Secondary Market Practices Committee

Meeting of the ICMA SMPC, September 15th, 2020

The meeting was held virtually, hosted by BlackRock, and chaired by David Camara (Goldman Sachs)

Attendees (accepted)[1]

Mirjam Aalbers	ABN Amro	
Kevin Rauseo	AGR	
Chloe Ong	ANZ	
Yannig Loyer	AXA IM	
Aalok Gupta	Bank of America	
Martin Waryniak	Bank of America	
Matthew Coupe	Barclays	
Arran Rowsell	BGC Partners	
Sander Schol	BGC Partners	
Vasililki Pachatouridi	Blackrock	
Yann Couellan	BNP Paribas AM	(Co-chair)
Laura Coote	BNY Mellon	
Greta Kasperaviciute	Central Bank of Ireland	
Martina Ben-Shaul	CIBC	
Silas Findley	Citi	
Ashlin Kohler	Citi	
Fares Hajjar	Crédit Agricole	
Chris Orr	Credit Suisse	
Richard Glen	Deutsche Boerse	
Marco Ferrari	EFG Bank	
David Camara	Goldman Sachs	(Co-chair)
Eric Heleine	Groupama AM	
Emmanuel Hurault	Groupama AM	
Luke Eaton	HSBC	
Stephane Malrait	ING	
Umberto Menconi	Intesa San Paolo	
Gherardo Lenti	Intesa San Paolo	
Barbara Zittucro	Intesa San Paolo	
Lida Sun	Jefferies	
Tom Young	Jefferies	
Kate Finlayson	JP Morgan	
Barnaby Hodgkins	JP Morgan	
Paul Glasgow	JP Morgan	
Claudia Gonzalez Cabanillas	JP Morgan	
Laura Sherrington	JP Morgan	
Angela Lobo	Morgan Stanley	

[1] Not all accepted participants necessarily joined all or part of the meeting

Hakan Guney	Nomura	
Vincent Grandjean	Santander	
Ricardo Goddard	Schroders	
Paula Alves	Société Générale	
Sylvie Bonduelle	Société Générale	
Danielle Sibony	Société Générale	
Jean-Philippe Cavrois	Société Générale	
Lucile de la Jonquiere	Société Générale	
Frida Mekoui	Société Générale	
Pauline Meric de Bellefon	Société Générale	
Christoph Hock	Union Investment	
Adam Weidner	Wellington	
Paul Gover	Westpac	
Huy Le	Westpac	
Liz Callaghan	ICMA	
Gabriel Callsen	ICMA	
Godfried De Vidts	ICMA Special Advisor	
Lee Goss	ICMA	
Andy Hill	ICMA	(Secretary)
Rene Karsenti	ICMA	
Keiko Nakada	ICMA	
Paul Richards	ICMA	
Martin Scheck	ICMA	
Rowan Varrall	ICMA	

Minutes

1. Rollcall, Co-chairs' welcome, and approval of last minutes

The group was welcomed to the third SMPC of 2020, noting that this was also the third meeting held virtually. The co-chairs commented on how the market had adapted over that period, not only in terms of market functioning, but also the human aspect of working and engaging remotely. In terms of key themes, these remained the same: Brexit and the ensuing bifurcation of market structures, CSDR (settlement discipline), with the latest delay affording more time for firms to improve their settlement's infrastructure, and ongoing evolution in the market ecosphere, including direct access, ETFs, and all-to-all trading; all of which became even more prominent in the wake of the Covid-19 turbulence.

2. Priorities of the European Council's Presidency and the secondary bond markets

Discussion with the German Ministry of Finance

The co-chairs welcomed **Dr. Sebastian Thomasius, Financial Service Coordinator of the German Council Presidency, German Ministry of Finance,** who kindly joined the SMPC to discuss with members the priorities of the Council Presidency with respect to financial markets, particularly from the perspective of secondary bond markets.

