the UK and Denmark have formal “opt-outs”, and in practice Sweden is not committed to join. In the case of the Single Supervisory Mechanism, the provisions apply throughout the euro area; other – non-euro area EU members – can opt in, by cooperating with the SSM. Many are expected to do so, but it appears that the UK, Sweden and the Czech Republic are not.



The consequence of the steps being taken to integrate the euro area has been to accentuate the differences between the euro area and the rest of the EU.



Instead of the EU, the predominant body in Europe would in those circumstances eventually become the euro area, if the euro-area authorities succeed in keeping it together.

20 The crisis delayed an expansion in the number of EU countries participating in Monetary Union, not just because candidates did not meet the convergence criteria for joining, but because they became increasingly concerned about the risks of Monetary Union breaking up and the costs associated with trying to prevent this. These risks are now regarded by the market as less likely to be realised than the market expected last year, though the risks have not gone away, as the recent case of Cyprus has demonstrated. The alternative to agreement on the terms of the official bail-out would have been likely to be exit from the euro area, if ECB approval of emergency liquidity assistance had been withdrawn.

21 It remains to be seen whether, and if so how quickly, the growth in the number of EU countries participating in Monetary Union will resume. But if it does, then the vast majority of countries in the EU single market in financial services will eventually also be within the euro area, leaving the UK – and possibly one or two other countries – within the EU single market in financial services but on the outside of the euro area. Instead of the EU, the predominant body in Europe would in those circumstances eventually become the euro area, if the euro-area authorities succeed in keeping it together.

22 Location of financial activity within the single market has become another important question which potentially differentiates the euro area from the rest of the EU. Euro activity in wholesale markets is currently conducted largely outside the euro area in London. Does that put the euro area at risk? Should the market infrastructure for the euro be located only within the euro area? Should an FTT within the euro area have an extra-territorial impact outside the euro area? These continue to be subjects for debate.

23 The growing importance of the euro area within the EU raises new questions about single market decision-making affecting the EU as a whole:

- Most decisions relating to the EU single market in financial services are taken by qualified majority voting (QMV), and some – eg relating to tax – are taken by unanimity. But when the euro area votes as a bloc under QMV, it can often determine the outcome across the EU, unless voting arrangements are changed to protect countries in the EU outside the euro area: eg as proposed under the EBA's double majority voting system. And the proposed FTT, which would need to be agreed unanimously by a limited number of Member States under "enhanced cooperation", would have widespread extra-territorial effects across the rest of the EU.
- Further decisions to integrate the euro area may also in due course require changes in the EU Treaty, though that is not yet clear. In theory, Treaty changes are agreed by unanimity among all 27 countries in the EU, so that one Member State can veto a change in the Treaty. But in practice, if there is not unanimous agreement at 27, special arrangements have on occasion been made in the past with a lesser number.

24 The main difference between EU countries not participating in Monetary Union and countries outside the EU but within the EEA is that only the former are involved in negotiations on new single market measures, which apply to them, while single market measures also apply to the latter as a condition for access to the single market, but non-EU members of the EEA have no say in the negotiations. In the case of Switzerland, which is neither in the EU nor a member of the EEA, bilateral agreements with the EU to gain access to the single market generally have the same effect.

25 The result is that the EU single market is currently a patchwork of "variable geometry", with a common base of EU-wide measures applying throughout the EEA, but with some measures – particularly those relating to Monetary Union – applying only to the euro area; and others – particularly the proposed Financial Transaction Tax – applying at this stage only to part of the euro area, though potentially with an extra-territorial impact. At some point, a new settlement is likely to be needed, with or without a Treaty change, between an inner bloc of countries in the euro area, which may increase if more countries join the euro area and may decrease if one or more countries – for whatever reason – leave the euro

area, and an outer bloc of countries which participate in the single market but not in the euro area.

The EU's global competitiveness

26 There is another important question to be resolved about the extent to which a single market can and should, in one form or another, be extended from the EU to other parts of the world. The EU's most important counterparty for trade in financial services is the US. Trade relations between the EU and the US are complicated, both as regards the extension by regulators of their reach extra-territorially (eg in the case of FATCA in the US and the proposed FTT in the EU), and as regards uneven implementation of regulatory standards. While both the EU and the US are working to implement the G20's global proposals in response to the crisis, they do not always implement them in the same way: for example, EMIR (in the EU) and Dodd-Frank (in the US) differ in important respects; and there are different accounting standards set in the EU (by the International Accounting Standards Board) and in the US (by the Financial Accounting Standards Board).

27 It is therefore significant that a new EU/US trade agreement has been put back on the agenda by President Obama. In the financial services sector, it would be beneficial if this were to focus on ensuring a level playing field for the provision of financial services to customers, through equivalence – and eventually mutual recognition – of each other's regulatory standards, reciprocal market access and the removal of remaining regulatory obstacles. Achieving these objectives would not necessarily imply any change in the overall level of regulatory standards in the EU and the US. It would simply reduce the differences between them.

28 The EU also needs to focus on improving its global competitiveness. This is partly an internal problem of how to reduce costs and increase productivity within the EU single market. But it is also an external problem of how to ensure a level playing field for global competition, not just between the EU and the US, but between the EU and emerging countries, in particular in Asia. Limited progress can be made bilaterally: for example, ESMA has MOUs on cooperation between the EU and a number of third countries. But the greatest potential is multilateral: in particular, IOSCO has a potential role to play in establishing mutual recognition of regulatory standards in securities markets across borders globally. This is part of the broader international agenda, which may also include: removing the remaining trade

and non-trade barriers; setting global standards for corporate income tax rates to reduce the scope for tax avoidance; and ensuring that exchange rates (eg between the euro, dollar, yen and renminbi) are not mis-managed.

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In brief

This Quarterly Assessment has considered the extent to which the regulatory framework is helping to achieve a single European capital market. Within the regulatory framework, ICMA can also help by setting standards of good market practice.

Financial regulation in the EU has become more intrusive in application and broader in scope in an attempt to prevent a repetition of the crisis.

The euro-area authorities have begun to take steps which are designed to make the euro area much more closely integrated than the rest of the EU, accentuating the differences between them.

The result is that the EU single market is currently a patchwork, with a common base of EU-wide measures applying throughout the EEA, but with some measures – particularly those relating to Monetary Union – applying only to the euro area; and others – particularly the proposed FTT – applying only to part of the euro area, though potentially with an extra-territorial impact.

At some point, a new settlement is likely to be needed, with or without a Treaty change, between an inner bloc of countries in the euro area, which may increase if more countries join the euro area and may decrease if one or more countries leave the euro area, and an outer bloc of countries which participate in the single market but not in the euro area.

There is another important question to be resolved about the extent to which the EU single market can and should be extended to other parts of the world.

It is widely accepted that the EU also needs to focus on improving its global competitiveness.

Practical initiatives by ICMA

The purpose of this list is to summarise practical initiatives on which ICMA is currently, or has recently been, engaged with – and on behalf of – our members. (ICMA responses to consultations by regulators are available on the ICMA website.)

Short-term markets

- **The Financial Transaction Tax:** As currently drafted, the European Commission's proposal for a Financial Transaction Tax would have a substantial adverse impact on markets, particularly short-term markets such as the repo market. Led by the ICMA European Repo Council and Committee, which met in Paris on 11 March, ICMA is seeking to explain to the relevant authorities why the structure of the tax needs to be modified.
- **Shadow banking:** ICMA has responded to the shadow banking consultation by the Financial Stability Board, focusing in particular on the paper entitled *A Policy Framework for Addressing Shadow Banking Risks in Securities Lending and Repos*.
- **Financial benchmarks:** ICMA has responded to consultations by ESMA/EBA and IOSCO, focusing on ensuring continuity of contracts, particularly in the case of FRNs.
- **Shortage of collateral:** ICMA is addressing issues relating to the potential collateral shortage with nine other trade associations in the Collateral Initiatives Coordination Forum.
- **ECB COGESI:** ICMA's European Repo Committee is contributing to on-going work on collateral harmonisation led by the ECB's Contact Group on Euro Securities Infrastructure (COGESI): specifically, collateral eligibility requirements; extension of operating hours of (I)CSDs and link arrangements; and minimum common features for CCPs/(I)CSDs' triparty interoperability.
- **ICMA repo survey:** The 24th semi-annual ICMA repo survey, published on 11 March, shows €5,611 billion of repo business outstanding on 12 December 2012, a 0.9% decline since the previous survey in June 2012 and a 9.5% decline from December 2011.
- **Russian repo:** ICMA has finalised and published a Russian Annex to the GMRA (1995, 2000 and 2011 versions), the legal opinion for Russia and a Russian translation of the GMRA 2011.
- **Repo FAQs:** A comprehensive list of FAQs on the repo market, ranging from the simplest enquiries such as "What is a repo?" to more detailed topical discussions on specialist questions, has been made available on ICMA's website.

Primary markets

- **Prospectus Directive and PRIIPs:** In implementing the new Prospectus Directive regime and proposals on PRIIPs, ICMA is working with members to obtain clarity from regulators about how they should be interpreted.
- **ICMA Primary Market Handbook:** ICMA's Primary Market Handbook is undergoing a fundamental review, overseen by a Working Group reporting to ICMA's Legal & Documentation and Primary Market Practices Committees, to ensure that the Recommendations and Guidance reflect current market practice. The structure of ICMA's Primary Market Handbook is also being reorganised so that it follows the timeline of a deal.
- **The ICMA Corporate Issuer Forum (CIF)** is a new ICMA group bringing together large non-bank corporate issuers. The CIF met for the first time in London on 20 March.
- **Asset encumbrance:** ICMA organised a closed meeting, attended by regulators, issuers and investors, on 8 February on transparency models relating to bank asset encumbrance.
- **Collective Action Clauses:** With help from Clifford Chance, ICMA is in the process of updating the Collective Action Clause (CAC) in the ICMA Primary Market Handbook, and drafting a new *pari passu* clause, in response to the Argentinian case.

Secondary markets

- **MIFID II/MiFIR:** Implementing MIFID II/MiFIR will be a substantial undertaking for all ICMA members. ICMA is considering whether to participate in a joint trade association project, supported by Clifford Chance and KPMG, on helping members to implement MIFID II/MiFIR.
- **ICMA Secondary Market Rules & Recommendations:** ICMA's Secondary Market Rules & Recommendations will need to be updated when there is a clear outcome from the EU negotiations currently taking place on MIFID II/MiFIR, which will affect the dealer model, and the CSD Regulation, which will affect the regulation of settlement discipline.

Asset management

- **Private Wealth Management Charter of Quality:** Following the launch of the ICMA Private Wealth Management Charter of Quality with the Private Banking Group of the Luxembourg Bankers' Association (ABBL), and with support for the Charter from the Luxembourg regulator (CSSF), 50 banks in Luxembourg have now signed up to the Charter, among others. The Charter has also been endorsed by other associations in Luxembourg and Liechtenstein, and meetings have been held with a number of associations in other countries.

- **Covered bonds:** 14 national associations have now published their national transparency templates for covered bonds. Some are fully compliant with the Covered Bond Investor Council's (CBIC) template. The CBIC is planning to write to national associations to encourage more of them to publish their national templates, and will analyse the similarities and differences with the CBIC's own template.

Meetings with central banks and regulators

- **ECB:** Martin Scheck, Chief Executive of ICMA, has been invited to join the ECB Bond Market Contact Group, which had its first meeting in Frankfurt in January.
- **ECB:** Benoit Coeuré, Executive Board member of the ECB for Markets, was the guest speaker at an event organised by the ICMA French region in Paris in February.
- **ESMA:** At its meeting at the French Treasury in Paris on 26 February, the Public Sector Issuer Forum had a presentation by, and discussion with, Verena Ross, Executive Director, and Rodrigo Buenaventura, Head of Markets, at ESMA.
- **IMF:** Paul Mills of the IMF spoke and answered questions at ICMA's Regulatory Policy Committee meeting in London on 7 March.
- **DGMARKT:** Chairs and senior representatives of ICMA's Committees had a meeting with Emil Paulis, Head of Financial Markets, and colleagues at DGMARKT in Brussels on 26 March.

Other events

- **Japan Securities Summit:** ICMA organised the Japan Securities Summit, jointly with the JSDA, in London on 5 February.
- **Nordic Capital Markets:** A seminar was held in Oslo on 19 March, jointly with the Nordic Capital Market Forum, on the wave of regulatory reform and its impact on capital markets.

Other initiatives

- **Economic importance of the corporate bond markets:** ICMA has published a short booklet which is designed to explain to legislators and regulators why the corporate bond markets are important for economic growth.
- **Regulatory grid:** An updated version of ICMA's grid of new financial regulations affecting the cross-border securities markets has been posted on a password-protected section of the ICMA website for ICMA members.

Regulatory Response to the Crisis



by David Hiscock

G20 financial regulatory reforms

The FSB met on 28 January 2013 in Zurich and took the procedural steps to constitute itself as a legal entity, as part of its on-going strengthening of its capacity, resources and governance. Discussions at the meeting concerned vulnerabilities affecting the global financial system and progress in authorities' work to strengthen global financial regulation. Topics covered included:

- *OTC derivatives reforms:* members reiterated their strong commitment to the rapid completion of the agreed reforms, and the FSB will submit to the G20 in April 2013 a comprehensive report on implementation. At that time the FSB will also publish a status report on the work to complete the development of international standards and policies, where these remain to be finalised, including on capital requirements for exposures to CCPs, margining for non-centrally cleared transactions, guidance in resolution of CCPs, authorities' access to trade repository data, and aggregation of data across trade repositories.
- *Resolving failing financial institutions:* the FSB's finalised peer review report will be published in April 2013 and will show that, whilst applicable reforms are underway in many jurisdictions, significant work remains. The FSB's work on resolution in 2013 will focus on three main objectives: addressing remaining obstacles to the implementation of resolution strategies for G-SIFIs; launching an effective resolvability assessment process to evaluate the resolvability of all G-SIFIs; and developing guidance for the resolution on non-bank financial institutions.
- *Risk governance:* members approved the February 2013 publication of the FSB's peer review report on risk governance of financial institutions.
- *Accounting:* members asked the IASB and the US FASB to set out by the end of 2013 their plans for achieving convergence on high-quality standards.
- *Shadow banking:* public responses to the FSB's recent consultative documents will be published this week and members endorsed the work plan to develop certain policy recommendations by the St Petersburg G20 Summit in September 2013.



restates the G20's commitment to the full, timely and consistent implementation of the internationally agreed financial sector reforms

- *Long-term investment financing:* members expressed broad support for the FSB's analysis in this area, leading to discussion at the G20 Finance Ministers' and Central Bank Governors' meeting in February 2013.
- *LIBOR and other financial benchmarks:* the FSB will act as a coordinator to ensure that information and knowledge are shared among authorities, and promote the widespread adoption of principles and good practices.
- *LEI:* members welcomed the establishment on 24 January 2013 of the global LEI Regulatory Oversight Committee, which has now taken over the responsibility for the coordination and leadership of the initiative from the FSB.
- restates the G20's commitment to the full, timely and consistent implementation of the internationally agreed financial sector reforms; and in particular tasks the FSB to deliver, by the time of the St Petersburg Summit, an assessment of progress towards ending the problem of "too big to fail";
- stresses that all jurisdictions should promptly complete the necessary changes to their legislative and regulatory frameworks to put the agreed OTC derivative reforms into practice;
- reiterates the G20's willingness to strengthen the oversight and regulation of the shadow banking sector; and
- anticipates more progress on measures to improve the oversight and governance frameworks for financial benchmarks.

A [communiqué](#) was issued following the [meeting of G20 Finance Ministers](#) and Central Bank Governors held in Moscow on 15-16 February 2013. This covers points under the headings of: (i) Global Economy and G20 Framework for Strong, Sustainable and Balanced Growth; (ii) Long-term Financing for Investment; (iii) Government Borrowing and Public Debt Sustainability; (iv) International Financial Architecture; (v) Financial Regulation; (vi) Financial Inclusion; and (vii) Energy, Commodities, Climate Finance.

Concerning some of the specific points on financial regulation, the communiqué:

- welcomes the establishment of the FSB as a legal entity with greater financial autonomy and enhanced capacity;
- a [letter by the FSB Chair](#) to the G20, sent ahead of their meeting, reporting on the good progress being made in financial reforms, including in the following priority areas:
 - creating continuous core markets by completing OTC derivatives and related reforms;
 - strengthening the oversight and regulation of shadow banking;
 - building resilient financial institutions; and
 - ending "too big to fail".

