

# Swiss SPTC Meeting 38

## Regulatory Developments

Matthias Heer, 27. March 2017

# EU Post Trading Agenda

Segment of the Value Chain	Measure	Proposed (Published)	Adopted (Finalised)	Entry into Force (after Technical Standards)
<b>Trading</b>	MiFID II/MiFIR (MiFID I)	July 2011	13 May 2014	3 January 2018
<b>Clearing</b>	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	<i>June 2017</i>	<i>Mid 2018?</i>	<i>2019?</i>
<b>Settlement</b>	Central Securities Depositories Regulation (CSDR)	March 2012	28 August 2014	Q1 2017, Except Settlement Discipline (Q1 2019)
<b>Underpinning Law</b>	Securities Law Legislation (SLL)	Recommendation 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 28<sup>th</sup> 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”.
- **Discussion in EU Council started**
- **Discussion in the EU Parliament about to start**

# 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.
- After postponement, the commission plans to present its legal proposal end of June 2017. Due to Brexit?
- 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

<b>2017</b>	
<b>10. March</b>	Publication of CSDR RTS on CSD requirements, participant default rules and CSD capital requirements.
<b>30. March</b>	Entry into force of relevant RTS, 20 days after publication in the OJ (except Settlement Discipline) triggers application deadlines for MS CSDs and TC CSDs
<b>30. September</b>	Application Deadline for TC CSDs to ESMA and EU CSDs to National Competent Authorities (“NCAs”) for recognition under the CSDR
<b>late 2017</b>	Expected incorporation of CSDR into the EEA Agreement, triggering the change in legal personality of LIE securities into “EU” securities
<b>2018</b>	
<b>ongoing work</b>	<p>Advancement of application</p> <ul style="list-style-type: none"> <li>- technical exchanges with ESMA</li> <li>- equivalence decision on Swiss regulatory and supervisory framework</li> <li>- MoU between ESMA and FINMA</li> <li>- assent of LI authorities</li> </ul>
<b>beginning with March</b>	Deadline for NCA/ESMA to rule on CSDs’ applications, 6 month after recognition of completed application
<b>2019</b>	
<b>March</b>	Entry into force of settlement discipline provisions

# Other EU Issues on Our Radar

## **Capital Markets Union (CMU)**

- See discussion meeting 37
- Post Trade see EPTF

## **Financial Transaction Tax (FTT) – the unsuccessful story goes on**

- 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.
- 6. December 2016: discussion of the ministers postponed to January 2017
- 22. January 2017: minister discussion without further insights
- Participating member states still arguing about scope and basis of taxation. As well as economic outcome and compensation payments.

# BREXIT – Post Trade Perspective

- **Change of perspective: main finance market outside European Union**
- Equivalence- / Passport-discussion: new paper from the Commission (old news)
- Stability 1: Euro-clearing
  - Organization: ECB – currency policy
  - Demands: Re-gaining control
  - Discussion: EU – concentration in Frankfurt? UK: bearing EU risk
  - Outcome: EMIR-review (preferred by ECB) or new legal base?
- Stability 2: Third Country CCP (equivalence) / TR / CSD / ...
  - Organization: ESMA – systemic supervision
  - Demands: Information needs, co-supervision
  - Discussion: New procedures or at least additional requirements, better information and fees
  - Outcome: EMIR-review
- Changes in the post trade industry?



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