

Swiss SPTC Meeting 37

Regulatory Developments

Matthias Heer, 14. December 2016

my background, my work

Yesterday

- Insurance (risk management, supervision and re-insurance)
- Banking (TBTF and FIDLEG/FINIG)
- Brussels (market access, equivalence decisions [ccp, solvency], regulation)

Today (since mid-October 2016)

- Post-trade @ DSS
- International, Multinational (EU) and National
Focus: Clearing and Settlement
- Monitoring, Analysis, Lobbying and Implementation
- Zurich – Brussels

The EU Post Trading Agenda

Segment of the Value Chain	Measure	Proposed (Published)	Adopted (Finalised)	Entry into Force (after Technical Standards)
Trading	MiFID II/MiFIR (MiFID I)	July 2011	13 May 2014	3 January 2018
Clearing	EMIR	September 2010	4 July 2012	15 March 2013 21 June 2016 (Clearing)
	CCP Resolution & Recovery	November 2016	<i>End 2017?</i>	<i>Mid 2018?</i>
	EMIR-Review	November 2016	<i>Mid 2018?</i>	<i>2019?</i>
Settlement	Central Securities Depositories Regulation (CSDR)	March 2012	28 August 2014	Q1 2017, Except Settlement Discipline (Q1 2019)
Underpinning Law	Securities Law Legislation (SLL)	Recommendations by end-2018 (part CMU)	<i>Not Clear</i>	<i>Not Clear</i>

CCP Resolution and Recovery 1

- The Commission tabled its proposal for this new legislation on the 28th November 2016.
- The proposal follows to some extent the work of the FSB and CPMI-IOSCO
- The main element of the proposal are
 - high flexibility for the national resolution authorities when considering the tools to be used and the timing:
 - it rejects the idea of toolkit setting out the order in which the tools should be used as it would limit the authorities' flexibility
 - the main resolution tools in the proposal are: partial or full contracts tear-up, variation margin haircutting, cash calls, write-down and conversion of capital and debt instruments, sale of business, bridge CCP, finally public support as a last resort.
 - possibility for resolution authorities to “require the CCP to set up a parent financial holding company in a Member State or a Union parent financial holding company”.
- Implications for the Swiss Insolvency regime?

CCP Recovery and Resolution 2

Third Country Requirements

- Agreements with third countries
the Commission may submit to the Council recommendations for the negotiation of agreements with third countries where a third country CCP provides services or has subsidiaries in one or more Member States. Relevant national authorities shall recognise third country resolution proceedings.
- Cooperation arrangements:
Competent authorities or resolution authorities, where appropriate, shall conclude cooperation arrangements with third country authorities. ESMA to issue guidelines on the types and content of the provisions of cooperation arrangements by 18 months after the entry into force of the Regulation.

EMIR Review

- A market consultation on the – largely CCP requirements aspects of EMIR – was concluded in 2015
- Commission came forward with its recommendations on the 23. November 2016. The commission plans to make further conclusions and present its legal proposal at the end of 2017.
- In the center of the revision are simplifications of EMIR specifications like
 - non-financial counterparties – calibrating the clearing and bilateral margining requirements
 - small financials – calibrating the clearing obligation
 - simplifying the backloading reporting requirement
 - intragroup transactions – simplifying reporting requirements
 - simplifying double-sided reporting
- The Commission recognised, in a further consultation on the EU regulatory landscape that EMIR (and the CRR) were the main pieces of legislation causing market participants difficulty in respect of complexity, duplication and overlap.

Potential Timeline for Finalisation of CSDR and Application Timetable

2016	
11. November	Endorsement & Publication by the Commission of draft ESMA and EBA RTS on CSD requirements, participant default rules, and CSD capital requirements (RTS on settlement not published yet)
November onwards	European Parliament & Council will have three months to review, and endorse or reject RTS (possibility for an additional 3 month extension)
2017	
February onwards	Completion of Institutional confirmation of RTS. Finalisation of RTS triggers publication in the EU Official Journal
March	Entry into force of relevant RTS, 20 days after publication in the OJ (except Settlement Discipline) triggers application deadlines
September	Application Deadline for TC CSDs to ESMA and EU CSDs to National Competent Authorities ("NCAs") for recognition under the CSDR
Late 2017	Expected incorporation of CSDR into the EEA Agreement, triggering the change in legal personality of LIE securities into "EU" securities
2018	
March	Deadline for NCA/ESMA to rule on CSDs' Applications. For TC CSDs, Commission must deliver prior Equivalence Decision on TC CSD rules.
2019	
March	Entry into force of Settlement Discipline provisions

Other EU Issues on Our Radar

Transparency of Securities Financing Transactions Regulation (SFTR)

- Finalised and entering into force in coming months. Reporting by counterparts of SFTs to TRs. TC CCPs and CSDs excluded. Obligation to seek prior approval for re-use of lent securities. SIS Sec. Finance is participating in a study being conducted on behalf of ESMA, which is preparing RTS

Capital Markets Union (CMU)

- Mainly to do with revitalisation of company funding tools and instruments, but some post-trade aspects, covering:
 - ❖ (i) Review of remaining Giovannini Barriers: Commission EPTF (European Post Trade Forum) has just completed its overview and is moving towards the recommendations part of the report (reports by mid-2017); and
 - ❖ (ii) Securities Law: study put out to tender (closed in early September). Reports in 2018, and legislative or other recommendations in 2019

Other EU Issues on Our Radar

Financial Transaction Tax (FTT) – evergreen...latest developments

- 10. October 2016: agreement between the 10 finance ministers of the FTT-member states in the margin of the Eurogroup-meeting on main pillars. Goal was a common proposal for the end of 2016.
- Push from France and Germany
- Participating member states still arguing about scope and basis of taxation. As well as economic outcome and compensation payments.
- 6. December 2016: discussion of the ministers postponed to January 2017
- Internal pressure in Belgium to leave the coalition. 9 member states (Austria, Germany, Greece, Spain, France, Italy, Portugal, Slovenia and Slovakia) would be left, which is the minimum required to bring forward such a proposal.

Disclaimer

This material has been prepared by SIX Group Ltd, its subsidiaries, affiliates and/or their branches (together, "SIX") for the exclusive use of the persons to whom SIX delivers this material. This material or any of its content is not to be construed as a binding agreement, recommendation, investment advice, solicitation, invitation or offer to buy or sell financial information, products, solutions or services. It is solely for information purposes and is subject to change without notice at any time. SIX is under no obligation to update, revise or keep current the content of this material. No representation, warranty, guarantee or undertaking – express or implied – is or will be given by SIX as to the accuracy, completeness, sufficiency, suitability or reliability of the content of this material. Neither SIX nor any of its directors, officers, employees, representatives or agents accept any liability for any loss, damage or injury arising out of or in relation to this material. This material is property of SIX and may not be printed, copied, reproduced, published, passed on, disclosed or distributed in any form without the express prior written consent of SIX.

© 2016 SIX Group Ltd. All rights reserved.