On 16 February 2013, [the FSB Chairman reported](#) to the G20 Finance Ministers and Central Bank Governors on progress in the financial regulatory reform programme; and the FSB published:

REGULATORY RESPONSE TO THE CRISIS

The letter also summarises the FSB's recent work and plans to monitor the implementation of reforms;

- an [assessment of the effect](#) of the G20 financial reform programme on the availability of long-term finance, which has been contributed by the FSB as part of a broader diagnostic report prepared by international organisations to assess factors affecting long-term financing. The FSB assessment concludes that, while there may be short-term adjustment effects, the most important contribution of the financial reform programme to long-term investment finance is to rebuild confidence and resilience in the global financial system; and
- a [joint update](#) by the IASB and the FASB on the status and timeline of their remaining projects on converging their standards.

On 21 March 2013, IOSCO [published a consultation report](#) on *Regulatory Issues Raised by Changes in Market Structure* (with a request for comments by 10 May 2013), which identifies possible outstanding issues and risks posed by existing or developing market structures. The project's scope includes the trading of equities and ETFs on the most common trading spaces, in particular exchanges, ATSs, MTFs and OTC. In the report, IOSCO seeks to gather evidence and views for developing recommendations that promote market liquidity and efficiency, price transparency, and investors' execution quality in a fragmented environment. The report proposes possible policy options and regulatory tools to cope with the potential drawbacks arising from market fragmentation. The report concludes that securities regulators bear the responsibility for striking an appropriate balance between a market structure that promotes competition among markets, and one that minimizes the potentially adverse effects of fragmentation on market integrity and efficiency, price formation, and best execution of investor orders.

On 26 March 2013, the BCBS published a [Proposed Supervisory Framework for Measuring and Controlling Large Exposures](#), requesting comments by 28 June 2013. This proposed new standard aims to ensure greater consistency in the way banks and supervisors measure, aggregate and control exposures to single counterparties. Acting as a backstop to risk-based capital requirements, the new standard would protect banks from substantive losses caused by the sudden default of a counterparty or group of connected counterparties; and would replace the BCBS's 1991 guidance, [Measuring and Controlling Large Credit Exposures](#). The proposal's scope is comprehensive, covering direct exposures to counterparties across all operations and books, as well as exposures to providers of credit protection. By extending the scope of coverage to exposures to funds, securitisation structures and collective investment undertakings, the BCBS seeks to address concerns related to the shadow banking system. The BCBS also aims to limit contagion between G-SIBs by proposing a tighter limit on exposures between them.

As reported in a [1 April 2013 media release](#), Greg Medcraft, Chair of the Australian Securities and Investments Commission, took over as chair of the IOSCO Board at its meeting in Sydney on 21-22 March, succeeding Masamichi Kono of the Japan FSA. Greg Medcraft stated his intention to "ensure IOSCO is proactive and forward-looking in delivering three objectives – working to ensure that globally investors are confident and informed, markets are fair and efficient and reducing systemic risk." The Board also elected Ontario Securities Commission Chairman, Howard I. Wetston, as IOSCO Vice Chair following the retirement of Ethiopis Tafari. The Sydney IOSCO Board meeting covered the following areas:

- *Engagement:* the Board meeting underscored IOSCO's commitment to

improving engagement with industry and the broader IOSCO membership.

- *Cooperation:* IOSCO's on-going commitment to enhancing constructive cooperation across its members was reflected in a number of new initiatives agreed at the meeting.
- *Standard-setting:* the meeting progressed IOSCO's important standard setting work for securities markets, including in respect of financial benchmarks and G20/FSB mandates to repair the financial system.

One point of specific note is that the meeting agreed to establish a new Task Force on Cross-Border Regulation, which will develop a tool box of measures in regulating securities markets activities that cross borders. If appropriate, it will then develop principles to guide the coordinated use of these tools. The tools to be considered may include substituted compliance, mutual recognition and supervisory co-operation. The Task Force's work is intended to help policy makers and member regulators in addressing the challenges they face in regulating cross-border activity.

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European financial regulatory reforms

On 9 January 2013, the Irish [Presidency formally launched](#) its detailed policy programme for its six months in office, *For Stability, Jobs and Growth*. The programme sets out in detail its legislative and other priorities across all formations of the Council of the European Union, with the main priorities summarised under the three heads of: securing stability; investing in sustainable jobs and growth; and Europe and the world.



The Irish Presidency hopes to advance, and in many cases conclude, negotiations on some of the most important dossiers and initiatives currently before EU decision makers.

In practical legislative terms the [Irish Presidency hopes](#) to advance, and in many cases conclude, negotiations on some of the most important dossiers and initiatives currently before EU decision makers. Amongst its stated key priorities two topics of particular note are:

- *Banking Union*: the imperative to break the link between banks and sovereigns was unanimously agreed by European leaders. The Presidency will push for agreement on the Banking Union proposals including the first important step of adopting the SSM, which will open up the way for the ESM to directly recapitalize banks, starting in 2014. Further steps on deposit guarantees and resolution mechanisms will follow.
- *Financial services*: the Presidency will manage the busy financial services agenda. In particular there will be a focus on reaching agreement on MiFID II and MiFIR, which seek to harmonise access to and activity of investment firms. Ireland will also make progress on other dossiers in the consumer area, including the Mortgage Credit Directive.

Within the [programme document](#) itself, the section on *Securing Stability* includes paragraphs with respect to Banking Union; European semester; and EMU – the next steps. The section on *Economic and Financial Affairs* further covers Banking Union; strengthening financial regulation; EU annual budget; taxation; European semester; “six-pack” and “two-

pack” of economic governance legislation; roadmap for the completion of the EMU; and G20 Finance Ministers, Central Bank Governors and Deputies’ meetings.

On 21 February 2013, the EBA [issued a Discussion Paper](#) presenting the methodology and scope of its forthcoming analysis on definitions of highly liquid assets. The proposed methodology is based on a scorecard, which aims at producing an ordinal ranking of assets by combining a set of different liquidity indicators. Following the outcome of the analysis, the EBA will report to the European Commission on appropriate definitions of high and extremely high liquidity and credit quality of transferable assets for the purpose of the LCR. The primary source of data for debt securities is planned to be the transaction reporting databases held by national authorities, which were created due to mandatory reporting requirements under the Markets in Financial Instruments Directive (MiFID). For equities, the EBA’s intention is to confine the analysis to equities inhabiting the main national index in each jurisdiction, and to gather publicly available daily summary data covering the quantitative metrics required by the draft CRR, which in these more transparent markets should have the same data quality attributes as transactional data. For repo transactions and for other asset classes such as gold, the available data sources are fewer, and the EBA therefore seeks advice on the data sources to be

used for these asset classes, in particular.

On the same day, the EBA also published a [Discussion Paper on Retail Deposits subject to Higher Outflows for the Purposes of Liquidity Reporting under the Draft CRR](#), the objective of which is to define the characteristics of retail deposits that can lead to higher outflows and to provide a methodology for calculating higher outflow rates.

On 8 March 2013, the European Commission published a [summary of responses](#) to its 5 October 2012 [consultation on A Possible Framework for the Recovery and Resolution of Financial Institutions other than Banks](#) (ICMA’s response to which was reported on in [Issue 28 of the ICMA Quarterly Report](#)). The Commission services received 67 responses to the consultation, which attracted a wide range of views from stakeholders. The summary aims to provide different interest groups’ views on the three categories of financial Institutions other than banks, as reflected in the consultation: (i) financial market infrastructures; (ii) insurance companies; and (iii) other non-bank entities and institutions.

On 19 March 2013, Commissioner [Barnier issued a statement](#) congratulating the European Parliament and the Council for having reached agreement on a major legislative package, entrusting the ECB with responsibility for the supervision of banks in the framework of the SSM and adapting the operating rules of the EBA to this new framework. The agreement opens the way to a comprehensive and balanced legislative package which, while granting the ECB responsibility for all banks in the euro area, establishes a clear division of tasks between national supervisors and the ECB. In addition, the agreement protects the integrity of the single market, not only because the SSM is open to Member States outside the euro area, paving the way to an enlarged Banking Union, but

also because it confirms the role of the EBA by strengthening its powers. The agreed text also establishes rules on the governance and responsibility of the ECB which ensures a strict separation between its supervisory tasks and its monetary policy functions; and foresees appropriate mechanisms to strengthen the democratic responsibility of the ECB for its supervisory activities.

On 5 March 2013, the [ECOFIN Council broadly endorsed](#) the outcome of the most recent political Trilogue with the European Parliament on the so-called “CRD IV” package amending the EU’s rules on capital requirements for banks and investment firms. On that basis, it mandated the Permanent Representatives Committee (COREPER) to finalise negotiations with the Parliament on outstanding technical issues, with the aim of reaching a final deal. Subsequently, on 27 March 2013, [COREPER approved a compromise text](#) for the CRD IV package, although only on a QMV basis (the UK did not support the compromise texts). The agreed drafts will be sent to the European Parliament, where a plenary debate and vote is anticipated on 17 April 2013. If the Parliament approves the texts as agreed,

the Council will then also approve them without further discussion. These new rules will apply from 1 January 2014, so long as publication takes place in the *Official Journal* by 30 June 2013.

The proposals set out to amend and replace the existing Capital Requirement Directives by two new legislative instruments: a Regulation (CRR) establishing prudential requirements that institutions need to respect; and a Directive (CRD) governing access to deposit-taking activities. They are aimed at transposing the “Basel III” agreement, as concluded by the BCBS, into EU law. In particular, the CRR introduces new capital requirements, including a leverage requirement, and liquidity requirements. CRR also grants national flexibility to impose, for up to two years (extendable), stricter macroprudential requirements for domestically authorised financial institutions in order to address increased risks to financial stability. Within CRD there are, *inter alia*, provisions concerning capital buffers; bankers’ bonuses; and governance and transparency.

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The EBA will report to the European Commission on appropriate definitions of high and extremely high liquidity and credit quality of transferable assets for the purpose of the LCR.

IMF EU FSAP note on ESMA

On 15 March 2013, the IMF published a [Technical Note on ESMA](#), developed in the context of the [EU Financial Sector Assessment Program \(FSAP\)](#) it has performed. In brief, the recommendations and conclusions stated in the note are as follows:

- In the context of the upcoming review to be conducted by the European Commission, governance arrangements should be evaluated and if necessary further enhanced.
- From a transparency perspective, more engagement with the stakeholders group in connection with the work plan can be explored.
- It would be useful to review the funding structure and more generally the budget process.
- In this context, it would be important to review also the current role of the European Commission in the approval of the ESAs' budget.
- ESMA is building a strong institution with adequate expertise.
- However, ESMA needs more resources to carry out all its functions effectively.
- Recruitment policies should be monitored to determine whether they pose any risk to ESMA's ability to attract and retain qualified staff.
- Over the next couple of years, ESMA needs to finalize the implementation of its risk-based supervisory approach for CRAs.
- It is important also that ESMA keeps close coordination with the NCAs.
- Oversight mechanisms have struck the right balance on the role that the Board of Supervisors should play in connection with CRA supervision.
- As part of the review of the ESAs to be conducted by the European Commission, the mission recommends that the enforcement framework for CRAs be reviewed.
- Projects under way will allow ESMA to make a qualitative jump in its contribution to financial stability and crisis management, provided that it has access to data.
- It is important that the Board of Supervisors takes a more active responsibility in risk identification and monitoring.
- The mission is concerned with the use of direct powers on short-selling.
- Work on developing a framework for crisis scenarios appears to be shaping up well.
- *Prima facie*, the European Commission's authority to make changes to the technical standards could be troublesome; however, the procedure is subject to high transparency.
- Going forward, it is important that ESMA be given sufficient time to deliver on its regulatory obligations.
- The mission concurs with the Chair that supervisory convergence is the area where ESMA's efforts must be intensified.
- Reengineering and strengthening peer reviews would be essential to step up work on supervisory convergence.
- As a principle, it is also important that NCAs take the necessary steps to ensure that ESMA's opinions and guidelines are enforceable in their respective jurisdictions.
- The emphasis on product monitoring is warranted and the consumer trends data project would be key to make a qualitative jump in this area.
- The mission considers that the granting of product intervention powers to ESMA is a good development.
- The Joint Committee needs to adapt to the changing role of the different ESAs.
- Cross-sectoral work on risk assessment has proven challenging.

Furthermore, the note indicates that looking ahead:

- It is important that the authorities develop a framework for ECB cooperation with ESMA in the context of the proposed Banking Union and the ECB's new supervisory role.
- As stated in the technical note on CCPs, ESMA needs to build its expertise in the new functions assigned to it by EMIR.
- The mission agrees with ESMA's Chair that in the short term is not desirable to assign additional direct supervisory functions to ESMA beyond those already included in EMIR; but in the medium term, it would be worth exploring whether further centralization of supervisory functions in ESMA is desirable.

IMF EU FSAP Technical Notes on [EBA](#) and on [EIOPA](#) have also been published.

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Only the Member States participating in enhanced cooperation will have a vote; and they must agree unanimously before it can be implemented.

Financial Transaction Tax

As reported in [Issue 28 of the ICMA Quarterly Report](#), 11 EU Member States (Austria, Belgium, Estonia, France, Germany, Greece, Italy, Portugal, Slovakia, Slovenia and Spain) aim to introduce a common FTT on the basis of “enhanced cooperation”. The European Parliament [gave its consent](#) to this course of action on 12 December 2012 and then on 22 January 2013 the European Council [adopted a decision](#) authorising the eleven Member States to proceed. This decision was taken, by qualified majority, at a meeting of the ECOFIN Council (the Czech Republic, Luxembourg, Malta and the UK abstained).

Proposed details of the FTT to be implemented under enhanced cooperation were then set out by the Commission, on 14 February 2013. The full set of officially published documentation in respect of the Commission’s updated FTT proposal comprises the following: (a) [press release](#); (b) [questions and answers](#); (c) [the proposal](#); (d) [the impact assessment and its summary](#); and (e) [a presentation](#).

This proposed Directive will now be discussed by Member States, with a view to its implementation under enhanced cooperation. All 27 Member States may participate in the discussions on this proposal, however, only the Member States participating in enhanced cooperation will have a vote; and they must agree unanimously before it can

be implemented. It remains open for any other Member States to join in if they wish. The proposal foresees the FTT Directive for the 11 Member States entering into effect on 1 January 2014, but this obviously depends on agreement being reached on the proposal in time to respect this proposed implementation date. The European Parliament and the European Economic and Social Committee and National Parliaments will also be consulted; and national transposition will be needed.

This proposal very much reflects the Commission’s [original FTT proposal](#) (made in September 2011) in terms of scope and objectives. Any changes serve one of two purposes: either to provide more legal clarity, where it was seen to be necessary, or to reinforce anti-abuse and anti-avoidance provisions, as the 11 participating Member States had requested. The main changes are as follows:

- An issuance principle has been added as an anti-avoidance measure; and a general and a specific anti-abuse clause have also been added to the proposal.
- Member States and other public bodies, when managing public debt, are now explicitly excluded from the scope of the Directive.
- ECB, EFSF and ESM are now explicitly referred to as being exempt from FTT.
- Exchanges of financial instruments will now be considered as two transactions

for tax purposes, while repurchase and reverse repurchase agreements and securities lending and borrowing will be regarded as only one transaction, as they are economically equivalent to a (single) credit operation.

- The issuance of shares and units in collective investment funds and restructuring operations are now also excluded from the scope.

Before the Commission proposed that the 11 Member States should be allowed to move ahead with FTT through enhanced cooperation, it carried out careful assessment that the criteria set out in the Treaties were met. Among these criteria was the stipulation that there should be no negative effects arising from enhanced cooperation on the obligations, rights and competences of the non-participating Member States, nor any competitive or other distortions for the Single Market. The Commission’s analysis had positive conclusions on all these aspects. When applied by the 11 Member States, the Commission expects this FTT to deliver revenues of €30-35 billion a year.

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Macroprudential regulation

Post-crisis the international community is giving an increased focus to financial stability analysis. With the increasing need for data sets to undertake this analysis, the question naturally arises as to what types of data are needed? While various data initiatives are underway, two at the forefront are the IMF/FSB G20 Data Gaps Initiative (DGI) and the new Special Data Dissemination Standard Plus (SDDS Plus), aimed particularly at economies with systemically important financial sectors. An IMF [staff working paper](#), published on 11 January 2013, explains the relevance of the DGI for financial stability analysis and the close link with the SDDS Plus. The



Euro-area funding markets were severely disrupted by adverse feedback effects between the weaknesses of sovereigns and banks.

importance of the SDDS Plus in promoting the dissemination to the public of a core set of data for financial stability analysis is emphasized.

The Steering Committee of the Vienna 2 Initiative [met in Vienna on 14 January 2013](#) to discuss deleveraging trends, asset quality, and next steps towards a Banking Union in light of the EU Council's decisions in December 2012. On 18 January 2013, the Steering Committee of the Vienna 2 Initiative [submitted observations](#) on cross-border resolution to a number of European authorities. These observations focused on critical aspects of home-host cooperation, which are of particular importance for countries in Central, Eastern, and South-Eastern Europe (CESEE), where locally systemic affiliates of foreign banks operate. The observations reflect points based on the principle that actions taken by authorities in one country should not lead to financial instability in another country.

