Secondary Market Practices Committee

Meeting of the ICMA SMPC, November 30th, 2017

The meeting was held at Citigroup, London, and Chaired by Sonali Das Theisen, Citigroup Global Markets

Attendees

In the room:

Stephen Fisher	BlackRock	
Silas Findley	Citi	
Andy Beed	Credit Suisse	
David Camara	Goldman Sachs	
Elizabeth Callaghan	ICMA	
Gabriel Callsen	ICMA	
Andy Hill	ICMA	(Secretary)
Bogdan Pop	ICMA	

Videolink:

Sonali Das Theisen	Citi	(Co-chair)

On the line:

Dinos Daborn	AxeTrading
Julien Morris	Jefferies
Barbara Zittucro	Intesa San Paolo
Sylvie Bonduelle	SocGen
Mathieu Casadevall	SocGen

Apologies:

Yann Couellan	*BNP Paribas AM*	*(Co-chair)*

Agenda items

Co- Chairs' welcome

The meeting was opened with an introduction and welcome from Sonali Das Theisen. It was noted that this was the last meeting of the SMPC before the implementation of MiFID II, and so a good opportunity to exchange views on key concerns, the major implementation issues facing members, and to identify what the industry should be focused on collectively after January 3 2018

1) **MiFID II/R implementation**
   Discussion

The ICMA secretariat opened the discussion by way of reference to the recent ICMA regional workshops across most major European centres, which highlighted many differences and divergences between jurisdictional approaches to implementation. It was suggested, for instance, that some buy-sides would look to avoid transacting in the first weeks following January 3. Meanwhile, there was increasing concern about the ability to provide counterparty LEIs for reporting purposes. It was suggested that a table illustrating key differences across jurisdictions (such as the various post-trade transparency deferral regimes) would be a helpful resource for members.

LEIs

The Group recognized LEIs as an outstanding implementation issue, and felt that it was still not entirely clear what one should do in the case that a firm does not have a counterparty's LEI when transacting. It was noted that previous FCA guidance had suggested "no LEI, no trade", but it was further queried whether this only applied to EU based counterparties. Also, would it mean that trades would have to be made void where subsequently an LEI was not made available? And who would be deemed to be at fault – the counterparty not providing the LEI, or the investment firm that traded without already having the information?

SIs

Members highlighted ongoing uncertainty with respect to identifying systematic internalisers for various instruments, and how firms could obtain this information. There was discussion as to whether firms could even opt in to become SIs at the instrument level, rather than at the asset class level (e.g. "bonds"), given that this did not seem to be an option on the SI registration applications. Some of the Group felt that this was indeed possible, at least at the issue level, even though it was not obvious from the application process. However, there still remained the problem for buy-side firms being able to identify relevant SIs at the instrument level. It was mentioned that APAs would have this information, but one would also need to know which APA to go to since, again, this information would not be centralized.

ToTV

Another open question identified by the Group related to what constituted "traded on a trading venue", and how could one know in advance. It was agreed that with the exception of liquid instruments, it was not possible to know for sure. It was further commented on that ISINs for derivatives remained an issue.

ICMA-FCA Roundtable

The ICMA secretariat noted that all these issues, and others, would be covered in the upcoming ICMA Roundtable with the FCA, open to the ICMA MiFID II/R Working Group and Platform Working Group, and scheduled for December 7. This prompted discussion around the format of the Roundtable, and the need to be relatively circumspect with the framing of some questions. For instance, there may be little benefit in leading the FCA to provide relatively prescriptive guidance on an issue where there already existed a pragmatic degree of flexibility, particularly given that regulators were not averse to changing their minds at a later date. It was suggested, and unanimously agreed, that a detailed note of the Roundtable should be recorded. This should then be circulated amongst the attendees for feedback and comments to arrive at a consensus interpretation of the meeting, which could then be shared with the FCA for their edits and approval. The finalized and approved record of the Roundtable could then serve as a helpful resource for ICMA members and the broader industry in implementation. It was suggested, and agreed by members, that the emphasis of the Roundtable and subsequent note should be on supporting mutual interpretation and harmonized adoption of the regulation, and that to garner FCA approval the tone of the note should be implementation-compliant focused. As such, the note could potentially help firms with some forbearance with respect to their implementation and compliance efforts.

The secretariat agreed to follow this process, adding that they would also make an audio recording of the Roundtable, with FCA approval, to assist in drafting the notes.

