

Consultation on the ICMA Secondary Market Rules & Recommendations governing Buy-ins

Summary of members' call on December 2 2016

On December 2nd 2016, ICMA held a members' call to discuss the proposed revisions to the ICMA Buy-in Rules, as published on November 30 2016.

A summary of the points arising from the call are provided below.

The timing of the buy-in

It was broadly felt that 20 business days was too long a period between notification and execution, and that a shorter time-frame would be more appropriate, while still affording the non-defaulting party with the required flexibility. ICMA suggested a compromise period of 4 to 10 business days, at the discretion of the non-defaulting party initiating the buy-in.

The requirement for buy-in agents

While there was broad recognition that appointing a buy-in agent can be problematic in the current market environment, and that removing the requirement to appoint a buy-in agent would improve the efficiency of the buy-in process, a number of members raised concerns related to the incentives of the non-defaulting party to take due care in executing the buy-in.

ICMA asked members to review the proposed draft wording under Rule 454.1, and to revert with any comments or concerns.

Buy-in auctions

There was a broad support for the possibility for a buy-in auction, although some members were interested in how this could be structured. The proposal is to leave the market and prospective platforms to determine the optimal mechanism for a reverse-auction process to facilitate the execution of buy-ins, so long as they were consistent with the ICMA Rules, and provided for guaranteed delivery at the best available price in the auction.

Partial delivery shapes before the buy-in

There were no issues with the proposal that any partial deliveries ahead of the buy-in should not render the buy-in amount an untradeable shape, nor with the proposed draft wording (under 456.4):

456.4 Partial deliveries shall not render the balance of securities still to be bought in an untradeable amount.

Sell-outs

There was no disagreement with the proposal that the Sell-out Rules, where relevant, should be consistent with any changes to the Buy-in Rules.

Cash compensation

There was no disagreement with the proposal that the Rules should explicitly provide for the non-defaulting and defaulting parties to negotiate a cash settlement remedy in the event that the buy-in is unsuccessful or as an alternative to the buy-in. It was broadly recognized that outlining an approach for determining the appropriate reference price for cash compensation was beyond the scope of the Rules.

GMRA and Buy-in Rules interoperability

A number of members mentioned that it would be helpful if the ICMA Buy-in Rules provided for a 'bridge' between the GMRA mini-close-out for repos and cash buy-ins where repo and cash fails are linked. ICMA recognizes the issue and will undertake further work on this.

Next steps

ICMA invites members to provide further thoughts and comments on the proposals until December 31 2016.

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