The [Interaction of Monetary and Macroprudential Policies](#) is a December 2012 IMF Board paper which was made public on 4 February 2013. This paper examines the conduct of both monetary and macroprudential policies in the presence of interactions. In addressing these issues, the paper builds on other work, a review of the growing literature, and is part of a larger effort. To ensure macroeconomic stability, policy has to include financial stability as an additional objective. But a new objective demands new tools: macroprudential tools that can target specific sources of financial

imbalances (something monetary policy is not well suited to do). Effective macroprudential policies (which include a range of constraints on leverage and the composition of balance sheets) could then contain risks *ex ante* and help build buffers to absorb shocks *ex post*. The IMF has also published a paper of [supporting background material](#).

On 6 February 2013, the BIS published a working paper, [Understanding Global Liquidity](#). This paper explores the concept of global liquidity based on a factor model estimated using a large set of financial and macroeconomic variables from 24 advanced and emerging market economies. Global liquidity conditions are measured based on the common global factors in the dynamics of liquidity indicators. The results presented suggest that global liquidity conditions are largely driven by three common factors and can therefore not be summarised by a single indicator. These three factors are identified as global monetary policy, global credit supply and global credit demand.

On 7 February 2013, the [BIS published an article](#) entitled *International Financial Markets and Bank Funding in the Euro Area: Dynamics and Participants*. This investigates the development of bank funding in the euro area in recent years, analysing how euro-area funding markets were severely disrupted by adverse feedback effects between the weaknesses of sovereigns and banks. These were reflected, for example, in important adjustments in funding provided by international banks and US money

market funds and in a growing recourse to secured instruments such as covered bonds. The article concludes that funding structures that seem stable in normal times can turn highly unstable during episodes of financial market stress.

On 14 February 2013, [ESMA published its first report](#) on trends, risks and vulnerabilities in EU securities markets and a risk dashboard for the fourth quarter of 2012. The report looks at the performance of securities markets in 2012, assessing both trends and risks in order to develop a comprehensive picture of systemic and macro-prudential risks in the EU that can serve both national and EU bodies in their risk assessments. As part of its on-going market surveillance, ESMA will update its report semi-annually, complemented by its quarterly risk dashboard. By regularly looking into cross-border and cross-sector trends and risks both at the wholesale and retail level, ESMA's report will contribute to promoting financial stability and enhancing consumer protection.

The report finds that EU securities markets and investment conditions in the EU improved in 2012, especially in the second half of the year; while systemic risk in EU securities markets decreased in the fourth quarter. The report identifies the following key trends in EU securities markets:

- *Securities markets*: after a volatile first semester, financial market conditions in 2012 improved due to the ECB's OMT announcement. However, sovereign bond markets continue to struggle.
- *Collective investments*: asset managers benefited from easing markets (with total net asset values up to €8 trillion, compared to €7.4 trillion in 2011). Main beneficiaries were bond, hedge, real estate and exchange-traded funds. Overall, however, fund inflows remained volatile.
- *Market infrastructures*: trading on EU venues significantly decreased in 2012. The use of Central Counterparties

(CCPs), however, increased: 60% of worldwide interest rate swaps are now centrally cleared, and 10% of CDSs.

In addition to market trends and risks, ESMA monitors on an on-going basis market developments which may be considered as representing possible vulnerabilities. ESMA's 2012 report focuses on:

- *Collateral concerns in financial markets:* the collapse of unsecured markets during the financial crisis, as well as regulatory initiatives, have led market participants to rely increasingly on collateral as a means of mitigating counterparty risk, stimulating the demand for collateral. Additional demand for collateral will exceed the additional supply of collateral in 2013-2014, making collateral comparatively scarcer.
- *Hedge funds and prime brokers:* financial intermediation provided by hedge funds and prime brokers may be vulnerable to any negative impacts on the price of assets pledged as collateral, which may lead to scarcer collateral, reducing liquidity and ultimately hamper repo financing.

On 18 February 2013, Mario Draghi, in his capacity as Chair of the ESRB, attended a hearing at ECON. In [his introductory statement](#) he firstly commented on the ESRB's assessment of the current situation with respect to systemic risk,

noting the improvement in financial market conditions in recent months. Challenges remain, however, and the ERSB believes that addressing these in a decisive and sustainable manner is a prerequisite for ensuring a more resilient financial system that is capable of supplying the financial services to support economic activity. From a macroprudential perspective, this includes:

- (i) supporting growth-enhancing reforms that help fuel virtuous macrofinancial dynamics;
- (ii) continuing efforts to clean up banks' balance sheets, based on a transparent and consistently applied prudent valuation of banks' assets and reinforced by a coordinated asset quality review to ensure consistency across the EU, possibly under the lead of the EBA;
- (iii) closely monitoring the potential build-up of fragilities in credit markets, with a view to strengthening the financial system's resilience in the event of a downturn, including through adequate shock-absorbing buffers; and
- (iv) intensifying the monitoring of bank funding risks.

Elaborating on this last point, Mario Draghi then turned to two newly [published ESRB recommendations](#): (a) *ESRB Recommendations on Bank Funding*; and (b) *ESRB Recommendations on Money Market Funds* (as further discussed in

the ECP market section of this Quarterly Report).

[Rules, Discretion, and Macroprudential Policy](#) is an IMF staff working paper, published on 8 March 2013, which examines the implementation of macroprudential policy. Given the coordination, flow of information, analysis, and communication required, macroprudential frameworks will have weaknesses that make it hard to implement policy. And dealing with the political economy is also likely to be challenging. But limiting discretion through the formulation of macroprudential rules is complicated by the difficulties in detecting and measuring systemic risk. This paper suggests that oversight is best served by having a strong baseline regulatory regime on which a time-varying macroprudential policy can be added as conditions warrant and permit.

On 8 March 2013, the [BIS published a working paper](#) entitled *Financial Crises and Bank Funding: Recent Experience in the Euro Area*. This paper provides an overview of bank funding trends in the euro area following the 2007-09 global financial crisis and the euro-area crisis. It shows that funding has become segmented along national borders and that secured instruments are much more prevalent than previously. Furthermore, rising debt retention by euro-area banks has accompanied greater dependence on liquidity provided by the ECB.



Additional demand for collateral will exceed the additional supply of collateral in 2013-2014, making collateral comparatively scarcer.



New tougher credit rating rules, which had already been provisionally agreed with the European Council, were confirmed by the European Parliament's plenary vote.

On 15 March 2013, the IMF published a [Technical Note on Macprudential Oversight and the Role of the ESRB](#), which was developed in context of the [EU FSAP](#) which it has performed. In brief, the recommendations and conclusions stated in this note are as follows:

- Macroprudential policy toolkits should be applicable not only for the upturns but also for the downturns of economic cycles.
- Within the Banking Union, the ECB should have macroprudential powers, because a strong monetary policy and macroprudential policy framework can be mutually reinforcing and the ECB is well placed to have an integrated approach to systemic risk identification.
- The ESRB should remain responsible for the macroprudential oversight at the EU level and must have a clear mandate and legal powers to be effective.
- The coordinating role of ESRB should be further enhanced, through closer cooperation with the ESAs and the ECB as the single supervisor for the Banking Union.
- The use of macroprudential instruments at national level would need to be consistent with the overall objective of the internal market (more specifically, the free movement of services and capital) while protecting financial stability.

At its [21 March 2013 meeting in Frankfurt](#), the ESRB General Board concluded that, despite improved financial market conditions, strengthening the

EU's financial system is needed for a sustainable recovery. Further efforts to boost confidence in banks' balance sheets are central to ensuring the supply of credit to the real economy. The General Board also noted the challenges faced by many insurers in a prolonged low-yield environment; and discussed the on-going work towards a more comprehensive framework for macroprudential policy in the EU. The ESRB shares the Eurogroup's view on the importance of fully guaranteeing deposits below €100,000 across the EU, noting that increased legal certainty for bank creditors regarding the priority of their claims would reinforce the resilience of the financial system. The ESRB also published the third issue of its risk dashboard, which is a set of quantitative and qualitative indicators of systemic risk in the EU financial system.

The ESRB considers that a sound policy framework is essential for the effective conduct of macro-prudential oversight both at national and EU level. The ESRB has made important progress towards a comprehensive framework linking the preservation of financial stability – the ultimate objective of macroprudential policy – to a set of intermediate objectives (eg mitigating excessive credit flow fluctuations), and an indicative set of macroprudential instruments to achieve these objectives (eg counter-cyclical buffers).

On 28 March 2013, the ESRB published its [5th macroprudential commentary](#) under the title of *European Banks' Use of US dollar Funding: Systemic Risk Issues*.

This outlines developments in European banks' use of US dollar funding prior to and during the crisis, the systemic risks associated with that use and the measures taken to reduce those systemic risks. Those measures include the recommendations made by the ESRB in 2011, which focused on monitoring the use of US dollar funding and assessing the effectiveness of banks' contingency funding plans in the event of a shock to their US dollar funding, both for individual banks and for the sector as a whole.

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Credit Rating Agencies

On 16 January 2013, new tougher credit rating rules, which had already been provisionally agreed with the European Council, were [confirmed by the European Parliament's plenary vote](#). These new rules concern when and how Credit Rating Agencies (CRAs) may rate state debts and private firms' financial health. They will allow CRAs to issue unsolicited sovereign debt ratings only on set dates; and enable private investors to sue them for negligence. To reduce conflicts of interest, CRAs' shareholdings in rated firms will be capped. To ensure that ratings are clearer, CRAs will be required to explain the key factors underlying them. Ratings must not seek to influence state policies; and CRAs themselves must not advocate any policy changes.

On 23 January 2013, ESMA published its [2013 CRA Supervision and Policy Work Plan](#). In the work plan, ESMA sets out the key elements of its supervisory programme for the 19-registered CRAs and 1 certified CRA (a [further CRA was certified](#) with effect from 20 March 2013) in the EU. Key areas of supervisory focus will be thematic reviews on the rating processes for structured finance products ratings and sovereign credit ratings; raising standards

of compliance with the obligations of the CRA Regulation; ensuring small and medium-sized CRAs meet the required standards; and policing the perimeter. The bulk of ESMA's policy work will be driven by the new CRA III legislation, in particular producing the draft RTSs regarding the development of the European rating platform, the fees charged by CRAs to their clients, and the new provisions on the transparency requirements for structured finance ratings; and implementing the new supervisory tasks on the prevention of conflicts of interest regarding CRAs' significant shareholders and the new provisions for sovereign debt ratings.

On 18 March 2013, ESMA published its [second Annual Report](#) on its supervision of CRAs in the EU. The report summarises the supervisory work undertaken by ESMA, during 2012, in ensuring that CRAs complied with the CRA Regulation. It includes details on ESMA's supervisory, registration, and policy work; and focuses on its investigation into bank rating methodologies and the follow up work to the March 2012 report on deficiencies in CRAs rating processes, governance and control mechanisms. ESMA has identified progress by CRAs in their activities. However, the report finds that CRAs have not sufficiently embedded the main requirements of the CRA Regulation in their organisations. ESMA believes that improvements are still necessary in the following areas:

- the consistent application and comprehensive presentation of rating methodologies;
- the empowerment and resourcing of analytical and control functions;
- the monitoring and surveillance of ratings; and
- the reliability of IT infrastructures.

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OTC (derivatives) regulatory developments

On 8 January 2013, the IMF published a staff working paper, [Capital Requirements for OTC Derivatives CCPs](#). Employing methodologies similar to the calculation of banks' capital requirements against trading book exposures, this paper assesses the sensitivity of CCPs' required risk buffers, or capital requirements, to a range of model inputs. They are found to be highly sensitive to whether key model parameters are calibrated on a point-in-time versus stress-period basis, whether the risk tolerance metric adequately captures tail events, and the ability (or lack thereof) to define exposures on the basis of netting sets spanning multiple risk factors. The results suggest that there are considerable benefits from having prudential authorities adopt a more prescriptive approach for CCPs' risk buffers, in line with recent enhancements to bank capital.

On 15 February 2013, the BCBS and the IOSCO [published a second consultative paper](#) which represents a near-final proposal on margin requirements for non-centrally-cleared derivatives. The proposed requirements would allow for the introduction of a universal initial margin threshold of €50 million, which quantitative impact study (QIS) results indicate could reduce the total liquidity costs by 56% relative to a margining framework with a zero initial margin threshold. The requirement to collect and post initial margin on non-centrally cleared trades is proposed to be phased in over a four-year period beginning 2015 and begin with the largest, most active and most systemically risky derivative market participants. The proposal takes account of the 2012 QIS results, a public summary of the results of which is included in Appendix C of this consultative paper.

Public comments were sought by 15 March 2013 on the near-final proposal; and feedback was specifically solicited on the following four issues:

- the treatment of physically-settled foreign exchange forwards and swaps under the framework;
- the ability to engage in limited re-hypothecation of collected initial margin;
- the proposed phase-in framework; and
- the adequacy of the conducted QIS.

The Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, CCPs and TRs (EMIR) entered into force on 16 August 2012. The Commission Delegated Regulations (EU) No 148/2013 to 153/2013 of 19 December 2012 supplementing EMIR were published in the *Official Journal* on 23 February 2013 and entered into force on 15 March 2013. ESMA has published an [information page on EMIR](#), providing access to the key documents and information about the regulation. This includes Q&As on EMIR implementation, which were published by ESMA on 20 March 2013 in order to promote common supervisory approaches and practices in the application of EMIR across the European Union. The Q&As provide responses to questions posed by the general public, market participants and competent authorities in relation to the practical application of EMIR. The content is aimed at competent authorities to ensure that their supervisory activities are converging along the lines set out in ESMA's responses, but it should also help investors and other market participants by providing clarity on EMIR's requirements.

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by David Hiscock

Short-Term Markets

European repo market

FTT: As more fully described elsewhere in this Quarterly Report, [proposed details of the FTT](#) to be implemented under enhanced cooperation were set out by the European Commission on 14 February 2013. It is explicitly stated that repo-type transactions are financial transactions for the purposes of the proposed FTT, Article 2 1.(2)(e) specifically referring to “a repurchase agreement, a reverse repurchase agreement, a securities lending and borrowing agreement”. Notwithstanding however that a repo in fact comprises two transactions (ie both a sale and a later repurchase), Article 2 2. states that the operations referred to in point (e) of paragraph 1(2) “shall be considered to give rise to a single financial transaction.”

The rationale for this exceptional treatment of repos as only a single transaction for FTT purposes is given in Recital (5), which states: “In principle, each transfer agreed upon, of one or more financial instruments, is linked to a given transaction which in turn should be subject to FTT on account of such agreed transfer. Since an exchange of financial instruments gives rise to two such transfers, each such exchange should be considered as giving rise to two transactions, so as to avoid circumvention of the tax. By way of repurchase

and reverse repurchase and securities lending and borrowing agreements, a financial instrument is put at the disposal of a given person for a specified period of time. All such agreements, as well as their material modification, should therefore be considered as giving rise to one transaction only.” This is also explained in the fourth paragraph of section 3.3.2, within the text of the explanatory memorandum.

Nevertheless, there will be two FTT charges if both parties to a repo are subject to the tax, which applies to a widely defined set of financial institutions if at least one of the principals in the transaction is established in the FTT area. Establishment is very widely defined and even if all the tests for it are failed the “issuance principle” will still capture transactions in any financial instrument issued in the FTT zone.

But even in case we consider the incidence of a single FTT charge of 0.1% of principal applying to a repo, the proposed fixed-rate FTT charging basis will make such short term, low margin financing activities uneconomic. At the shortest end of the repo maturity spectrum there are overnight transactions, which over the course of roughly 250 business days in a year would, if transacted daily, attract an effective tax rate of 25% (ie 0.1% x 250). Self-evidently this is an unbearable level of cost, but even for repos over longer



If the FTT on repo transactions (which facilitate collateral being available where it is needed) goes ahead, the feared regulatory collateral crunch will become a far greater problem.

terms than overnight the tax rate will still typically prove uneconomic as repo spreads are only earned on a *per diem* basis.

This latest FTT proposal comes at a time when the BCBS has guided interbank lending transactions away from an unsecured to a secured basis and when wholesale market participants, together with the central bank community, have moved to the repo market because it is the safest way of distributing liquidity throughout the European banking system. The FTT proposals to tax repo transactions [put the economic viability of repo, including triparty, transactions at significant risk](#), which will lead to less liquidity provision to the real economy.

