

Minutes of the ERCC Committee meeting held on 14 November, 2016 in Brussels

Present:	Mr. Godfried De Vidts	ICAP (ERCC Chairman)
	Mr. Dan Bremer	BAML
	Mr. Eugene McGrory	BNP Paribas
	Mr. Andreas Biewald	Commerzbank
	Mr. Michel Semaan	Crédit Agricole
	Mr. Romain Dumas	Credit Suisse
	Mr. Johan Evenepoel	Euroclear Bank
	Mr. Francois-Xavier Bouillet	Goldman Sachs
	Mr. Jean-Michel Meyer	HSBC
	Mr. Nicola Danese	JP Morgan
	Ms. Amanda Brilliant	Nomura
	Mr. Sylvain Bojic	Société Générale
	Mr. Richard Hochreutiner	Swiss Reinsurance
	Mr. Gareth Allen	UBS Limited
	Mr. Eduard Cia	UniCredit Bank (ERCC Vice Chair)
	Mr. Ed Donald	Standard Chartered (ASIFMA)
On the phone:	Ms. Lisa Cleary	ICMA
	Mr. Ronan Rowley	Deutsche Bank
	Mr. Andrea Masciovecchio	Intesa SanPaolo
Also Present:	Mr. David Hiscock	ICMA
	Ms. Lalitha Colaco Henry	ICMA (ERCC Secretary)
Apologies:	Mr. Michael Manna	Barclays
	Mr. Grigorios Markouizos	Citigroup (ERCC Vice Chair)

Welcome

The Chairman welcomed those in the room and on the phone and thanked Mr. Johan Evenepoel and Euroclear for hosting the meeting and for their hospitality.

1. Minutes from the last meeting

The minutes of the last ERCC Committee meeting, which took place on 26 October 2016 in Frankfurt, were unanimously approved.

Ms. Colaco-Henry explained that the minutes of the ERCC Committee meeting which took place on 30 September 2016 in Munich are still being agreed with the ICSDs. Once this has been done, the draft minutes will be circulated to the Committee for approval by written procedure.

2. Update on the CGFS survey

The Chairman said that he had sent a letter to the Committee on the Global Financial System (CGFS) regarding their largely qualitative survey to evaluate possible changes in the structure, activity and liquidity of repo markets collateralised by government securities. The CGFS survey aims to investigate potential factors behind these changes and to assess the extent to which they may affect the ability of these markets to support the financial system in the medium to long term, both in normal and stressed market conditions. The letter to the CGFS outlined a number of concerns with the survey, including the ambitious deadline of 18 November to respond. The Chairman is awaiting a response from CGFS including about whether the deadline can be extended, though the CGFS has indicated in the meantime that it will hold an industry round-table to discuss the survey and that ICMA will be invited to participate. It was noted that some firms have received the survey from multiple central banks, each asking for a different (albeit sometimes overlapping) sub-set of information. Firms were recommended to discuss the difficulties with the survey with their requesting central bank(s).

3. Legal update

Ms. Cleary said that she had received a number of requests for expansion to the coverage of the GMRA legal opinions. The window is now closed for further requests and the next step will be for ICMA to consider which extensions to commission. Ms. Cleary also noted that coverage of the 1995 GMRA will be discontinued from 2018. Accordingly, firms will need to ensure that work is well underway to update older GMRA documentation.

The [English High Court](#) recently ruled on a number of key issues arising out of a disputed close-out under a standard form GMRA (2000 version), making the judgment the leading English authority on the interpretation of the close-out valuation mechanics under the GMRA 2000. The decision also addressed a number of issues, such as the meaning of “close of business”, service of notices by e-mail and the exercise of a contractual discretion regarding valuation, which will be of wider relevance to finance contracts. With the kind support of Norton Rose Fulbright, ICMA will host a member call on 15 November 2016 to discuss the judgement.

The Committee also noted that the European Court of Justice (ECJ) had recently issued its first-ever judgement on the Financial Collateral Directive in which it clarified the meaning of “possession” and “control” under the Directive.

4. Regulatory update

Mr. Hiscock said that the Commission was expected shortly to publish its rules regarding the implementation of the leverage ratio and NSFR as part of the CRR. Many will have seen a leaked version of the rules, though until the rules are formally published, it is unclear to what extent the leaked version is an accurate reflection of the Commission's final position. It is anticipated that the rules will take effect in 2018 though compliance with TLAC may potentially be postponed till 2020. In any event, these deadlines may slip given that many detailed rules are still to be drafted.

As agreed at the last Committee meeting, a letter had been sent to Mr. Sean Berrigan, requesting clarification regarding the position of repo under the MiFID best execution rules set out in RTS 27. A substantive response has not yet been received, though the Commission has acknowledged receipt of the letter.

Regarding [ESMA's consultation on SFTR](#), which concerns draft technical SFT reporting standards, the ERCC Operations Group SFTR Task Force is developing a draft response. One of the most significant concerns with the proposals is the significant number of data fields to be reported. This is in contrast to the number of data fields currently being requested by various central banks for their money market reporting. The revised draft response will be circulated for comment shortly. The deadline for responding to the consultation is 30 November 2016. It was also noted that ESMA will be holding an [open hearing on the SFTR consultation](#) in Paris on 24 November, which will be open to all interested market participants.