Action point: *A note of the MiFID II/R WG and Platform WGs meeting with the FCA on December 7 to be shared with the participants for consensus agreement, and then shared with the FCA. The note will then be made available to the wider SMPC and related WGs. The aim of the notes will be to support a consensus understanding on key issues to support harmonized implementation.*

2) **European Commission Expert Group on European Corporate Bond Markets:**
   Briefing and discussion

The ICMA secretariat provided a brief overview of the recently published reports of the European's Expert Group on Corporate Bond Markets,[1] which provided 22 policy and market based recommendations intended to improve the efficiency and functioning of the European corporate bond markets. ICMA had been one of the 17 members of the industry group, and was keen to engage with the SMPC in building on the recommendations.

An SMPC member commented that they had read the reports, as well as attended the official launch event in Brussels on November 24,[2] and thought that the recommendations were largely positive and useful. In particular, they welcomed the recommendations related to supporting SME issuance, encouraging private placements, encouraging more all-to-all trading, reviewing barriers to developing corporate bond ETFs, and requesting industry participation in determining the phase-in of the MiFID II liquidity calibrations. The recommendations with respect to capital relief to support market-making was also appreciated, but it was noted from the European Commission's comments at the launch event that this would be challenging for the Commission.

It was pointed out that the Commission intended to follow-up on the publication of the two reports with a broader industry-wide consultation in early 2018, before making its official response to the recommendations later in the year. The members agreed that ICMA should respond to the consultation, with SMPC engagement. It was also noted that the European Commission and ESMA, along with the various NCAs, are not the same, and that even gaining Commission support on key issues did not

[1] See: Improving European Corporate Bond Markets and Analysis of European Corporate Bond Markets
[2] See: https://ec.europa.eu/info/events/finance-171124-corporate-bond-markets_en

necessarily solve the problems: The Expert Group recommendation for a “true” consolidated tape for fixed income being a prime example. However, the input into the consultation could be helpful in informing the groundwork for MiFID III, the process for which would no doubt be underway soon.
Action point: *SMPC to respond to the forthcoming Consultation on the recent reports and recommendations of the Commission’s Expert Group on European Corporate Bond Markets (expected early 2018).*

3) ICMA market studies
Briefing

SN-CDS study

The ICMA secretariat provided an update on the ongoing joint study with ISDA into the state and evolution of the European corporate single name CDS market. The Group were reminded that ICMA was mainly holding the pen and was focused on the qualitative, interview based input, while ISDA were contributing the data and quantitative analysis. So far ICMA had interviewed 10 market participants representing market-makers, asset managers, and loan books. It was noted that despite round support for the initiative from the SMPC it had been a struggle trying to persuade more members to participate in the interviews. While ICMA and ISDA were now in the final stages of preparing the report, there was still a window for further interviews and ICMA would continue to target some key absentees. Otherwise, ICMA and ISDA were on track to publish the report in January 2018.

Discussion

An SMPC member commented that in a recent discussion with a large European regulatory body they were surprised by their adverse reaction to the CDS market, which they seemed to view as presenting a risk to stability rather than recognizing the benefits to investors and market-makers. They felt that an important contribution of the ICMA and ISDA study should be to help educate regulators and policy makers so that they have a better understanding and appreciation of single name CDS, and to highlight the positives as well as the potential risks. Others agreed, noting that the CDS market had been on the receiving end of some negative, and largely ill-informed, press coverage, which was contributing to the general unfavourable view of the CDS product. It was therefore important for bodies such as ICMA and ISDA to help demystify the market and to put forward the case for a healthy and liquid SN-CDS market which, ultimately, was a social good.

A question was raised by one of the Group as to whether the 2014 ISDA Definitions, which had been an important milestone in the evolution of the CDS market, were currently being reviewed. None of the other members nor the ICMA secretariat were aware of this, but it was agreed that ICMA would follow-up with ISDA to confirm whether or not this was the case.[3]

Action point: *ICMA/ISDA to complete and publish the SN-CDS study by early 2018. More member participation (sell-side and buy-side) in the interviews is encouraged, with focus on demystifying the CDS market and highlighting the benefits of an efficient, liquid SN-CDS market.*

[3] It was subsequently confirmed that the ISDA 2014 Definitions were not under review.

4) ICMA Secondary Market Rules & Recommendations
Discussion

The ICMA secretariat had requested that SMPC members consult with their relevant colleagues on the application of the ICMA Secondary Market Rules and Recommendations covering buy-ins and interest claims in the case of fails, and whether there was further room for the Rules to be improved. In particular, ICMA was concerned by some recent reports from members that some firms were refusing to pay interest claims under Rule 407, which related to costs incurred by non-defaulting purchasers due to negative interest rates.