The FTT proposals also put at risk the implementation of EMIR, which requires the use of collateral for centralised and bilateral clearing. As ESMA highlighted upon release of its first EU securities markets risk report on 14 February 2013: the collapse of unsecured markets during the financial crisis, as well as regulatory initiatives, have led market participants to rely increasingly on collateral as a means of mitigating counterparty risk, stimulating the demand for collateral. Additional demand for collateral will exceed the additional supply of collateral in 2013-14, making collateral comparatively scarcer. If the FTT on repo transactions (which facilitate collateral being available where it is needed) goes ahead, the feared regulatory collateral crunch will become a far greater problem.

Shadow banking: On 30 May 2012, the ERC submitted [its response](#) to the European Commission's [Green Paper on Shadow Banking](#). On 20 December 2012, the European Commission published [a summary](#) of the 140 [responses which it received](#). Of particular note for the ERC, the Commission's executive summary states that: "On securities lending and repurchase agreements respondents argued for a holistic regulation addressing directly the issue

of increased leverage but expressed also concerns regarding haircut requirements due to the potential risk of increased pro-cyclicality. Instead, the generation of "safe assets" would be critical, as some respondents stressed." A Communication by the European Commission is planned to be published in May 2013; and will provide further details regarding areas for which legal proposals might be developed and their respective timing.

As reported in [Issue 28 of the ICMA Quarterly Report](#), in its [18 November 2012 press release](#) the FSB announced the release of a set of three further consultation papers, for comment by 14 January 2013, which relate to its on-going work on shadow banking. The ERC duly [submitted its response](#), focusing in particular on the FSB paper entitled [A Policy Framework for Addressing Shadow Banking Risks in Securities Lending and Repos](#). To complement this written process, the FSB organised a 29 January meeting of its workstream on securities lending and repos, hosted by the Federal Reserve Bank of New York. Industry participants were invited to join discussion sessions on repo markets; securities lending markets; and prime brokerage. The ERC Chairman attended the first two of these industry discussion sessions and described key points from the ERC's written response paper. In light of all this input, the FSB is continuing its work to agree final recommendations ready for delivery in September 2013.

In summary, key points in the ERC's response are:

- *Trade repository:* the ERC supports the move towards improved transparency; and it is already actively engaged in on-going work with the ECB/ Bank of England that will aggregate numbers for European markets;
- *Mandatory minimum haircuts:* the ERC disputes much of the case for mandatory minimum haircuts.



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Application of a minimum standard methodology for repo business executed outside the regulated interbank sector may have a place but should not be over-prescriptive so as to allow firms to manage counterparty and collateral risk accordingly;

- *Repo margin standards*: the ERC supports good standards and published its own revised [Repo Margining Best Practices](#) in 2012; and
- *Re-hypothecation*: as a general matter for repo, the ERC strongly considers that the use of collateral should not be restricted. For the specific and limited case of re-hypothecation of client assets, the ERC accepts the case for additional requirements to be imposed.

On 14 February 2013, the ECB published a bulletin article, [Enhancing the Monitoring of Shadow Banking](#), section #4 of which addresses the topic of

“Enhancing the transparency of repos and securities lending” and section #5 of which describes the “Main benefits and challenges of establishing a trade repository for repos in the EU”. Then on 18 March 2013 the ESRB published an occasional paper entitled [Towards a Monitoring Framework for Securities Financing Transactions](#). The paper is a contribution to the current policy debate on how to improve the information on repo and securities lending – collectively, securities financing transactions (SFTs) – markets. The main conclusion is that, to the extent that it is compatible with market practices, a trade repository for collecting transaction-based data (whether this should be trade by trade or exposure data is stated to be beyond the remit of the paper) on SFTs would be ideal from a supervisory perspective.

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2013 ICMA GMRA legal opinions update

The 2013 [ICMA GMRA legal opinions](#) update will shortly conclude with updates of each of the 2012 legal opinions being obtained in over 60 jurisdictions. ICMA is the sole provider of industry standard opinions on the GMRA 1995, 2000 and 2011 versions, as well as the 1995 version as amended by the Amendment Agreement to the 1995 version and the 1995 and 2000 versions as amended by the 2011 ICMA GMRA Protocol. The 2013 GMRA opinions have been obtained by ICMA for the benefit of ICMA and its members (excluding associate members). The

2013 GMRA opinions cover both the enforceability of the netting provisions of the GMRA as well as the validity of the GMRA as a whole. Furthermore, the opinions address the issue of re-characterisation risk (in respect of both the transfer of securities and the transfer of margin). While all 2013 GMRA opinions cover, as a minimum, companies, banks and securities dealers, the opinions for 35 jurisdictions additionally cover insurance companies, hedge funds and mutual funds as parties to the GMRA.

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24th European repo market survey

ICMA's European Repo Council released the results of its [24th semi-annual survey](#) of the European repo market on 11 March 2013. The survey, which measures the amount of repo business outstanding on 12 December 2012, sets the baseline figure for market size at €5,611 billion. This figure shows a 0.9% decline in the size of the market since the previous survey in June 2012 and represents a 9.5% reduction of repo business since the December 2011 survey.

Analysis of a constant sample of survey respondents, using only the figures for the banks that participated in the last three surveys, reveals a more marked decline in market size of 6.6% since June 2012 and an 11.9% year-on-year contraction. Continued weakness in the market is thought to reflect the effect of the ECB's Longer-Term Refinancing Operations (LTRO) liquidity, which has meant that banks have been able to decrease their reliance on funding from repo operations in the market. However, the size of the market remains well above the trough recorded in the December 2008 survey (€4,633 billion).

The other key findings of the survey can be summarised as follows:

- The share of government bonds within the pool of EU-originated collateral reached a high of 81.3%, reflecting greater availability of core euro-area government bonds and particularly of German government bond collateral, as investors stopped

hoarding "safe haven" assets such as German government bonds following the improvement in market sentiment that followed the announcement of the OMT programme in September.

- The share of transactions with more than one year to maturity decreased sharply from 13.3% in the June survey to 5.9%, suggesting that this form of longer-term financing has been substituted by access to the three year LTROs.
- The share of all CCP-cleared repos (which includes those transacted on an ATS and automatically cleared across a CCP, but also those transacted directly with a counterparty or via a voice-broker, and then registered with a CCP post trade) rebounded sharply to 31.7% from 26.1%, close to the high of 32.0% reported in December 2011.
- The share of transactions in the survey conducted electronically was broadly unchanged since the previous survey at 32.8%, but the share of voice brokers continued its apparent downward trend.

All firms transacting repo business in Europe are welcome to participate in the survey. The next survey will take place on 12 June 2013.

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ECP market

FTT: As more fully described elsewhere in this Quarterly Report, [proposed details of the FTT](#) to be implemented under enhanced cooperation were set out by the European Commission on 14 February 2013. Article 3, point 4(a) of the [Commission's FTT proposal](#) states that:

"This Directive shall not apply to the following transactions:

- (a) primary market transactions referred to in Article 5(c) of Regulation (EC) No 1287/2006, including the activity of underwriting and subsequent allocation of financial instruments in the framework of their issue".

The way in which this origination exemption is drafted appears to link specifically to the MiFID concept of transferable securities, which are distinct from money market instruments. Technically speaking it therefore seems that, as drafted, ECP origination may not be covered. In theory, that should not be a problem, as the FTT proposal is specifically stated to be subject to the Capital Duties Directive 2208/7/EC, which prohibits imposition of tax on certain transactions (including initial issuance, which would encompass ECP and other similar money market instruments). Assuming that a version of this exemption is retained in whatever FTT Directive is agreed for adoption, the drafting ought to be adapted to make this unambiguously clear.

Whilst ECP transactions may be placed and then held to maturity, investors value the presence of dealers willing to take on their position if needs be; and the possibility to acquire shorter-term secondary market positions from the dealers. Spreads earned by dealers for this sort of market intermediation would be outweighed many times by the proposed FTT (the amounts of which would, in today's low interest rate environment, quite significantly exceed the total gross interest payable in the transaction). Hence the imposition of FTT on any secondary market ECP activity will render such secondary market activity uneconomic, with consequent highly adverse implications for origination activity. The fact that the impact of the FTT will be dramatic in this market, despite the fact that it is claimed to be only a small charge, is directly related to the designed flat rate basis of the charge. As also in relation to other short term financing activities, the effective economic impact of the FTT charge is strongly amplified by this design feature.

ABCP: On 21 January 2013, IOSCO published a final report on [Suitability Requirements with respect to the Distribution of Complex Financial Products](#), which sets out principles relating to the distribution by intermediaries of complex financial products to retail and non-retail customers. Securitisations, including ABCP, are considered to be complex financial products. The report introduces nine principles that cover the following areas: classification of customers; general duties irrespective of customer classification; disclosure requirements; protection of customers for non-advisory services; suitability protections for advisory services (including portfolio management); compliance function and internal suitability policies and procedures; incentives; and enforcement.

Money market funds (MMFs): On 18 February 2013, Mario Draghi, in his capacity as Chair of the ESRB, attended an ECON hearing. The ESRB has published [his introductory statement](#) and two new [ESRB recommendations](#) to which he refers, namely *ESRB Recommendations on Bank Funding* and *ESRB Recommendations on Money Market Funds*. In respect of the latter, the risk addressed by the ESRB is that a potentially destabilising run by investors on MMFs could lead to spillover effects for the wider financial system. "Run risk" may be higher for MMFs with a constant net asset value (CNAV). The ESRB thus recommends that it be mandatory for CNAV



Imposition of FTT on any secondary market ECP activity will render such secondary market activity uneconomic, with consequent highly adverse implications for origination activity.

funds to be transformed into funds with a variable net asset value (VNAV funds) over a sufficiently long transition period. Finally, the ESRB recommendations cover other areas that additionally aim to reduce the systemic risk related to MMFs, namely the introduction of explicit liquidity requirements; a better public disclosure and enhanced reporting; and information sharing between authorities.

The European Commission is preparing a proposal for a European Framework for MMFs, which it is expected to publish in May 2013.

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LIBOR and other benchmarks

On 11 January 2013, IOSCO [published a consultation report](#) on *Financial Benchmarks*, which sought comments (by 11 February 2013) from the public on policy issues arising from the work of its Board Level Task Force on Financial Market Benchmarks. This discusses concerns regarding the potential inaccuracy or manipulation of benchmarks and identifies benchmark-related policy issues across securities and derivatives and other financial sectors also considers issues that market participants might confront when seeking to make the transition to a new or different benchmark. There are 41 specific consultation questions, covering a range of topics including oversight, methodology standards, governance and

transparency. Following from this consultation report, the Task Force will articulate a framework of robust, globally consistent policy guidance and principles for financial benchmarks and related activities.

Also on 11 January 2013, [ESMA and the EBA published](#) the results of their joint work on EURIBOR and proposed a set of principles for benchmark rate-setting processes. Their publications comprise:

- A [Review of EURIBOR's Administration and Management](#) and [Clear Recommendations to the EURIBOR-EBF](#);
- Formal [EBA Recommendations](#) to national authorities on the supervisory oversight of banks participating in the EURIBOR panel; and
- A joint [ESMA-EBA consultation on Principles for Benchmarks-Setting Processes in the EU](#).

ESMA and the EBA have identified significant weaknesses and insufficiencies in the governance of the EURIBOR rate-setting mechanism and have made a number of recommendations to EURIBOR-EBF. These are aimed at improving the governance of the rate-setting process, which would contribute to a transparent and reliable benchmark for financial transactions. These recommendations are made within the current legislative setting, while the need for broader structural changes is being assessed by the Commission. The recommendations include that the references for EURIBOR should focus on maturities with the highest usage and volume of underlying transactions; and that, accordingly, rates should be scaled down from the current 15 (1-3 weeks and 1-12 months) to no more than 7 (1 and 2 weeks, 1, 3, 6, 9 and 12 months). ESMA and the EBA will review the implementation of these recommendations by EURIBOR-EBF within six months.

The *Principles* put out for consultation (with a response deadline of 15 February 2013) are designed as a first step towards a potential formal regulatory and supervisory framework for benchmarks to be developed in the EU and also take into account other international efforts in this field. They include a general framework for benchmarks settings (calculation methodology, governance, supervision, transparency of the methodology, contingency plans, etc); and also provide guidance to firms involved in benchmark data submissions and to benchmark administrators, calculation agents, publishers and users.

On 11 February 2013, ICMA submitted its [response to IOSCO's](#) consultation on *Financial Benchmarks* and its [response to the ESMA-EBA](#) joint consultation paper on *Principles for Benchmarks-Setting Processes in the EU*. In both cases these followed ICMA's established line; and were designed to draw attention to ICMA's 27 November 2012 response submission to the European Commission's [5 September 2012 consultation](#) on the regulation of indices, which considered *A Possible Framework for the Regulation of the Production and Use of Indices serving as Benchmarks in Financial and other Contracts*.

Each of these two consultations was complemented by a public hearing: firstly, with ESMA-EBA, in Paris on 13 February 2013; and secondly, with IOSCO, in London on 20 February 2013. The IOSCO meeting was led by a joint panel headed by Martin Wheatley (co-chair of the IOSCO Board Level Task Force and MD of the FSA) and Gary Gensler (Co-chair of the IOSCO Board Level Task Force and Chairman of the US Commodity Futures Trading Commission (CFTC)). Gary Gensler spoke very strongly of the continued inadequacies of LIBOR, stemming from the fact that it is determined on a basis which is not dependent on the existence of actual underlying transactions. His informative [28 February 2013 remarks](#) on LIBOR, before the [GFMA's Future of Global Benchmarks Conference](#), are a good record of his recent thoughts.

On 8 February 2013, the European Commission [Published a summary of contributions](#) to its public consultation on benchmarks which was launched in September 2012 – ICMA's contribution to this was reported on in [Issue 28 of the ICMA Quarterly Report](#). A total of 84 contributions were received, with respondents cover a wide range of stakeholders. There was a fair degree of consistency in the responses regarding the need to re-establish confidence in benchmarks which have been shown to be susceptible to potential manipulation. However, opinions differed as to the form that regulation should take and as to whom it should apply. Consultation respondents agreed on the need for high governance and transparency standards for benchmarks providers and contributors; and on recognising the fact that conflicts of interest exist, both in the production of and submissions to diverse benchmarks, and that these conflicts should be managed or removed. Most responses to the consultation also pointed to potential continuity and regulatory arbitrage issues in case regulatory initiatives



Most responses to the consultation also pointed to potential continuity and regulatory arbitrage issues in case regulatory initiatives on the reform of benchmark setting processes are not properly calibrated and coordinated

on the reform of benchmark setting processes are not properly calibrated and coordinated; and supported global coordination on benchmark reform.

Under date of 26 February 2013, the Securities and Markets Stakeholder Group (SMSG) provided its [advice to ESMA on benchmarks/indices](#). The SMSG welcomes ESMA and EBA's Principles, which will provide for the "interim" regulatory framework needed prior to the application of more binding requirements through, notably, the revised Market Abuse Directive and the forthcoming Benchmark Regulation. In terms of scope, the majority of the SMSG believes that, contrary to ESMA and EBA's suggestions, the *Principles* should apply both to widely used benchmarks and indices and to strategy and proprietary indices. In terms of information source, the SMSG members believe that the *Principles* should draw a clear hierarchy between the different sources of data (transaction prices, quotes, surveys), and should encourage particular care to be given to the liquidity of the markets on which indices and benchmarks are based, in order to limit distortions and manipulations. SMSG members consider that user information should be encouraged; and believe that in the near future direct supervision of indices and benchmarks by EU regulatory authorities should be encouraged, notably in respect to the governance arrangements in place at the level of the index provider, as well as in respect to the data and methodology used to calculate the indices.

On 18 March 2013, a report entitled [Towards Better Reference Rate Practices: a Central Bank Perspective](#) was released by a Working Group (WG) established by the Economic Consultative Committee. Chaired by Hiroshi Nakaso, Assistant Governor, Bank of Japan, the WG comprised officials from thirteen central banks and monetary authorities. The report reviews issues in relation to the use and production of reference

interest rates from the perspective of central banks. These issues reflect the possible risks for monetary policy transmission and financial stability that may arise from deficiencies in the design of reference interest rates, market abuse, or from market participants using reference interest rates which embody economic exposures other than the ones they actually want or need. The WG identifies an urgent need to strengthen the reliability and robustness of existing reference rates and a strong case for enhancing reference rate choice. Both of these are seen to call for prompt action by the private and the public sector.