5. ERCC Operations Group update

Mr. Hamilton said that the ERCC Operations Group has spent a considerable amount of time on the COGESI work to improve post-trade collateral efficiency. This is a key piece of advocacy for the Group which has spent a couple of months mapping the end-to-end messaging lifecycle of OTC, electronic and triparty repos in an effort to understand where opportunities can be created for harmonisation and importantly where key elements are missing ahead of changes to T2S, and the coming into force of SFTR, MiFID II and CSDR. The work has validated the fragmentation of product transmission, identifying the heavy reliance on product translation as repo moves through the lifecycle. The Group is also looking at opportunities to address this with "White Board" opportunities within SFTR. SFTR technical standards are still being consulted on and it is unclear which organisations will step forward to become SFTR trade repositories and how they will operate. Whilst a number of vendors have identified elements in terms of lifecycle which are important regarding completeness and accuracy, they haven't really joined the dots together in terms of what that operating model will look like. Therefore, it may be easier to replace the current operating model rather than trying to work with the challenges posed by the existing settlement and clearing landscape.

The next COGESI meeting is on 30 November in Frankfurt at which Mr Hamilton will present some findings of the ongoing COGESI work on collateral messaging, which is led by the ERCC Operations Group, and also set out thoughts on the way forward. ISO20022 messaging standard will be important going forward and will help to accommodate the introduction of legal entity identifiers, trade identifiers and product identifiers. Once this is done, work can be carried out to unify execution into clearing but to do that the right transmission and messaging protocol has to be identified. Much of the cost per trade at the moment is generated in the continual translation from execution through to clearing, so if the optimum transmission and messaging protocol can be identified, especially in relation to SFTR then it may be possible to reduce costs while consolidating some of the elements of post-trade processing. In 2017 and 2018 after T2S has been fully deployed there will be an opportunity to lobby and implement respectively changes and additions to the T2S messaging protocols and data elements. This will be a further opportunity to shift from using a generic message to using a dedicated repo SFTR message to differentiate the product flows. This will be important when moving to a CSDR world where product flows will need to be segregated. Additionally, it may be possible to generate economies of scale in the asset servicing income space if product identification can be introduced consistently through the stack, especially for firms that are starting to look at more direct access to clearing and settlement. All of this is dependent on developing a dedicated repo message.

The ERCC Operations Group has also set up a FinTech working group chaired by Mr. Sanjiv Ingle. The aim is to develop a better understanding of the various fintech product solutions that currently exist. The goal across the COGESI work, the SFTR work, the CSDR work and the FinTech work is to push for a more definitive operating model in the post-trade environment.

It was agreed that the work of the ERCC Operations Group should be showcased at the Annual General Meeting of the European Repo and Collateral Council taking place on 20 March in Zurich.

Finally, Mr. Hamilton said that the US elections had not presented any significant disruptions to settlement and clearing in Europe.

6. Update on the ERC Guide to Best Practice and the Bank of England's Securities Lending, Repo and Money Markets Code

Mr. Bojic said that work on revising the Guide was almost complete. A further meeting of the Working Group is scheduled for 12 December to consider the further draft of amendments proposed by Mr. Comotto. It is hoped that the Guide will be published shortly thereafter and after the Committee had given its sign-off to the amendments. In terms of the sign-off process, a summary of the major amendments will be circulated to the Committee and if no objections are raised within 10 days the Secretariat will assume that the Committee has agreed the amendments, following which the Revised Guide will be typeset and published. Mr. Bojic also noted that after the revised Guide is published, the Working Group will start to consider the second phase of amendments, such as best practice regarding T2S and the hold and release functionality.

Mr. Bouillet said that the title of the Bank of England's Securities Lending, Repo and Money Markets Code was still to be agreed, though much of the work on the draft Code had already been completed. The draft Code has been informally circulated to selected market participants and they have been asked to provide comments by 15 November. Mr. Bouillet said that he would be submitting the comments he had received by the 15 November deadline. Mr. Bouillet encouraged Committee members to obtain a copy for review as there does not currently appear to be an intention to conduct a formal market consultation. Of particular concern is a paragraph that deals with short selling and is more stringent than the short selling regulation. The Bank's new Code will be linked to the Senior Managers Regime and therefore firms will be in a position where they have to adhere to it and be compliant with it by the time of its planned May 2017 introduction. The Bank would like to finalise the draft Code by December 2016, which is a very ambitious timetable. The Code will apply to all UK operations and all UK traded products within the applicable asset classes. The definition of "market participant" still needs further clarification but it would appear, for example, that a EUR trade in London would be caught by the Code as would a GBP trade in Munich. Therefore, it would appear that the Code will have extraterritorial application, though this is still subject to clarification. Neither the ECB nor ESMA has been involved in the drafting of the Code. It was noted that the next SLRC meeting will be held on 13 December and that the ERCC will stress the need for proper market consultation; and request further time for the Committee to consider the interaction of the Bank's Code with the ERC Guide to Best Practice and also for the Committee to discuss it with European authorities, given its extraterritorial application.