None of those present or on the call were aware of any major issues relating either to the modified buy-in rules or interest claims, and it was suggested that in the case of the application of Rule 407 it may be better to have this discussion directly with the relevant member post-trade experts as they would be better placed to provide feedback.

Action point: *ICMA to follow-up with its 'Ops Group' on potential issues related to the implementation of Rule 407 ('negative interest claims').*

5) SMPC and related WG priorities for 2018
Discussion

The ICMA secretariat asked members to provide guidance on the key priorities for the SMPC and its related working groups in 2018.

MiFID II/R

Members suggested that MiFID II/R would remain a key area of interest and concern, particularly with respect to ongoing implementation challenges and market impacts. The Group agreed that some form of 'post mortem' analysis based on input from members would be highly relevant, and in terms of timing for this it was generally felt that approaching the end of the first quarter would seem optimal. Some of the Group also suggested that based on this analysis it would become clearer as to the possible areas where market best practice could be usefully developed to support consistency and harmonized implementation. The secretariat noted to the members that ICMA was already proposing to review its SMR&Rs in light of new regulation in early 2018, and that this proposal would dovetail well into that initiative.

Credit derivatives

It was suggested that ICMA should aim to work closely with ISDA on issues related to credit derivatives, in particular corporate SN-CDS, and that there was a natural overlap in the interests of their respective members. Ideally, ICMA should look to formalize cooperation with ISDA on such issues. One member commented that ISDA was naturally more derivatives focused, while ICMA was more cash bond market orientated, however, working together on credit market issues would be mutually beneficial. It was further suggested that such cooperation would also help broaden the bandwidth of both associations.

The ICMA secretariat referred to the current ICMA and ISDA study into the European SN-CDS market as evidence of existing good cooperation and a solid platform on which to build.

Asia

ICMA's reach into the pan-Asian corporate bond markets was flagged, and the secretariat confirmed that ICMA was currently in the process of undertaking a study into the state and evolution of the APAC cross-border corporate bond secondary market which it hoped to finalize in the first half of 2018. It was agreed that this could be a good platform to help develop an APAC region SMPC, with support of Europe-based SMPC members. It was also felt that there could be some valuable synergies between the two regional Groups and it was suggested that SMPC members reach out to their Asia-based colleagues in order to encourage their engagement.

FRTB

The topic of the Basel III Fundamental Review of the Trading Book was raised, particularly with respect to the potential impact on fixed income market making resulting for the likely significant increases in capital costs arising from the regulation. The Group conceded that this had not been as high a priority for them as it probably should have been, particularly with MiFID II being such a prominent focus, but this was certainly an area that warranted further discussion and awareness. The secretariat noted that AFME, ISDA, and others had been heavily engaged in advocacy work on FRTB for some time, and that ICMA would look to complement their efforts, where it could, rather than duplicating existing work.

CSPP

It was also agreed that the ECB's ongoing Corporate Sector Purchase Programme would remain a key issue in 2018, and that ICMA should continue to monitor its impacts and to remain in close contact with the ECB.

SMPC GM

The ICMA secretariat floated the idea of an SMPC General Meeting to be held in London in 2018, which would be open to the broader membership and industry, showcasing the various workstreams and outputs of the SMPC and its related working groups. The Group agreed that this was a worthwhile initiative, however, it was suggested that this should probably be held later in the year, ideally around Q3, as this would allow time to assess the market impacts of MiFID II, which would likely be a major theme and key draw-card for the event.

Action point: *Proposed SMPC General Meeting to be scheduled in Q3 to allow time to assess impacts of MiFID II/R.*

Summary of suggested SMPC foci for 2018:

- MiFID II/R implementation and impacts on market functioning and liquidity
- The possible development of market best practice to support MiFID II/R implementation (noting that there is already an action to review the SMR&Rs in early 2018 in light of new market regulations)
- Seeking to formalize cooperation with ISDA on advocacy related to credit derivatives (in particular SN-CDS)

- Continued monitoring of impacts of CSPP
- Raising of FRTB as a potential issue for credit market liquidity, coordinating with other advocacy efforts

6) Any other business

There were no other points of business

7) Approval of the minutes of the last meeting

In the absence of any comments, the minutes from the meeting of September 18th, 2017 were approved.

Prepared by: Andy Hill