On 25 March 2013, the [FSA announced the finalisation](#) of its new rules and regulations for financial benchmarks, following the recommendations of the Wheatley Review of LIBOR. In particular, the FSA's policy statement outlines how it will regulate benchmark submission and administration, with LIBOR as the first benchmark to be brought into the new regime. These new rules came into force on 2 April 2013, immediately after the cutover to the UK's new regulatory structure. The FCA intends to conduct a thematic review of the LIBOR-submitting firms' compliance with these regulations, within the first year of their coming into force. Later this year, the [Hogg Tendering Advisory Committee](#) for LIBOR, chaired by Baroness Hogg, will recommend who should be the new administrator of LIBOR in succession to the BBA. In the meantime, on 2 April 2013, the BBA [commented on LIBOR becoming a regulated activity](#). In this statement the BBA announced some further refinement to its on-going processes, including the immediate cessation of the publication of euro LIBOR rates on days which are UK bank holidays (but which may nevertheless be TARGET business days).

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Primary Markets



by Ruari Ewing

Prospectus Directive review

The Prospectus Directive (PD) regime: First implemented in 2005 under the EU's Financial Services Action Plan, the Prospectus Directive regime governs the content, approval and publication of prospectuses for (i) the admission of securities to trading on EEA-regulated markets and (ii) the non-exempt offering of securities in the EEA.

At PD Level 2, ESMA has published a [third instalment of Level 2 advice](#) to the European Commission, covering securities that are convertible or exchangeable into equity. This advice followed an earlier consultation (reported in the in the Third Quarter 2012 edition of this Quarterly Report) that ICMA did not respond to given the underlying equity focus. The [covering letter](#) relating to the advice incidentally noted, concerning ESMA's residual Level 2 mandate work:

- that ESMA expects to submit its report on a comparative table of liability regimes by the third quarter of 2013 (noting that the Commission is not in this case under legal obligation to adopt delegated acts); and

- the Commission having advised in February 2012 that the third country equivalence limb of the mandate was “postponed” in light of the Market Abuse Directive and Transparency Directive reviews.

However, at Level 3, ESMA published its [opinion](#) on a framework for the assessment of third country prospectuses under Article 20 of the PD. It seems to set out what EU regulators would require in terms of third country disclosure, with “equivalence” taken to mean that disclosure must either be as per the PD Regulation's information items (Category A) or may be in a different form provided it still allows an informed assessment (Category B). The opinion will seemingly serve as the basis for subsequent opinions specific to individual third countries' prospectus wraps.

ESMA also published an [update](#) of the previous CESR recommendations on the consistent implementation of the PD Regulation, with the only marked updated/new material seemingly on mineral companies (with a related [feedback statement](#) also published).

Finally, ESMA has published a [consultation](#) on Draft Regulatory Technical Standards (RTS) on specific situations that require the publication of a supplement to the prospectus, with a deadline for responses of 14 June. The consultation seems mainly to focus on equity-specific

aspects or on aspects (notably new information on an issuer's business) that do not (as least in the context of debt securities) seem to have been the subject of major doubt or uncertainty. Curiously, the consultation does not address other aspects concerning supplements that have been the subject of uncertainty (notably whether new information on the terms and conditions of the securities and/or the offer is allowed by means of a supplement) on the not entirely clear basis that this would be just “out of the scope” of the draft RTS.

However, the UKLA has also been consulting (with a deadline for responses of 8 April), in its [Primary Markets Bulletin No.5](#), on its approach to on the PD – notably on one procedural note [PN Review & Approval of Documents](#) and five technical notes, [TN Indemnities, Guarantees and Similar Arrangements](#), [TN Supplementary Prospectus](#), [TN Risk Factors](#), [TN Final Terms](#), and [TN PD Disclosure Issues Relating to Non-Equity Securities](#). ICMA has submitted a [response](#) to this consultation.

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Packaged Retail Investment Products

The European Commission's proposed Regulation on Packaged Retail Investment Products (PRIIPs) would mandate a very short pre-contractual key information document (KID) as the basis for "informed" investment decisions by retail investors in Europe.

Recent developments concerning the PRIIPs initiative have been in the area of the European Parliament, with publication of various further proposed MEP amendments to the European Commission's [original Level 1 legislative proposal](#) (discussed in the [Fourth Quarter 2012 edition](#) of this Quarterly Report):

- [amendments #65 to #367](#) and [amendments #368 to #680](#) by MEPs in the lead [Economic and Monetary Affairs \(ECON\) Committee](#) (completing the earlier amendments set out in the ECON Committee's draft report noted in the [First Quarter 2013 edition](#) of this Quarterly Report);
- [amendments #26 to #151](#) by MEPs in the [Internal Market and Consumer Protection \(IMCO\) Committee](#) (completing the previous amendments set out in the IMCO Committee's [draft opinion](#) noted in the [First Quarter 2013 edition](#) of this Quarterly Report);
- amendments in the [Civil Liberties, Justice and Home Affairs \(LIBE\) Committee's draft opinion](#) and subsequent [amendments #13 to #48](#) by MEPs in the LIBE Committee.

Several of these amendments seem fund/insurance-focused (and not relevant to debt securities), not entirely clear/consistent,

merely permissive, focused on negative statements or to stray into Level 2 detail or into other legislation. It is not entirely clear how the proposed amendments will play out, both within the Parliament and subsequently in Trilogues with the Commission and the Council. The Council has not yet adopted a general approach, though the previously reported [Council Presidency initial compromise](#) (noted in the [First Quarter 2013 edition](#) of this Quarterly Report) seems the most promising single text so far. That said, it may be helpful to consider some of the aspects and themes that have been raised by MEPs' suggested amendments more generally.

Generally: Too tight and ambitious a KID regime, especially in terms of liability (as not just an "incremental" cost), risks stunting supply, starting with the most conservative/reputable providers (manufacturers/issuers). This could lead to increased costs for investors given lower competition and increased concentration risk given reduced choice – ultimately perhaps limiting investment to just exempt UCITS and government securities (all in a context of challenging EU demographics and state finances). This would be unfortunate given the potential for a more modest KID concept to help empower investors, particularly noting that most retail investors rely on MiFID intermediation for their decision-making process.

KID purpose: There seems to be a danger with a KID being the sole basis for "informed" investment decisions, given:

- retail investor 30% misunderstanding rates reported in the [Commission's 2009 UCITS Disclosure Testing Research Report](#);
- suggested retail investor irrationality (for example cited [by the UK FCA's Martin Wheatley](#));
- consequential redundancy of the Prospectus Directive prospectus;
- impossibility of including, in a very

short space, all information relevant to "informed" investment decisions (at least relating to issuer "credit" information not present in the UCITS context);

- the potential risk that some distributors might try to limit their product understanding to just what is in the KID.

This could result in all PRIIPs effectively becoming contingent liabilities for those producing them, liable to rescission/refund at any time (distinctly from the civil liability considerations noted below) – quite the opposite of a reduction in costs and uncertainty that is avowedly being targeted. An alternative, workable, KID purpose could be as a basis to decide what *not* to invest in – ie to determine what investments to consider further. For the majority of retail investors, such further consideration would be done with MiFID intermediaries who have read the full prospectus or, failing which, the relevant contract(s) – which would need to be identified in the KID (so out of necessity and not mere "interest" as suggested in some MEP amendments). For an able minority of retail investors, if politically accepted, such further consideration would involve such investors doing such reading themselves. A secondary purpose could be for the KID to act as an *aide-memoire* if/when discussing possible investments with MiFID intermediaries. It has been suggested by some MEPs that the KID should help



There seems to be a danger with a KID being the sole basis for "informed" investment decisions

financial education, though it is unclear what this would involve.

Product/conduct regulation: Various suggested amendments seem to be straying into the space of product/conduct governance, regulation and intervention (through direct obligations or through KID disclosure requirements that cannot be met except by conduct/structural changes). Some product regulation, such as fixed range of state-defined "simple" products, might be an alternative regime worth considering, but only for low value savings that do not justify the cost of MiFID-regulated intermediation. Conduct and product governance regulation certainly would seem best left to the most relevant legislative spheres such as MiFID, rather than be duplicated and potentially contradicted. In this respect, any perceived intermediation weaknesses can and must be addressed by strictly enforcing existing legislation (notably MiFID at Level 4) before creating more legislation.

Regulator KID involvement: Various suggestions have been made for KIDs (and any updates) to be notified to regulators, to be vaguely subject to potential regulator amendment/prohibition or more specifically to be subject (systematically or just occasionally) to regulator pre-approval. Distinctly from the product regulation/intervention points noted above, the value in pre-approving a highly prescriptive short document allowing no discretion is not clear – unlike the likely work burden for regulators having to review and/or approve thousands of KIDs each year. Any approval regime would at the very least have built-in realistic deadlines to ensure certainty and commercial viability. A particular suggestion is that certain complex characteristics in a product would (i) cause the product to be deemed as not targeted at retail investors and (ii) trigger an automatic legend in the related KID to the effect that the regulator considers the product to be unsuitable or too complex for retail investors and so has not assessed the information in the KID.

Aside from imputing to the regulator a view that it may not have consciously taken, it would seem such a product should not be distributed to retail investors at all and therefore should not have or need a KID.

Regulator competence also needs to be clear – some amendments suggest the regulator in the jurisdiction where the product is offered should assume this role (rather than the regulator of the manufacturer's home jurisdiction). This would effectively make PRIIPs a national regime (rather than a pan-European regime), in which case PRIIPs legislation should perhaps be left to individual EU Member States. A similar consideration arises if KIDs are required to be individually drafted in each jurisdiction (rather than translated) or are required to set out national "intermediary-specific" information (such as describing national tax requirements).

KID liability: Civil liability should only arise where a KID is misleading/inconsistent with the full documentation (the full prospectus or, failing which, the relevant contract(s)) – as is currently the case for the UCITS KID and Prospectus Directive summary (which has been noted in several amendments). Civil liability remains distinct from any regulatory oversight and sanctioning powers. Incidentally, referring to the relevant contract(s) only, where a prospectus exists, would only be consistent with KID content being limited to "structure"/"packaging" information only (and so excluding "credit" information on the issuer).

KID content: As noted above and below, various consequential implications arise for scope, responsibility and updating, depending on whether KIDs would include (i) "credit", as well as "structure", information, (ii) "intermediary-specific", as well as "product-specific", information and "dynamic", as well as "static", information. Even with clearly limited KID purpose/liability, it is unlikely that "credit" information can meaningfully be expressed within just a few short pages, short of just saying that



There should, in any case, be a clear exemption for securities with denominations of €100,000 or more.

the issuer is a rail company and that 100% loss could result if it becomes insolvent. Synthetic risk indicators and performance scenarios are much touted – legislators suggesting them should however be absolutely certain that such measures do not have the potential to mislead investors. In this respect, one may wonder whether European authorities would accept that credit ratings can be relied upon to indicate simplified "credit" information given the existence of the new European [Credit Rating Agency Regulation](#) regime.

Distinctly, there have been various suggestions for ethical information to be included in the KID, such as whether an investment is in the real economy or synthetic, speculative or a bet or what its contribution is to limiting global warming to +2° Celsius. Some of these are more subjective than others, which would seem inappropriate for an objective disclosure document. It is also not entirely clear that many investors would be interested in such information. Rather a limited and defined range of ethical labels could be approved by an appropriate authority, if satisfied as to their and/or their relevant sponsor. Manufacturers could then choose to include such labels on their KIDs if they consider it to be of interest to their potential investors (assuming the relevant criteria are satisfied).

PRIIPs' regime scope: Limiting the content of KIDs to "structure"/"packaging" information (and so excluding "credit" information on the issuer) would be

consistent with limiting the scope of KIDs to just packaged products (and so excluding vanilla products that do not have complex “structure”/“packaging”). As noted above, it is impossible to include, in a very short document, all information relevant to “informed” investment decisions about an issuer’s “credit”. It may be simplest at this stage provisionally to limit the scope to packaged products and review it in a few years, as per the Commission’s proposal. There should, in any case, be a clear exemption for securities with denominations of €100,000 or more, as this is one of the clearest practical delimitations (*inter alia* under the Prospectus and Transparency Directive regimes) between the retail markets that are targeted by the PRIIPs initiative and the institutional markets that are not.

KID length/style: There have been suggestions of 2-3 pages for KID length, with potentially one extra page for additional, “intermediary-specific”, information. This is not surprising given the UCITS KID history underlying PRIIPs and consumer behavioural research, but in turn emphasises the natural limitation on what information KIDs can include and in turn what purpose they can serve.

KID drafting responsibility: Unlike “product-specific” information, “intermediary-specific” information (eg on local taxation or intermediary costs) is not consistent with manufacturer KID drafting responsibility, as that information is not within the knowledge of the manufacturer (issuers may not even know who the ultimate retail distributors are under a retail cascade). Even if it were so, this would absurdly require KIDs to be thousands of pages long, in order to document each actual distributor/investor permutation. MEP amendments have variously suggested an intermediary annex to the KID, a separate intermediary document and intermediary disclosure under MiFID generally. Any of these approaches might work, if well structured. However these challenges and others

discussed in this article would not arise if KIDs were drafted by the intermediaries themselves, who are in any case required to know their products as well as their clients.

KID trigger/distribution responsibility: KIDs would be required prior to an intermediary “selling”, “acting as an intermediary in the sale” of, “distributing” and/or “advising” in-scope investment products (the terminology is subject to various amendments). However, an intermediary should not be able to force a manufacturer to draft a KID for a jurisdiction in which the manufacturer has no interest or desire for the product to be distributed – which is exactly what is implied by some amendments. This seems odd in any case from a logistical perspective if KIDs are required to be published on the manufacturer’s website, a website of the manufacturer’s choice and on a “central” website of the ECB and the competent national regulator (a seemingly contradictory concept). Rather, an intermediary should have the manufacturer’s consent, in some form, to distribute the manufacturer’s KID in satisfaction of the intermediary’s PRIIPs obligations – which has been noted in some amendments.

KID updating: Requiring KIDs to include information that is too “dynamic” and very likely to change over short periods of time (unlike “static” information) could result in an unworkable frequency of KID updates (potentially daily). There must be an up-to-date KID at a point of sale, but not otherwise – or some issuers would have to update KIDs daily for decades, though having issued securities on just one day. There are suggestions of annual reports that would be additional or alternative (unclear which) to updated KIDs. Issuers of listed securities are already required to publish periodic reports under the Transparency Directive and it is unclear what value yet another report would bring, particularly if no further “selling” is planned (the recent review of the Prospectus Directive abolished an annual report

requirement that was considered pointlessly duplicative with the Transparency Directive).

Litigation procedures: Such procedures have been established and regularly revised over decades and more at both national and European level. Litigation procedures concerning KIDs, including burden of proof and alternative dispute resolution should follow the existing *acquis* in this respect – a point made in several amendments.

Prospectus Directive overlap: Distinct from the potential overlap with the prospectus itself under the Prospectus Directive, the PRIIPs KID also overlaps most notably with the issue-specific summary (ISS) under the Prospectus Directive. The ISS was introduced in the recent review of the Prospectus Directive, seemingly because a KID regime did not yet exist. As the ISS is not a full prospectus, a summary of a prospectus document or a KID (the ISS is much longer), it therefore seems to serve no valuable purpose. As such, the ISS requirement in the Prospectus Directive regime should be abolished altogether by the time the PRIIPs KID requirement enters into force.

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Other primary market developments

In other developments, the Joint Associations Committee (JAC) on retail structured products that ICMA supports has submitted a [response](#) (restating earlier JAC positions) to a UK FSA [consultation](#) on the FCA’s use of temporary product intervention rules (restating earlier JAC positions) and also a [response](#) to an ESMA [consultation](#) on guidelines on key concepts of the AIFMD (notably highlighting the risk that sukuk and other securities may be inadvertently caught within AIFMD scope).

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EBA standards on asset encumbrance



by Katie Kelly

The relatively low return on subordinated bank debt and the underperformance of funds comprising bank debt (until relatively recently) have shaped investor trends over the last few years towards, among other things, a move away from “benchmark” investing to “absolute return” investing. As a result, investors have become more discerning and analytical about bank risk and the price they place on that risk.

However, with capital and liquidity positions improving, bank risk is becoming more investable and, overall, investor appetite for bank debt is increasing. But at the same time, the risks of unsecured senior bank debt are being afforded new focus by the development of bail-in proposals (and recent practical regulatory use of bail-in of different creditor classes) and discussion of depositor preference.

In response, banks are likely to be under increasing pressure to be more transparent in terms of their asset encumbrance levels, and to provide more information on balance sheet risk, the quality of collateral and how it will perform in difficult conditions, allowing investors a better basis for sound credit assessments.

It is generally agreed that transparency as between the issuer and the investor is key. More comprehensive disclosure should be provided to investors to assist them with their risk assessment (and therefore, pricing) balanced by the need for regulators to be able effectively to intervene without exacerbating a loss

of confidence. Pricing securities of a particular bank credit cannot be an absolute science, rather it becomes a question of a value attributable relative to the bank’s circumstances at any given time. The more disclosure about a bank’s capital, liquidity and funding structure, the easier it becomes for an investor to make small adjustments to that relative value rather than just walking away from the investment. The crisis has demonstrated that an inability of investors to analyse bank credit, or distrust of the information disclosed, has caused a collapse in confidence.