Presidency Priorities

This year has turned out to be very different to what had previously been expected ahead of the Presidency. Not only has this impacted priorities and legislative files but the inability for ECOFIN members to meet physically has created additional challenges, particularly in the case where people do not know each other.

The first priority is the fight against the pandemic, which has meant crisis management in the short-term. The focus has been on how to ensure sustainable recovery and to mitigate the economic and social consequences. This has entailed a comprehensive package of €1.8tn of economic stimulus and extraordinary measures. The fact that for the first time the EU will borrow and allocate funds on a mutualized basis is truly ground-breaking. The thrust of this will be the €750bn 'NextGenerationEU' Recovery Fund, consisting of €390bn grants and €360bn loans. Underpinning this are two objectives: providing financial support to member states, and (ii) restoring the potential for economic growth through a combination of investment and structural reforms. Some difficult discussions on these measures are expected.

The second priority is to complete the work related to Capital Markets Union. This is also linked with the work related to Banking Union, however this is proving to be more challenging, with many difficult issues and discussions, such as those around sovereign exposures, and work is likely to be continued also under the subsequent Presidency. Meanwhile, there has been significant progress with respect to CMU, and there is broad agreement among member states on what needs to be achieved.

In the coming week, the European Commission is expected to publish its new CMU Action Plan.[2] The Presidency will start discussions around adoption of the Action Plan within ECOFIN in October, with a view to adopting supportive Council conclusions by the end of the year. 'CMU' is a very appealing label; however, it encompasses quite long lists of technical issues, raising the question of what should be prioritized.

MiFID II/R

In 2019, the German Ministry of Finance set out its recommendations for reforming MiFID II/R in two non-papers. These proposed a two-stage approach, firstly focusing on short-term priorities, while outlining some longer-term revisions. The European Commission were receptive to the proposals, although took a different perspective on some of the recommendations.

The Presidency is currently very focused on the Capital Markets Recovery Package (CMRP), which proposes modifications to MiFID II/R, Prospectus Regulation, and Securitisation Regulation (STS). It is hoping to consolidate this work with the Member States by October, and achieve a trilogue agreement with the Parliament by the end of the year.

[2] https://eur-lex.europa.eu/resource.html?uri=cellar:61042990-fe46-11ea-b44f-01aa75ed71a1.0001.02/DOC_1&format=PDF

The MiFID II/R and CSDR Reviews will now take place in 2021, after the German Presidency. With regards MiFID II/R, there have been many long discussions since the two German non-papers, and a degree of urgency. However, in light of the COVID situation, it was not possible to review MiFID II/R entirely this year, beyond the proposed changes as part of the CMRP.

European Recovery Fund

Finally, the European Recovery Fund remains under discussion. This provides the European Commission with the power to go to the capital markets to finance the Recovery and Reliance Facility and the SURE programme. Issuance is likely to start as soon as October. The idea is for the Commission to become a benchmark issuer, which raises questions around the size and liquidity of issues. The Deutsche Finanzagentur is playing a role in readying Commission Debt Agency staff, particularly as previous issuance has been syndicated, whereas issuance under the ERF is likely to be via auctions. It is the aim of the Commission that this issuance will carry a AAA rating.

Discussion

A question was raised as to whether we could expect much deviation from the current CMRP proposals. The view was that the Presidency did consider providing recommendations, but also needed to acknowledge that other member states had put forward relevant suggestions. The one ‘elephant in the room’ is the trading obligation, however this was difficult to address in light of ongoing discussions with the UK. The issue of the suspension of RTS 27 best execution reporting was also raised, and whether RTS 28 would be similarly suspended. It was noted that that a number of member states were reluctant to let go of RTS 28.

The issue of a consolidate tape for bonds was raised, nothing that many in the industry felt that this was an important development for European bond market structure and price discovery. It pointed out that this was very much with the Commission for review, and that discussions were ongoing with the likelihood of a proposal before the summer of 2021.