7. Amendments to section 1000

Ms. Colaco-Henry said that section 1000 of ICMA's Rules and Recommendations for the secondary market sets out an elaborate framework regarding the establishment and governance of the European Repo and Collateral Council and the ERCC Committee. Sitting above the ERCC and the ERCC Committee is the International Repo and Collateral Council (IRCC) and its Committee. The original intention behind this structure was for the IRCC to be supported by a number of regional councils. Therefore, in addition to the ERCC, it was envisaged that there would be repo and collateral councils for Russia, Asia, the Middle East etc. The only regional council to be set up,

however, was the ERCC. Accordingly there is a very elaborate structure in which the IRCC is essentially an empty box. Because of the procedures set out in section 1000 ICMA nevertheless needs to go through a periodic process to appoint individuals to the IRCC Committee. In addition to identifying geographical regions in which to establish regional councils, the IRCC Committee must also consider all applications for admission to any of the regional councils (having regard to the recommendations of the relevant regional committee). Additionally, while regional councils are responsible for reviewing and maintaining regional trading guidelines and recommendations, the IRCC Committee is required by rule 1002 to approve such guidelines and recommendations and any amendments thereto. In the past, this administrative process has served to delay the publication of guidelines and recommendations and adds an unnecessary layer of bureaucracy to what should be a simple determination.

The Committee agreed that section 1000 should be amended to abolish the IRCC and the IRCC Committee. The Committee also decided that the geographic coverage for the single Council and Committee that will remain should no longer be limited to Europe. Accordingly, applications from firms outside of Europe would be considered favourably by the Committee assuming that applicants meet the requirements for membership of the Council set out in section 1000. It was agreed that Ms. Cleary would present more detailed proposals at the next Committee meeting.

8. Election procedure and timing

Ms. Colaco-Henry said that the process that would be followed for the 2017 election would be in line with the one used for the 2016 elections, which was the first time that the elections had been conducted by electronic ballot. The process that was followed in the 2016 elections was as follows. The call for candidates was issued in mid-December and firms were given four weeks, till 15 January, to submit nominations. The election period was opened on 22 January with Council firms having three weeks within which to email their votes to the Secretariat – i.e. till 12 February. The results of the election were announced on 12 February. It is anticipated that the 2017 election will run to a similar timeline.

9. AOB and further dates

Asia update - Mr. Donald said that there was still plenty of focus on China and trying to develop the Chinese repo market, which is a pledge-only market. Additionally, the People's Bank of China (PBOC) have put restrictions on on-shore banks lending to off-shore banks via repo. The overnight short-dated repo market has significant volumes but is dominated by just a few participants. The new Indonesian GMRA was recently launched which is a much better agreement than the old MRA. In the Philippines, there have been discussions with the Treasury to open up the local peso repo market because there is currently a withholding tax issue regarding the treatment of the coupon. Generally, a lot of the local currency repo markets keep themselves isolated from the international markets, so some time is spent trying to further develop and open up these markets. The ASIFMA Secured Funding Markets Committee has also discussed the Asian repo survey at length and the first set of questions (stage two) has now been sent to Asian desks. It is envisaged that the development of the Asian repo survey will be a staged process. First, a number of questions were added to the ERCC repo survey asking about what banks do in Europe with Asian counterparties, Asian currencies and Asian collateral. The second stage is asking Asian desks about their operations. It is hoped that the results of the ERCC Asian questions will match up with the responses given by the Asian desks in stage two. Mr. Donald also said that more generally, most banks in Asia are focused on the same issues as the Committee, such as NSFR, the leverage ratio and Basel III.

ICMA Buy-in Rules – it was noted that ICMA has been consulting members on reviewing and potentially amending the ICMA Buy-in Rules under the Secondary Market Rules & Recommendations. This is in response to feedback from members with respect to the efficiency of the existing buy-in process in the current market environment. The consultation period closed on 14 October and ICMA have been considering the responses received. The next step is to draw up a new consultation based on the responses.

The Chairman thanked Ms. Colaco-Henry for her work as the ERCC Secretary and wished her all the best for the future. The role of ERCC Secretary will be taken over by Mr. Alexander Westphal.

Further **ERCC Committee meetings** are scheduled as follows:

1. **Wednesday 25 January 14:00 – 17:00 CET** - ERCC Committee meeting in the margins of the Clearstream Global Securities Financing Summit in Luxembourg. The meeting will be held at Clearstream's offices at The Square, Room KB.01.C50, 42 Avenue JF Kennedy, L-1855 Luxembourg. This meeting will be the last meeting of the current committee before the 2017 election results are announced in February.

Other repo related events:

1. **Monday 20 March** - Annual General Meeting of the European Repo and Collateral Council in Zurich, hosted by SIX SIS. Further details will be available in due course.

The ERCC Chairman:

The ERCC Secretary:

Godfried De Vidts

Alexander Westphal