In terms of analysing data and designing a transparency model, there is a balance to be drawn between, on the one hand, the need for a bank to encumber its assets (for example in the situation of central bank lending) and, on the other, meeting investors’ risk exposure concerns should a bank fail. However, it is imperative that regulators and investors need to be able to view asset encumbrance in the context of wider funding plans and prevailing market conditions and have confidence in the disclosure.

From a regulatory perspective, regulators do not have enough information in standardised form to assess asset encumbrance in a competent and meaningful way, and the optimal position is to try to gather information to be able to carry out regular monitoring, as per the work of the ESRB and the EBA (see below).

As for what – and the level of – information to disclose, the investor community requires more data than is currently available, even though it is retrospective and liable to rapid change in the case of encumbrance or liquidity levels. Careful thought, however, also needs to be given to the most appropriate measures. A disclosure of an “unencumbered asset ratio” may provide better information and evidence a bank’s funding flexibility more comprehensively compared to a largely meaningless absolute asset encumbrance level metric. Issuers may wish to consider, furthermore, how they will communicate changes in their chosen measures, or if they wish to adopt and disclose a management policy as part of their overall funding and liquidity strategy. Careful thought therefore needs to be given to the frequency and sense of prescribed periodic disclosure, avoiding an excessive information burden that ultimately contributes little to an understanding of the credit of a bank.

When analysing asset encumbrance levels and assessing more appropriate metrics as noted above, full consideration needs to be given to, *inter alia*: the reasons and context behind certain levels of encumbrance, different sources of encumbrance (covered bonds, repos, central bank funding etc); banks’ business models; and the quality of assets encumbered and unencumbered.

Transparency in itself is not a panacea and will really only provide meaningful value if there is some kind of

standardisation, which at a pan-European level would enable investors to make better comparisons between banks with different funding models, or in different jurisdictions. Currently, a divergence in disclosure relating to funding/liquidity in financial statements is hindering analysts' ability properly to assess bank credits. However, any such standardisation may not be easy to achieve precisely because of diversity of business models, legal systems, funding models etc.

Against this backdrop, Trilogue negotiations introduced a mandate in Article 95a of the Capital Requirements Regulation (CRR) for the European Banking Authority (EBA) to develop reporting templates for asset encumbrance. In addition, the European Systemic Risk Board (ESRB) working group on asset encumbrance's [Recommendations on Funding of Credit Institutions](#) in March 2013 task the EBA with developing guidelines on market transparency requirements for credit institutions on asset encumbrance, building upon the template for asset encumbrance disclosure as set out in the ESRB's paper on [Enhancing the Risk Disclosures of Banks](#).

Pursuant to the mandate under article 95a of CRR and to the ESRB Recommendations, on 25 March 2013 the EBA launched a consultation on [Draft Implementing Technical Standards \(ITS\) On Asset Encumbrance Reporting](#), which set out reporting templates (and corresponding user instructions) for asset encumbrance.

According to the EBA, the aim of the ITS is threefold: first, it will allow a harmonised measure of asset encumbrance across institutions, which will allow supervisory authorities to compare the reliance on secured funding and the degree of structural subordination of unsecured creditors and depositors across institutions; second, it will allow supervisors to assess the ability of

institutions to handle funding stress, by providing an assessment of the ability of switching to secured funding; and third, it can be incorporated into crisis management, as it will allow for an assessment of the assets available in a resolution situation.

The ITS consist of three parts:

- a legal text which introduces the definition of asset encumbrance and outlines both the frequency and the proportionality criteria in the reporting;
- reporting templates and instructions for completion of the templates, which, in the future, will be used for regulatory reporting on asset encumbrance; and
- a data point model (DPM) and validation rules describing the business concepts in the necessary detail, and defining all the relevant technical specifications necessary for developing IT reporting formats and common glossaries of terms that can be used in the institutions' databases.

The consultation period runs until 24 June 2013, after which time, and to the extent that the final CRR text changes before the adoption of the ITS, the EBA will adapt the draft ITS accordingly to reflect any developments. ICMA will continue to work with interested parties to review and assess the impact of the consultation.

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ICMA Corporate Issuer Forum

The inaugural meeting of the ICMA Corporate Issuer Forum (CIF) took place on 20 March 2013 and was well attended by a senior group of participants representing a good cross-section of the major corporate issuers in Europe's debt capital markets, including ABB, ArcelorMittal, BP, Daimler, E.ON, Enel, GDF Suez, Holcim, National Grid, Nestlé, Rio Tinto, Siemens, Syngenta, Unilever and Vodafone. We expect that the membership of the CIF will further increase as the CIF develops.

A number of key themes emerged which were of interest to members of the group and which will be distilled into a general work plan and agendas for the CIF in 2013 – some of them relating to the main regulations currently impacting the primary debt markets (EMIR, Dodd-Frank, Prospectus Directive), some more market-practice oriented (new issues processes, due diligence practices), but all of them relevant to the expertise and various workstreams that ICMA is undertaking.

According to Gary Admans, BP Treasury and member of the CIF Steering Committee, "the willingness of these corporate issuers to participate in this ICMA initiative and to share experiences and views at the inaugural meeting indicates strong demand for this forum. It gives those involved a chance to explore the debt capital markets and related topics that are of real importance to international corporate issuers with the benefit of ICMA's expertise, resources and networks."

The next meeting of the CIF is expected to be held in London in July 2013.

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Economic importance of the corporate bond markets

ICMA has [prepared a paper](#) for policy makers about why corporate bond markets are so important for economic growth, for investors, for companies, and for governments, around the world; and why it is therefore essential that laws and regulations that affect them avoid any unintended adverse consequences that could inhibit those markets.

The paper explains:

- that corporate bonds are one of a range of means, alongside equity share capital, bank lending, and other methods, by which companies fund their business needs and their expansion;
- that they have long been a particularly stable and reliable source of term finance for non-financial services companies in the real economy;
- how the importance of corporate bonds for issuing companies has grown, particularly as bank lending has been squeezed, and is likely to continue to grow, as a pivotal mechanism for creating and sustaining enterprise, business investment, and economic growth;
- how corporate bonds offer a range of advantages to investors, in particular for individuals and funds that need stable and predictable income and retention of capital value, for example to save for retirement; and that they are an important means to stimulate private investment and limit citizens' dependence on the public sector;
- how primary and secondary markets in corporate bonds link corporate issuers and investors efficiently around the world;
- how domestic and international corporate

bond markets provide for diverse needs, domestic markets catering in particular for smaller, growing companies, and domestic investors, while international markets enable large companies and conglomerates to draw on global pools of capital, including those which represent the savings and pensions of individuals, for major development projects, and enable institutional investors to obtain well diversified and consistent returns;

- how the existence of different markets helps today's start-ups and smaller enterprises grow into tomorrow's major companies, by helping them to generate wealth while graduating smoothly into more sophisticated and international financial and investment environments;
- how corporate bond markets are also important to governments to help meet the urgent global public policy challenges presented by ageing populations, and the need to maintain growth whilst remedying the imbalances that led to the 2008 market turmoil, helping to limit government indebtedness, whilst offering investors an alternative to government bonds.

The paper explains that, in general, wholesale corporate bond markets have worked well, but retail investment in corporate bonds has been more constrained. It outlines the need for markets and the authorities to enable wholesale markets to meet investors' and companies' needs even better, to build on the success of wholesale corporate bond markets by encouraging more retail involvement, and to work together to provide the optimal environment for corporate issuers of bonds,

and investors in corporate bonds, to thrive.

It highlights that good conduct and good regulation in these markets – ICMA standards of good practice, and applicable national laws and regulations – are both vital; how rules, whether promulgated by industry bodies or imposed by the authorities, can have beneficial or benign or harmful effects; and that sometimes good intentions are thwarted by unintended consequences.

It cites the Third Basel Accord, financial transaction taxes, short selling regulation, and the revision of bond market regulation, as examples where there is widespread concern that current legislative proposals will damage liquidity in the secondary market, with consequent harm to the primary market.

It advocates collective work by all interested parties – legislators, regulators, market intermediaries, and market users – with better dialogue at an early stage of policy development: to help the authorities understand the markets and the possible effect on them of different measures; to enable the markets to understand the authorities' policy intentions and advise on the best technical ways of meeting them; to discuss public policy needs in a technically neutral way; and to promote good regulation and prevent malpractice, but also to ensure that avoidable and unintended problems are avoided.

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Secondary Markets

by John Serocold

MiFID and MiFIR: the “MiFID II” package

Since our last report in [Issue 28](#) of the ICMA Quarterly Report, negotiations have continued in the Council Working Group. The Irish Presidency’s approach of listening to Member States individually and then discussing the open issues at group meetings appears to have yielded some positive results, but a number of difficult open issues remain. Those of interest to ICMA members include the related questions of access and interoperability of clearing services; the design of the new Organised Trading Facility (OTF) category; and non-equity trading transparency.

At the time of writing, the latest publicly available Presidency compromise texts on [MiFID](#) and [MiFIR](#) are dated 1 March. These are likely to have been superseded by the time of publication.

Clearing access: The policy question which needs to be answered by Articles 28-30 of MiFIR relates to the basis on which clearing houses or “central counterparties” (CCPs) can obtain feeds of the data

relating to the trades which they are being asked to clear. These feeds are provided by the trading platform, which may be either a Regulated Market (RM) or a Multilateral Trading Facility (MTF). There are currently two models of market structure in Europe. The first is the “vertical” model, common in derivatives, in which the trading platform and CCP are tightly coupled, and there is only one CCP per market place, though a CCP may clear for more than one market place. The other model is the “horizontal” model, increasingly common in cash equities, under which CCPs compete to provide clearing services for a market place. The Regulated Markets operated by the London Stock Exchange and NASDAQ OMX and the MTFs operated by BATS and UBS offer this model; the clearing link between LCH.Clearnet SA and the Cassa di Compensazione e Garanzia in relation to the trading of Italian Government bonds on RMs and MTFs operates in a similar way. This design principle will be important as trading of international bonds migrates to electronic order books. Such order books are typically anonymous, so that a CCP is needed to manage counterparty risk, even for the relatively short period of two or three business



In brief

This article discusses recent developments on the proposed revision of the EU’s Markets in Financial Instruments Directive (MiFID) and accompanying new Regulation (MiFIR) at a high level of generality, and introduces some looming challenges of implementation.

days between the trade date and the due date for settlement. CCPs can also contribute to settlement efficiency and can provide benefits from participants' ability to net offsetting trades.

OTFs: We reported in [Issue 28](#) on the range of approaches being taken in Council in response to the European Parliament's proposals: to restrict OTFs to non-equity markets; to prohibit a firm from deploying its own capital in an OTF that it operates, even to facilitate client business; to narrow the scope of non-transparent OTC business; and also to restrict the transparency requirements to smaller trades in more liquid instruments. At the time of writing, Member States have not reached agreement on these important topics. The OTF category is important to the international capital markets because it will offer an additional way of bringing multilateral trading on to organised trading venues.

Price transparency: It remains crucial that the proposed new requirements on pre-trade transparency and post-trade reporting of fixed income and other non-equity trades are carefully calibrated to reflect the different characteristic of the asset classes which are in scope. In particular, the liquidity profile of the different instruments is a key feature that needs to be taken into account. The transparency regime also needs to allow for different modes of trading; voice broking and automated electronic trading should continue to co-exist. Other concerns discussed in the Council include the need to protect the orderly functioning of the debt markets including the sovereign bond markets, and the need for the post-trade publication requirements to take account of the impact on market makers.

Timetable: The Irish Presidency remains determined to make meaningful progress on the dossier. However, it seems increasingly likely that the Council discussions and the subsequent Trilogue, in which the Council, European Parliament and European Commission agree compromises between their respective positions, are likely to continue into the fourth quarter of 2013. That means implementation will likely fall into 2015, with the preparatory technical work being done next year.

However, the European Securities and Markets Authority (ESMA) has begun to consider its approach to the many detailed technical issues on which it will be required to work. ESMA's tasks include producing

policy advice and support for the subordinate legislation ("Delegated Acts", in the jargon) to be made by the Commission as well as developing the technical standards and guidelines required as part of the revision of MiFID. The proposed main legislative text is regarded as sufficiently firm in some areas to allow ESMA's work to begin.

Wherever the details of the proposals end up, market participants will need to develop and implement solutions to a number of new regulatory requirements, of which the production and dissemination of market data is one of the most important. In this and other areas, consultative collaboration among the authorities and market participants will be important. At each stage it will be essential to plan and resource carefully, and for the authorities to allow enough time for sensible and practical rules and systems to be designed and implemented while providing continuity of services to investors and issuers worldwide who participate in European markets.

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The Central Securities Depositories Regulation

This article briefly summarises the principal provisions of the proposed European Central Securities Depositories Regulation (CSDR), provides an update on the progress of the CSDR in the European Parliament and Council, and identifies a potentially difficult policy question.

A [summary](#) and a [résumé](#) (in French) of the CSDR can be found on the European Parliament's [website](#) for this dossier. The key points are as follows:

The CSDR sets the conditions for competition in the EU in securities settlement services, and accelerates fundamental changes already under way in the sector. For the first time, it gives authorised settlement houses an EU-wide "passport" to offer services across the EU, so long as they are adequately capitalised and comply with safety rules. The International Central Securities Depositories (ICSDs), Euroclear and Clearstream in Luxembourg, will be subject to a more demanding authorisation if they want to keep their banking operations under the same roof as the

more straightforward settlement operations. The CSDR, which is expected to take effect in 2014, also harmonises the settlement cycle to a maximum of two days following the trading day. It also provides for penalties on banks and brokers that fail to settle trades on time. There are important exemptions from the standard settlement cycle and from the settlement discipline provisions for OTC trading and for the repo market in the European Parliament's text, discussed in [Issue 28](#).

[Issue 27](#) provides an update on the ICMA position as at September 2012, an analysis of the European Parliament Committee report and explains our approach to the Presidency compromise text. A background note on the CSDR is also included.

As foreshadowed in [Issue 28](#), the European Parliament's Economic and Monetary Affairs (ECON) Committee voted on a package of amendments to the proposed CSDR on 4 February 2013. In the Council, little progress has been made, since the CSDR was not originally a priority for the Irish Presidency.

We understand that, following an intervention by the ECB's TARGET2-Securities (T2S) team, the CSDR is now being accorded a high priority and the Presidency intends to hold Council Working Groups in the later part of its Presidency term. While it may be desirable that agreement in Council will be reached before Lithuania assumes the Presidency on 1 July 2013, this cannot be guaranteed. It seems that the CSDR is critical for the timely completion of the T2S project for a number of reasons, including the fact that the Regulation includes provisions relating to the outsourcing of settlement to a public sector institution.

In its [opinion](#) published in the EU *Official Journal* on 13 October 2012, the ECB notes that the Eurosystem is developing T2S with the aim of delivering a single settlement engine for Europe. It adds that, in this context, the ECB strongly supports the proposed Regulation, which will enhance the legal and operational conditions for cross-border settlement in the EU in general and in T2S in particular. In this respect, the ECB recommends that the proposed Regulation, and the corresponding implementing acts, be adopted prior to the launch of T2S planned for June 2015.

On the specific question of outsourcing, the CSDR introduces requirements that CSDs have to fulfil when outsourcing part of their activities, while an exemption is made for situations where a CSD outsources

certain of its operations to public entities, provided that an appropriate legal, regulatory and operational framework governs this arrangement. The ECB notes that this exemption would cover the current T2S project undertaken by the Eurosystem. The ECB welcomes this exemption, which takes into account that such outsourcing may result in significant benefits for the economy, contributes to the performance of Eurosystem tasks and is subject to a framework agreement containing safeguards.

A potentially difficult question which will arise in Council discussions on CSDR relates to the access and interoperability provisions in CSDR. Similar provisions in the European Market Infrastructure Regulation (relating to the central clearing of standardised OTC derivatives contracts) and in the proposed Markets in Financial Instruments Regulation (relating to the trading and clearing of financial instruments) have already proved controversial. While the EU-wide "passport" is relatively uncontroversial, the provisions enabling competition between CSDs may be difficult to settle, particularly given the connection to the policy question of how best to deal with the ICSD structure.

The ECON Committee of the European Parliament has adopted the [Swinburne Report](#) as amended. It provides three alternatives for the ICSDs (and the small number of domestic CSDs which provide ancillary banking services): they can designate a panel of one or more banks that are not part of the group to provide banking services; they can continue to provide banking services in the settlement house, or from a separately capitalised entity in the same group. It remains to be seen whether this approach, which was the fruit of a compromise in the Parliament, will find favour with the Council. At the time of writing, hopes are high that a reasonable compromise can be reached relatively quickly. If this happens, and the Trilogue process goes well, this approach to the question will nonetheless require changes to existing practices.