The CSDR Review was raised, particularly with respect to the possibility to make constructive revisions to the mandatory buy-in framework. While this had been expected in 2020, this was now likely to be well into 2021 due to more pressing priorities among the member states.

The co-chairs thanks Dr. Thomasius for joining the SMPC and for providing helpful insights into the priorities of the Council Presidency from the perspective of bond markets.

3. Regulatory updates

a) MiFID II/R & Brexit

Update and discussion

Liz Callaghan (ICMA) provided an update on the recent ICMA-FCA Brexit Workshop.

TPR and TTP

The Temporary Permission Regime (TPR) is designed to deal with the end of the passporting regime, which will occur at the end of the transition period. The TPR will allow EU firms to continue to do business in the UK prior to being authorized. There will be a series of authorization slots for the different EU firms.

Firms operating within the TPR will be able to comply with both UK and EU rules, based on substituted compliance. However, transaction reporting is not included in substituted compliance.

The FCA will also have Temporary Transitional Powers (TTP). After January 1, 2021, certain obligations will change in scope and application. People and firms will be enabled to either comply with existing obligations up to March 2022 or they can choose to comply immediately with the scope or application of any new FCA rule.

Regarding trade reporting, for as long as TTP lasts, UK firms executing with an EU counterparty will not have to trade report in the UK. The EU counterparty will report.

There will be additional communication in the second half of the year regarding TPR and TTP. In addition, further information is currently available on the FCA website.

Equivalence

The Commission states there are several instances where the Commission does not want to take an equivalence decision this year, particularly in regard to (MiFIR) Investment Firm Review (IFR) as it will not take effect until middle of next year. Therefore, no Commission equivalence decision this year. This is a disappointment for the FCA as the UK wanted to agree equivalence across the full range covered in EU legislation, including prudential legislation.

Ideally, this equivalence would have gone into the Financial Services bill. This now represents a barrier to setting up ‘mutual equivalence’. The Commission does not rule out equivalence decisions at a later date. However, the UK and FCA would have found it more valuable this year rather than at a later date. Several other equivalence decisions will also not be made this year by the Commission.

While the Commission indeed sent detailed Questionnaires to the FCA, requesting answers by end of June, the FCA found pulling together this information by the end of June deadline challenging in the Covid-19 environment. The FCA did however deliver the questionnaires dealing with STO, DTO and other EMIR related areas a few weeks later, in early July.

Post-trade reporting

ESMA recently issued an opinion listing comparable post-trade country specific transparency regimes for venues. If a venue is not on the ESMA list, industry participants will have to trade report to an EU APA. The FCA is looking at that opinion and considering what they communicate to firms regarding their expectations in the UK. In the next few weeks, the FCA will communicate something to the industry.

Consolidated tape

The FCA has not yet formed a view regarding a bond CT. However, the FCA has engaged a lot with the HMT on this. The HMT is contributing to a broader discussion on this with the Commission. The FCA has also communicated with the SEC, seeking their views. The FCA has observed a lot of goodwill between the HMT and the Commission. Although, there are no specific proposals yet for bonds. A CT will be at the forefront of political discussions next year - EU/UK.

A comprehensive note of the workshop has been circulated to members of the ICMA MiFID II/R Working Group.

b) CSDR-SD

Update and discussion

Andy Hill (ICMA) updated the group on ICMA's ongoing work related to CSDR-SD.

The Group were informed that the belated five-year European Commission review of CSDR was expected sometime in Q4 of 2020, and that this was likely to entail a public consultation that included Settlement Discipline and the mandatory buy-in (MBI) provisions. Given the further delay to SD implementation to February 2022, this could be viewed as an opportunity to achieve meaningful revisions to the MBI regime.

ICMA had made good progress in preparing to update its contractual frameworks to support implementation of CSDR MBIs in the international bond and repo markets, and was ready to launch a consultation on proposed revisions to the ICMA Buy-in Rules. However, lead by its Legal Working Group, ICMA had decided to put this work on hold until after the CSDR Review, noting that ongoing efforts could be redundant in light of any substantive changes to the regulation. Instead, ICMA was now concentrating its efforts on consolidating its response in anticipation of the upcoming consultation.