Further changes to existing practices will be needed, most obviously in relation to the settlement cycle and settlement discipline. We continue to discuss these aspects with the market and they remain firmly on the agenda of the ICMA Secondary Market Practices Committee.

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by Annika Wahlberg

Asset Management

The AMIC work programme for 2013

At its meeting on 1 March 2013, the ICMA Asset Management and Investors Council (AMIC) Executive Committee discussed the AMIC work programme for 2013. Current issues of concern to our buy-side members include the following:

- *The asset management industry's role in funding the real economy*: In response to tighter bank regulation and bank deleveraging, many corporates are increasingly accessing market financing. What can be done by the asset management industry to help develop alternative funding methods? What is the potential contribution of capital markets to economic growth?
- *"Shadow banking"*: Regulators at global and EU level are considering the regulation of "shadow banking". What are the issues that are likely to arise for the asset management industry, and how should they be addressed?
- *Asset encumbrance*: Since the crisis began, asset encumbrance

has increased. To what extent is the increase transparent, and what are the implications for asset managers and investors?

- *Covered bond transparency*: The ICMA Covered Bond Investor Council (CBIC) has established a template for transparency by issuers in the covered bond markets. How can this be promoted, in cooperation with other associations?
- *Solvency II reporting for asset managers*: The ICMA Solvency II Reporting Working Group has been discussing a common method of reporting for asset managers under Solvency II. Are there lessons to be learned about common working on the buy side in implementing other EU regulations?
- *ICMA Private Wealth Management Charter of Quality*: The ICMA Private Banking Working Group launched the [ICMA Private Wealth Management Charter of Quality](#) in Luxembourg last autumn. What steps can be taken to promote the Charter of Quality in

other countries? How can ICMA work best with national associations in the countries concerned?

- *Retail-targeted bonds*: Given the regulatory framework (eg in the EU Prospectus Directive), what steps can be taken to encourage direct access by retail investors to the bond market?

These issues are due for consideration in future meetings of the AMIC Executive Committee and its Working Groups. The next meeting of the AMIC Council, which is due to take place on 23 April 2013 at the Banque de France in Paris, will also provide an opportunity for discussion with ICMA's wider membership on the buy side.

If you are interested in participating in AMIC's work programme, please contact the Secretary of the ICMA Asset Management and Investors Council, Annika Wahlberg.

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Market financing for smaller corporates

by Nicholas Pfaff

Europe's debt capital markets are being called upon to fill in part or in full the funding gap expected in the wake of substantial ongoing [bank deleveraging](#) (estimated by the IMF to exceed €2 trillion in bank assets by end 2013) following the crisis, and with Basel III and its European transcription CRD IV/CRR coming into force. The concern is particularly acute for Small and Medium-Sized Enterprises (SMEs) that have historically been highly dependent on bank lending in Europe. Reflecting on this, it is important to make two essential clarifications. The first concerns realistic expectations of capital markets funding for SMEs; and the second, the indirect and direct role that market finance can nonetheless play in the funding mix of SMEs and medium-sized European corporates.

Debt markets are poorly configured for the direct financing of SMEs in comparison to retail banks. Banks have both flexible and standardised working capital and asset finance loan products, as well as local branch networks, credit teams for small corporates, regular contact with management and daily knowledge of cash flows. Conversely, the relative overall costs involved (including legal and due diligence) of a bond issue for smaller amounts can be uneconomic compared

to loan finance. Similarly, the reporting requirements and administrative burden of a bond may be disproportionate for a small deal. For investors, the size and irregularity of potential issuances of SMEs are also typically unappealing; the frequent absence of a credit rating can be a show stopper; and the structurally lower visibility of a smaller business a real difficulty. This does not, however, mean that markets cannot play in the future a key indirect role in small company finance.

There is indeed a strong conjunction of interests in Europe aiming to facilitate the refinancing of SME bank loans in the market. At the official level, this is motivated in part by the accumulation of SME-related loans as collateral from the LTRO and other credit operations of the ECB. Indeed, as of end-2012, [the ECB held €35 billion of SME-related collateral](#). Many official voices have thus come out strongly in favour of the "rehabilitation" of asset-backed finance and securitisation to preserve and refinance the banking sector's leading intermediation role to the SME sector. This is illustrated by the [ECB's Loan Level Initiative](#) to improve transparency and trust in asset-backed securities (ABS) transactions used as collateral in Eurosystem credit operations. The European Investment Fund (EIF) has also issued a [2010 research paper](#) on the

topic, while both the [European Bank for Reconstruction and Development \(EBRD\)](#) and the [EIF](#) have participated in actual transactions. Germany's KfW has also been a pioneer in SME securitisation with its bank securitisation programme (known as "Promise"), but in light of regulatory changes and market conditions it now aims to intervene more directly by placing anchor orders on key transactions.

An important market initiative also supports the use of ABS and securitisation to help bridge the funding cap in the form of [Prime Collateralised Securities \(PCS\)](#). The PCS label aims to "enhance and promote quality, transparency, simplicity and standardisation throughout the asset-backed market". It is also designed to help stretch the reach of securitisation to SME loans beyond its past widespread application to mortgages and consumer lending.

There have also been market-driven efforts to open up bond markets directly to smaller companies drawing on what has been done in the equity markets. There is, for example, the new [Initial Bond Offering \(IBO\)](#) product launched by NYSE Euronext in 2012, modelled on equity IPOs. However, even with few transactions to date, it is already apparent that IBOs will be mostly relevant to medium-sized listed companies

that can meet information and rating obligations, as well as minimum transaction sizes. Similarly, there have been initiatives to develop placements of debt securities for SMEs through shared special purpose vehicles (eg in France, the [Micado France 2018 vehicle](#)). Again, this type of vehicle is suitable for medium rather than small companies (and perhaps, as in the previous example, to listed entities).

Another option being explored by a number of market participants is the example of the US private placement (USPP) market. It is important to note that private placement, as a distribution technique, exists of course in Europe, with private placements of Eurobonds and within EMTN programmes regularly taking place on a large scale. Similarly, private placements of domestic and foreign debt securities occur regularly through 144A offerings in the US.

The pertinence of the USPP market is therefore not in the technique from which it borrows its name, but in the fact that it represents a specific market for corporate funding. In it, lending takes the form of notes that are neither publicly offered nor listed, and are not registered with the SEC. These notes are either placed via a club or syndicate, or bilaterally to investors predominantly from the US insurance industry. The market benefits from a significant standardisation of legal documentation. Due diligence standards are high.

The USPP market in 2011 represented around US\$50 billion of financing provided, as in previous years, predominantly by a dozen of large insurance companies. These funds were accessed by in excess of 50 issuers through large banks and/or securities houses. Foreign companies were very active and represented that year more than two-thirds of borrowers a majority of which were European (37% of total USPP financing in 2011).

The USPP market is particularly open to unrated US and foreign corporates (almost

half of USPP European issues in 2012 were unrated). In this respect, the US National Association of Insurance Commissioners (NAIC) provides a recognised [credit scoring system](#) that underpins risk assessment and capital weighting for US insurers and pension funds who are the major buyers in this market.

The USPP offers great flexibility in terms of maturity (3-15 years) and size (ranging from approximately US\$20 million to US\$1.5 billion). The majority of issuers in the USPP market are however medium-sized to large by European standards (with a typical offering being in excess of €200 million). Similarly, legal requirements and other costs make the market more economic for regular issuers in comparable amounts.

It is also very likely that if a new European market, modelled on key aspects of the USPP but adapted to local requirements and realities, emerged successfully, it would also be primarily relevant to medium-to-large European corporates. Such a market in Europe would have the great benefit, as in the US, of providing a further outlet for insurance and pension money to contribute to the long-term funding of the corporate sector. ICMA is currently exploring the conditions and features required for an equivalent to the USPP market to develop in Europe.

In conclusion, debt capital markets can play a substantially greater role going forward in financing SMEs and medium-sized corporates in Europe. This role can play out indirectly though the desired expansion of securitisation to SME loans to refinance banks. This route has a great deal of official, as well as market, support and expectation. It can also happen directly through innovative products and techniques, as well as through the development of new channels such as a European equivalent to the USPP market.

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Longer-term investment

The European Commission adopted a [Green Paper on Longer-Term Financing of the Real Economy](#) on 25 March 2013 and launched a three-month public consultation on how to foster the supply of long-term financing and improve and diversify the system of financial intermediation for long-term investment in Europe. Responses to the consultation will help the Commission determine what can be done to overcome the barriers to long-term financing. Follow-up could take several forms, legislative and non-legislative.

The Green Paper is concerned with long-term investment in the sense of the formation of long-lived tangible and intangible capital. The importance of long-term financing for growth and job creation has been recognised at international level by the G20. The capacity of the economy to finance long-term investment depends on the ability of the financial system effectively and efficiently to channel these funds to the right users and investments through open and competitive markets. This process can be carried out by various intermediaries – including banks, insurers and pension funds – and by direct access to financial markets.

In Europe, the ratios of investment or savings to GDP are favourable compared to other regions of the world. However, this overall picture hides the fact that savers and investors are currently experiencing high degrees of uncertainty, risk aversion and lack of confidence as a result of the weak macroeconomic situation and outlook. This may have lasting effects, creating more permanent barriers to the supply of long-term financing.

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The Charter of Quality and the regulation of the wealth management sector

The UK, and specifically London, is one of the world's largest and most significant centres for the management of private client assets. London attracts a population of high net worth individuals from around the world and remains a "pre-eminent financial centre for the management of such wealth". There is also a large and growing market of the mass affluent, individuals and families who have some £50,000 or more to invest, while family members of wealthy families usually begin with smaller parcels of assets. Whereas many may not define themselves as wealthy, wealth is a relative term used quite broadly today encompassing the sector that provides services for "high net worth" as well as clients building up their assets over a lifetime. Such client relationships may be via wealth managers, investment managers or private banks, all of whom comprise today's wealth community.

The market continues to change and grow in the UK and elsewhere. At the heart of this marketplace lie the members of the Association of Private Client Investment Managers and Stockbrokers (APCIMS), who manage over £500 billion in the UK, Ireland, Channel Islands and Isle of Man, and operate across more than 580 sites, employing around 32,000 staff. There are currently 112 full member firms of APCIMS: private wealth managers dealing on an agency basis in equities and bonds, UCITS, ETFs, and other financial products, for over four million retail clients. The firms offer a range of services from execution only trading through the provision of advice to full discretionary portfolio management. In addition, the 64 associate members of APCIMS provide related services to our firms in such fields as law, accountancy, IT, market making, and exchange functions.

As part of representing the interests of our members, a key objective for APCIMS is to ensure that regulatory, operational, tax and other changes across Europe are appropriate and proportionate for the retail investment community. In this context APCIMS has been delighted to work with ICMA as a member of the ICMA Private Banking Working Group, focusing particularly on the "Private Wealth Management Charter of Quality". The core business of many APCIMS'

members is similar to that of the ICMA members which are continental private banks. A number of APCIMS' firms are themselves private banks or owned by private banks, some of which are connected to Switzerland and elsewhere in continental Europe. All of them have similar interests in the regulatory framework in Europe and how it affects their sector of the financial services industry. It might almost be said that in the European wealth management or private banking industry, APCIMS represents UK businesses while ICMA brings together continental firms under the same umbrella. So it makes a lot of sense for us to cooperate together where possible.

The value of this cooperation was most clearly seen in the Charter of Quality. This has been adopted as the benchmark for the industry in Luxembourg, where the regulator has issued a "sign or explain" letter to all banks and investment firms. And other jurisdictions are looking closely at it as a means of publicly describing the standards to which the increasingly important private wealth management industry will conform. While establishing no new laws or rules, it tells the public the service they can expect and what they can hold firms to in the management of their assets. We anticipate that use of the Charter will grow and that regulators will see it as a help to their work of ensuring proper care for clients and the maintenance of market integrity. Above all, at present the Charter is both a symbol of the need to restore public trust in the financial services industry and a tool to help achieve this. APCIMS has been closely involved in drafting it and is pleased to continue in partnership with ICMA in its development.

This leads to one final point: it became clear in our work on the Charter that nowhere in Europe is the wealth management industry recognised as a clear regulatory category subject to regulation and rules suited specifically to its work. Yet it is important, large and growing across the UK and Europe. There has been an initial exchange of views on this subject and with the Charter now in place it is an issue to which we shall return in the future.

John Barrass
Deputy Chief Executive, APCIMS



by David Hiscock

Market Infrastructure

Market infrastructure developments

ECB: Contact Group on Euro Securities Infrastructures (COGESI)

Further work has been conducted in relation to the three *ad hoc* COGESI workstreams related to the harmonisation of collateral processes/procedures: (i) gap analysis exercise on collateral eligibility requirements; (ii) infrastructural requirements to support liquidity management; and (iii) elaboration of a report on minimum common features for CCPs/(I)CSDs triparty interoperability. To inform the development of the reports of these workstreams, which will be made available in the coming weeks, this has included the solicitation of input from certain key market participants. The ECB is keen to progress enhancements in collateral harmonisation given its own important commitments, which in 2014 will see the abolition of the current repatriation rule and the adoption by the Eurosystem of triparty as a way to bring collateral to the central banks for monetary policy implementation.

ECB: Money Market Contact Group (MMCG)

A regular quarterly [meeting of the MMCG](#) was held in Frankfurt on 18 March 2013. The agenda included: (i) a review of market developments, covering the main findings of the quarterly MMCG money market survey; latest market developments; and

an update on STEP market developments; and (ii) regulatory developments and their impact on the market, comprising an update on money market benchmarks and on the on-going reform process; and discussion of FTT and its implications for the money market.

ECB: Bond Market Contact Group (BMCG)

The ECB's [Bond Market Contact Group \(BMCG\)](#) is a newly established forum for discussing issues related to the euro area bond market. This includes short-term market developments as well as structural and regulatory trends and the functioning of the euro area bond market in general. Where relevant, issues relating to other markets may also be discussed. The BMCG is chaired by the Director General of the ECB Directorate General for Market Operations, Ulrich Bindseil, and ICMA's Chief Executive, Martin Scheck, is one of [the BMCG's 20 members](#).

The BMCG's inaugural meeting took place in Frankfurt on 22 January 2013. The agenda comprised: (i) mandate of the BMCG and Work programme 2013; (ii) review of recent bond market developments; (iii) global outlook for public sector and private sector bond issuance; and (iv) impact of recent regulatory changes and other structural issues. Of particular interest, the [summary report of the meeting](#) reports that (under agenda item #3) Pontus Åberg (ECB) [presented the most recent](#)

[developments regarding eligible collateral](#) and the amendments of collateral rules concerning Eurosystem monetary policy operations. The second BMCG meeting is scheduled for 9 April.

ECB: TARGET2-Securities (T2S)

A T2S Info Session was held in [Helsinki on 17 January](#) 2013. This included presentations of T2S project status update and next steps; 4CB project status update; and T2S harmonisation activities, along with insight sessions on direct holding market – options and prices; and corporate actions in direct holding markets. The next T2S Info Session, which will provide insight on euro liquidity management in T2 and T2S, will be held in [Ljubljana on 10 April](#) 2013.

The [T2S Advisory Group \(AG\)](#) provides advice to the Eurosystem on T2S-related issues, to ensure that T2S is developed and implemented according to market needs. The AG [met in Frankfurt on 28 February](#) 2013 and will next meet in Malta on 18-19 June 2013. At this latest AG meeting, there was a report on the main topics discussed during the latest [T2S Board meeting](#); a report on the outcome of recent [CSD Steering Group \(CSG\)](#) meeting; and a 4CB update on progress in developing the T2S platform. Considering policy related matters, there was a discussion regarding conditions for Directly Connected Participants (DCPs). Technical matters under discussion comprised a report on the activities of the [change review group](#) and

on the status of pending change requests; an update on the work of the [project managers group](#); an update on the status of the dedicated link connectivity solution and on the planning for the provision of such services; and an update on the status of discussions regarding testing and migrations. The *Third T2S Harmonisation Progress Report* (see below) was also presented.

The T2S [Harmonisation Steering Group](#) (HSG), which is supporting the AG in formulating its harmonisation agenda, met in Frankfurt on 1 February 2013. HSG members provided updates on relevant developments impacting T2S harmonisation, covering the CSD Regulation (CSDR) and Securities Law Legislation (SLL); the European Post-Trade Group (EPTG); and the CSG Task Force on Settlement Finality I. There was also a discussion of the draft *Third T2S Harmonisation Progress Report*; a T-FAX update; and a presentation regarding T2S matching fields. The next HSG meeting will be in late May or early June 2013. As it will maximise the benefits of T2S in terms of efficiency and competition, and it will contribute to financial integration in Europe, post-trade harmonisation is one of the AG's key deliverables. Reflective of its on-going work in this regard, the AG has now endorsed and published the *Third T2S Harmonisation Progress Report*, which focuses on monitoring the compliance of T2S markets with the harmonisation standards that have been defined so far.

ECB/European Commission: Joint post-trade conference

A [joint European Commission and ECB conference](#) on *Post-Trade Harmonisation and Financial Integration in Europe* was held in Frankfurt on 19 March 2013. The conference started with a welcome address from the President of the ECB, Mario Draghi, and a keynote speech delivered by Emil Paulis on behalf of the European Commissioner for Internal Market and Services. The rest of the conference

featured speeches from Daniela Russo, Director General Payments & Market Infrastructure, ECB, and Alberto Giovannini, Member of the European Post-Trade Group, along with panel discussions on the topics of:

- how will EU regulations contribute to post-trade harmonisation and financial integration in Europe?;
- post-trade harmonisation in an environment of increasing collateral needs; and
- post-trade harmonisation and financial integration in Europe – tomorrow's opportunities?

European Commission: Securities Law Regulation (SLR)

The European Commission plans to publish its proposed SLR in June 2013. The main objective of the measure is to reduce the divergence between national substantive laws on book-entry securities and therefore to make a substantive contribution to the simplification of financial markets' operations and to their legal safety.

European Post-Trade Group (EPTG)

It is widely accepted that post-trade harmonisation will foster much needed financial market integration. Accordingly, [the EPTG has been set up](#) to coordinate the joint work of the public and the private sectors to drive reforms that will improve the safety, efficiency and competitiveness of Europe's post-trading to the benefit of issuers, market infrastructures, intermediaries and investors. The members of the EPTG are senior representatives of key players in the post-trading landscape, drawn from the Commission, ECB, ESMA, and industry to manage the reform process. The EPTG's members from industry include representatives of issuers, infrastructure providers, intermediaries, and investors. The EPTG's initial areas for investigation are identified as:

- completing the dismantling of the

remaining Giovannini Barriers;

- safe and efficient provision and management of collateral;
- crisis management of post-trade infrastructures, eg procedures and information sharing among market participants (ie excluding supervisory/oversight aspects of infrastructure crisis management);
- innovation, and technological and process standardisation;
- improving the safety and efficiency of post-trade infrastructure, in particular for funds; and
- identifying regulatory overlaps and underlaps in the post-trade arena.

Having met three times during 2012, the EPTG's most recent meeting took place in Paris on 4 February 2013.

Global Legal Entity Identification Numbers

On 11 January 2013, the FSB published its [fifth progress note](#) on the Global Legal Entity Identification (LEI) initiative. This latest update reports on progress under the headings of Global LEI System Regulatory Oversight Committee (ROC); Global LEI Foundation Central Operating Unit (COU); Private Sector Preparatory Group; and Handover from the FSB to the ROC. There is also an Annex, headed *Global LEI Foundation Board of Directors (BOD) Eligibility, Selection Criteria and Composition – Preliminary*.

The ROC [held its inaugural meeting](#) in Toronto on 24-25 January 2013, hosted by the Ontario Securities Commission. The formation of the ROC marks a major milestone in the establishment of the Global LEI System. Authorities from over 50 countries and jurisdictions around the world participated in the meeting. The ROC, which as a stand-alone body has now taken over the responsibility for the leadership and direction of the global LEI project from the FSB, selected Matthew



The aim of this report is to provide an organising framework for characterising different central banks' collateral policies, facilitating a more coherent and meaningful discussion of collateral policy considerations.

Reed (US Treasury Department) to serve as first Chair and Jun Mizuguchi (Financial Services Agency, Japan) and Bertrand Couillault (Banque de France) to serve as Vice Chairs. The ROC also appointed the initial Executive Committee of the ROC and initiated a process to establish the Committee of Evaluation and Standards. The ROC asked the FSB Secretariat to provide its support.

On 8 March 2013, the ROC published its [first progress note](#) on the Global LEI Initiative. This covers the establishment and launch of the ROC; establishment of the Global LEI Foundation; integration of pre-LOUs (Local Operating Units) and LOUs into the Global LEI System; and the Private Sector Preparatory Group. An annex describes the launch of an interim system for globally accepted pre-LEIs. Then on 18 March 2013, the ROC published two documents, the first being [Allocation of Pre-LOU Prefixes for Pre-LEI Issuance](#) and the second [LEI ROC Members](#).

Collateral Initiatives Coordination Forum (CICF)

Established at the beginning of 2012, the [Collateral Initiatives Coordination Forum](#) (CICF) has been conceived as a

joint trade associations' body in order to facilitate appropriate coordination across the private sector of all collateral-related initiatives. Independent of the participating trade associations, the CICF is chaired by Godfried De Vidts. The fourth meeting of the CICF was held on 7 February 2013.

[The Changing Collateral Space](#) is an IMF staff working paper, published on 28 January 2013, which highlights the changing collateral landscape and how it may shape the global demand/supply for collateral. This paper firstly identifies the key collateral pools (relative to the "old" collateral space) and associated collateral velocities. The paper then considers how, post-Lehman and continuing into the European crisis, some aspects of unconventional monetary policies pursued by central banks are significantly altering the collateral space. And moreover, regulatory demands stemming from Basel III, Dodd Frank, EMIR etc, new net debt issuance, and collateral connectivity via custodians will affect collateral movements.

On 25 March 2013, the [Markets Committee](#) of the BIS released a report entitled [Central Bank Collateral Frameworks and Practices](#), which was

prepared by a Study Group chaired by Guy Debelle, Assistant Governor of the Reserve Bank of Australia. This report examines how collateral frameworks compare across central banks and the key changes they have undergone since mid-2007. The focus is more on the longer-term evolution of central bank collateral policies, including the local factors that explain the observed diversity in practices, and less on the temporary measures adopted during the height of the global financial crisis. The report also documents how collateral was used over the five-year period beginning in mid-2007, presenting data on the amount and composition of collateral pledged by counterparties to each of the 16 central banks in the study.

The concluding remarks include that central banks' collateral policies have evolved through time in response to changing operational needs and financial market developments. Lessons have been learned regarding the magnitude, scope and duration of market strains, the relative effectiveness of different policy tools, including some novel ones, and the performance of different asset classes in a stressed market environment. One can observe some common aspects in the recent evolution in collateral policies across central banks, including the acceptance of more asset types and the increased granularity of haircut/initial margin schedules. Policy changes have also resulted from periodic reviews of other factors – institutional, structural, developmental, legal and historical – which also affect the choice of collateral frameworks over the longer term. The aim of this report is to provide an organising framework for characterising different central banks' collateral policies, facilitating a more coherent and meaningful discussion of collateral policy considerations and their impact on market functioning.

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diary

ICMA organises over 100 market-related events each year attended by members and non-members. For full details see www.icmagroup.org

16 APR

ICMA Conference on Secondary Debt Capital Markets and Repo, Frankfurt, 16 April

Among the items high on the regulatory agenda are new measures relating to “shadow banking”, which will affect the international repo market and further progress on the Markets in Financial Instruments Directive (MiFID II) which is expected to impact secondary market trading of bonds. The ICMA German region has organised a half-day conference in Frankfurt to provide members with an opportunity to hear market experts and regulators give an update on what regulatory reforms that are now in the pipeline will mean for the repo market in Europe and the future of OTC trading.

[Register here](#)

18 APR

“Storm watching – a Swiss perspective” and “Challenges for debt capital markets”: an ICMA Seminar, Zurich, 18 April

Following the Annual General Meeting of the ICMA Switzerland and Liechtenstein region, all ICMA members and market participants in the region are invited to join an early evening seminar in Zurich. The evening will feature two presentations and will be followed by a networking drinks reception.

[Register here](#)

23 APR

ICMA Asset Management and Investors Council (AMIC) Meeting and Seminar, Paris, 23 April

This ICMA meeting and seminar for the asset management community is a unique opportunity to hear expert views on how the international industry is changing in response to regulatory and economic pressures. The event is presented by the Asset Management and Investors Council (AMIC) and is open to all professionals in the asset and wealth management industry. The seminar will include discussions on a wide range of topics including: the future of distribution, the future of the investment industry, the asset management industry's role in funding the banks, long term investments and hedge funds.

[Register here](#)

17-19 APR

Global Master Agreements for Repo and Securities Lending Workshop, Stockholm, 17-19 April

The workshop will include a detailed review of both legal agreements and their application, including coverage of the GMRA 2011, together with case studies; and the operational and basic legal characteristics of the repo and securities lending markets.

[Register here](#)

16 MAY

The ICMA Covered Bond Investor Council (CBIC) and The Covered Bond Report Conference, Frankfurt, 16 May

The annual ICMA CBIC and The Covered Bond Report Conference returns to Frankfurt in May, building on the success of last year's inaugural event which brought together 300 investors, issuers and officials from the industry to address the concerns of investors. The 2013 Covered Bond Investor Conference will review topical issues, with panels on: covered bonds in a world of macroprudential regulation and bank resolution schemes; the outlook for the syndication process, bookbuilding, sounding out investors, allocation, and secondary market trading; evolving covered bond structures; and developments in covered bond markets outside Europe.

Register here

22-24 MAY

ICMA Annual General Meeting and Conference, Copenhagen, 22-24 May

The ICMA AGM and Conference is a long-established event for the international debt capital markets. With high-calibre speakers from governments, regulatory authorities, central banks and financial institutions, it consistently draws a large audience of high-level participants from ICMA's international membership and the wider financial community. It also offers

opportunities for building professional contacts in the cross-border securities market.

This year the conference will cover a wide range of international market and regulatory issues including:

- progress in finding solutions to the euro crisis, prospects for European banking union and a single supervisory mechanism;
- regulatory and infrastructure developments affecting the availability of collateral;
- restoring confidence in the primary debt capital market;
- the evolution of secondary market trading and the future of the dealer intermediation model;
- a buy-side perspective on capital markets.

The conference is open to all financial market participants.

For full details please see the [ICMA website](#)

ICMA members are entitled to free delegate places

Contact: membership@icmagroup.org

**Ondřej Petr**

24 December 1975 - 23 March 2013

ICMA sadly has to report that our former colleague Ondřej Petr passed away aged 37, whilst on one of his much-loved climbing trips. ICMA extends its deepest condolences to his family and to his friends and colleagues at Havel, Holásek & Partners.

ICMA Executive Education

Register now for these ICMA Executive Education Courses. Check the ICMA website for the full 2013 course schedule and detailed course descriptions.

Part I: Introductory Programmes

Financial Markets Foundation Course (FMFC)

London: 8-10 May 2013

Luxembourg: 23-25 September 2013

London: 6-8 November 2013

Securities Operations Foundation Course (SOFC)

Brussels: 25-27 March 2013

London: 11-13 September 2013

Brussels: 13-15 November 2013

Part II: Intermediate Programmes

International Fixed Income and Derivatives (IFID) Certificate Programme

Sitges, Barcelona: 21-27 April 2013

Sitges, Barcelona: 27 October-2 November 2013

Primary Market Certificate (PMC)

London: 13-17 May 2013

London: 18-22 November 2013

Part III: Specialist Programmes

Collateral Management

London: 3-4 April 2013

Commodities – An Introduction

London: 25 March 2013

Commodities – Trading and Investment Strategies

London: 26 March 2013

Corporate Actions – An Introduction

London: 10-11 June 2013

Corporate Actions – Operational Challenges

London: 12-13 June 2013

Global Custody

London: 3-4 June 2013

Inflation-linked Bonds and Structures

London: 20-21 June 2013

Securities Lending & Borrowing

London: 29-30 April 2013

ICMA Executive Education Skills Courses

Successful Sales

London: 25-26 April 2013

Contact: David Senior

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Glossary

ABCP	Asset-Backed Commercial Paper	FTT	Financial Transaction Tax
AFME	Association for Financial Markets in Europe	G20	Group of Twenty
AIFMD	Alternative Investment Fund Managers Directive	GDP	Gross Domestic Product
AMF	Autorité des marchés financiers	GMRA	Global Master Repurchase Agreement
AMIC	ICMA Asset Management and Investors Council	G-SIBs	Global systemically important banks
APCIMS	Association of Private Client Investment Managers and Stockbrokers	G-SIFIs	Global systemically important financial institutions
BBA	British Bankers' Association	HFT	High frequency trading
BCBS	Basel Committee on Banking Supervision	HMT	HM Treasury
BIS	Bank for International Settlements	IASB	International Accounting Standards Board
CAC	Collective action clause	ICMA	International Capital Market Association
CBIC	ICMA Covered Bond Investor Council	ICSA	International Council of Securities Associations
CCBM2	Collateral Central Bank Management	ICSDs	International Central Securities Depositories
CCP	Central counterparty	IFRS	International Financial Reporting Standards
CDS	Credit default swap	IMCO	Internal Market and Consumer Protection Committee of the European Parliament
CGFS	Committee on the Global Financial System	IMMFA	International Money Market Funds Association
CICF	Collateral Initiatives Coordination Forum	IMF	International Monetary Fund
CIF	ICMA Corporate Issuer Forum	IOSCO	International Organization of Securities Commissions
CoCo	Contingent convertible	IRS	Interest rate swap
CPSS	Committee on Payments and Securities Settlement	ISDA	International Swaps and Derivatives Association
CRA	Credit Rating Agency	ISLA	International Securities Lending Association
CRD	Capital Requirements Directive	ITS	Implementing Technical Standards
CRR	Capital Requirements Regulation	KID	Key information document
CSD	Central Securities Depository	LCR	Liquidity Coverage Ratio (or Requirement)
DMO	Debt Management Office	L&DC	ICMA Legal & Documentation Committee
D-SIBs	Domestic systemically important banks	LEI	Legal entity identifier
EACH	European Association of CCP Clearing Houses	LIBOR	London Interbank Offered Rate
EBA	European Banking Authority	LTRO	Longer-Term Refinancing Operation
ECB	European Central Bank	MEP	Member of the European Parliament
ECPC	ICMA Euro Commercial Paper Committee	MiFID	Markets in Financial Instruments Directive
ECOFIN	Economic and Financial Affairs Council (of the EU)	MiFID II	Proposed revision of MiFID
ECON	Economic and Monetary Affairs Committee of the European Parliament	MiFIR	Proposed Markets in Financial Instruments Regulation
ECP	Euro Commercial Paper	MMF	Money market fund
EEA	European Economic Area	MTF	Multilateral Trading Facility
EFAMA	European Fund and Asset Management Association	NCA	National Competent Authority
EFC	Economic and Financial Committee (of the EU)	NSFR	Net Stable Funding Ratio (or Requirement)
EFSF	European Financial Stability Facility	OTC	Over-the-counter
EGMI	European Group on Market Infrastructures	OTF	Organised Trading Facility
EIOPA	European Insurance and Occupational Pensions Authority	OMTs	Outright Monetary Transactions
EMIR	European Market Infrastructure Regulation	PD	EU Prospectus Directive
ERC	ICMA European Repo Council	PR	PD Implementing Regulation
ESA	European Supervisory Authority	PMPC	ICMA Primary Market Practices Committee
ESMA	European Securities and Markets Authority	PRA	UK Prudential Regulation Authority (from April 2013)
ESM	European Stability Mechanism	PRIPs	Packaged Retail Investment Products
ESRB	European Systemic Risk Board	PSI	Private sector involvement
ETF	Exchange-traded fund	PSIF	Public Sector Issuer Forum
EURIBOR	Euro Interbank Offered Rate	QMV	Qualified majority voting
Eurosystem	ECB and participating national central banks in the euro area	RM	Regulated Market
FASB	Financial Accounting Standards Board	RPC	ICMA Regulatory Policy Committee
FATCA	US Foreign Account Tax Compliance Act	RTS	Regulatory Technical Standards
FCA	UK Financial Conduct Authority (from April 2013)	SGP	Stability and Growth Pact
FIIF	ICMA Financial Institution Issuer Forum	SI	Systematic Internaliser
FMI	Financial market infrastructure	SLL	Securities Law Legislation
FPC	UK Financial Policy Committee	SMPC	ICMA Secondary Market Practices Committee
FRN	Floating-rate note	SRO	Self-regulatory organisation
FSA	UK Financial Services Authority (until March 2013)	SSAs	Sovereigns, supranationals and agencies
FSB	Financial Stability Board	SSR	EU Short Selling Regulation
FSOC	Financial Stability Oversight Council	T2S	TARGET2-Securities
		TD	EU Transparency Directive
		TRs	Trade repositories



ICMA welcomes feedback and comments on the issues raised in the Quarterly Report. Please e-mail: regulatorypolicynews@icmagroup.org or alternatively the ICMA contact whose e-mail address is given at the end of the relevant article.

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