Based on member guidance, ICMA is proposing a 'waterfall approach' to its CSDR response with regards to MBIs. At the first level it will argue that the authorities should pursue cash penalties and look to refine and recalibrate as appropriate to achieve the desired settlement efficiency outcomes. This would allow time to undertake more detailed analysis on the MBI impacts and to consider whether this is indeed necessary, and if so, to optimize its design.

Should this not be palatable, then the next recommendation is to make the requirement for trading parties to have in place contractual buy-in arrangements mandatory, so long as they confirm to certain high-level principles. An adaptation of this proposal to meet the original intention of the regulation could be to include mandatory extension periods by the end of which these contractual arrangements should be applied, noting that these would need to be based on a quantitative analysis of underlying markets in order to strike a balance between improving settlement efficiency and maintaining market liquidity, and would almost certainly be longer than the extension periods currently outlined in the regulation.

The final, and least optimal, recommendation, is a rewrite of the current regulation to at least make it implementable and operable, including necessary revisions such as symmetrical payments, the inclusion of a pass-on mechanism, a revised approach to cash compensation, and more appropriately calibrated extension periods.

Discussion

The co-chairs recommended that members read the recent paper outlining ICMA's proposed approach to the review response. It was also highlighted that data and analysis would be critical in backing up any industry arguments for revising the SD framework, in particular the removal of the MBIs. It was further noted that there is currently a major issue with the lack of buy-in agents, given that the appointment of an agent is regulatory requirement, and that the regulation did not provide the right incentives for firms to take on this role.

4. Electronic Trading Council

Briefing

Liz Callaghan will report on the meeting of the ETC (on September 14), including the discussion on potential market best practice for electronic axe dissemination.

The recent meeting of the ETC included a discussion on how trading infrastructures had held up during the pandemic, particularly with traders working from home. As well as focusing on the technological aspects, discussants also turned attention to the more human elements, such as the challenges of information flows, maintaining morale, and mentoring junior team members.

The main topic of the meeting was the revival of an earlier focus on bond market axe distribution and the challenges, and frustrations, related to this. While there is an underlying desire to establish market best practices for axe distribution, the Group agreed that the starting point should be analysis around how axes are distributed, both in terms of methodology and the various distribution channels. One of the key problems appears to be a lack of clear definitions for distribution methodologies and the expectations of both sell-sides and buy-sides as to the related protocols. Thus, the first step would be to create an outline of definitions to distinguish between, for instance, what is a run, an axe, or position, and what constitutes a firm price or an indication of interest. Even without best practice, this alone should help to resolve much of the existing confusion. However, the eventual goal would be the establishment of related market best practices.

A working group under the umbrella of the ETC was being established to undertake this work.

Discussion

It was agreed that this was indeed an important and much needed initiative that would provide benefits to market participants. It was also important to remember that sell-side axes had become an increasingly important element in secondary bond market liquidity provision. But this also required that any best practice strike the right balance between improving market efficiency and protecting liquidity providers.

5. FinTech update

Update

Gabriel Callsen and Rowan Varrall (ICMA) updated the Group on ICMA's various FinTech initiatives, particularly as pertinent to secondary markets.

FinAC

ICMA's FinTech Advisory Committee (FinAC) held its fourth virtual meeting on 16 July 2020. On the agenda were trends, new initiatives and standardisation in secondary bond markets, and the Barclays White Paper, *Industry Adoption Scenarios for Authoritative Data Stores using the ISDA Common Domain Model*, which was published on July 14 2020. At the next FinAC meeting, ICMA will discuss expanding the committee. ICMA member firms who would like to contribute to the FinAC's mission are requested to contact us so that we can gauge the level of interest. Further background on the current composition of the FinAC and its mission statement are available on ICMA's dedicated FinTech webpage

CDM

ICMA held a workshop in July to start developing a repo model in the CDM, followed by another workshop in August to review the draft specifications and technical requirements in collaboration with ISDA and Regnosys. Any SMPC members who like to join the working group of sell-sides, buy-sides, trading venues, and technology providers is very welcome. Further information, including supporting materials from the workshops and a webinar. can be found on the ICMA website. ICMA is currently in the process of formalizing legal agreements with ISDA and Regnosys with respect to further development of the CDM for repo and bonds.

ETP mapping

ICMA is planning to update its Electronic Trading Platform (ETP) mapping, including a wider range of platforms, while also extending its scope to include order and execution management systems (OMS and EMS). Members are encouraged to suggest venues and relevant platforms that are not already included. This is expected to be completed in late Q4 2020 / early Q1 2021.

DLT Directory

ICMA's DLT regulatory directory provides a non-exhaustive overview of recent DLT regulatory guidance and legislative initiatives, as well as related strategy papers and publications in selected jurisdictions across Europe, North America, and Asia-Pacific. Recent updates include: the German Federal Ministry of Finance publishing a draft law on the introduction of electronic securities, addressing the modernization of paper-based documentation requirements with the ability to store securities in a digital register such as blockchain; and the Monetary Authority of Singapore (MAS) publishing a consultation paper on a new Omnibus Act for the financial sector, with 'Digital Tokens' (DTs) defined as a digital representation of capital markets products .

Regulatory engagement

ICMA, along with ISDA, ISLA, LBMA, UK Finance, Association of German Banks (BdB), AFMA and International Islamic Financial Market, have jointly submitted on July 29, 2020 a letter to policy-makers asserting their commitment to defining and promoting the development of a digital future for financial markets. The letter sets out a series of principles and objectives across three core areas – standardization, digitization and distribution – in order to increase efficiencies, reduce complexity and lower costs.

Otherwise, ICMA continues to participate in the ECB FinTech Task Force and has recently joined the Bank of England's Working Group on Data Collection.

6. Secondary Market Forum

Update

Andy Hill updated the Group on the upcoming Secondary Market Forum taking place virtually on October 6.

The second ICMA Secondary Market Forum had been scheduled to take place in Amsterdam in March, but had been postponed due to the COVID situation. It was now being run as a virtual event on October 6, and was entitled: Secondary bond markets in the wake of the pandemic. The keynote address would be Imène Rahmouni-Rousseau, Director General of Market Operations, European Central Bank. This would then be followed by two panels: one looking at how the European credit markets performed during and after the COVID crisis, and the second focused on the practicalities and challenges of bond trading under lockdown. A number of SMPC members were kindly participating as panelists.

7. Any other business

Members were also reminded of the Annual bwf and ICMA Capital markets Conference, which would be held as a virtual event on September 23, and which was focusing on the Capital Market Recovery Package (colloquially known as the 'MiFID II/R Quick fix'), which would also feature Dr. Jörg Kukies, State Secretary of the German Federal Ministry of Finance.

The date for the next meeting of the SMPC would be confirmed soon, but is likely to be the last week of November or the first week of December.

Key calendar dates

Subject to change in light of Covid-19 developments

Annual bwf and ICMA Capital Markets Conference
23 September, 11am-12pm CEST

ICMA Future Leaders: Challenges facing young professionals post COVID-19
29 September, 5-6.30pm CEST

ICMA and Nordic Capital Market Forum Joint Annual Conference
2 October, time tbc

ICMA Secondary Market Forum: Secondary bond markets in the wake of the pandemic
6 October, time tbc

ICMA European Repo and Collateral Council (ERCC) Annual General Meeting
7 October, 3-5pm CEST

ICMA Primary Market Forum
13 October, 10am-12.15pm CEST

Developments in Bond Markets Contributing to Sustainability under COVID-19 – Globally and in Japan
November 13, 8-9.40am CEST

Prepared by Andy Hill (October 2020)
Updated December 2020