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Remarks during the discussion on Securities Financing Transactions
Consideration of amendments

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All of us here agree that SFTs are at the heart of a smooth functioning financial market as well as pivotal for monetary policy. These transactions however can also be used in a risky fashion in the shadow banking sector and lead to a build-up of leverage, with a potential for undesired contagion. This is why putting in place transparency provisions for SFTs is more timely and important than ever.

Mr Soru's report provides a good starting point for our discussion. Through my amendments to it, I would like to fill in some missing issues as well as address several points on which we are not entirely in agreement.

Issues co-signed with Renato Soru:
SMEs:

Let me first however start with a point of agreement on the issue of SMEs. The amendment co-signed with Mr Soru on this point focuses on making the life of SMEs easier by including an SME reporting requirement exemption to the text (Mr Soru's report does not contain one, but the Council text does). SMEs are at the heart of our economies and represent Europe's fuel for growth. For this reason, we should exempt SMEs from SFTs reporting requirements when engaging in a transaction with a financial counterparty. It should in this case be the obligation of the financial counterpart to report the transaction.

Admittedly, SMEs today are not big players in this market, however, with the creation of a capital markets union, we might witness a stronger emphasis put on equity financing. We also want to make sure that our regulations do not put obstacles in place which will need to be removed later on.

Danuta Hübner only points:
Definitions
My amendments in this category aim to create more clarity, relative to the Commission proposal and Mr Soru's report by adding a number of missing definitions to the text, namely that of "buy-sell back transaction", "sell-buy back transaction", "margin lending" and "total return swaps".

Tailor-made approach to reporting
In order to ensure the appropriate level of harmonisation, information on SFTs should be provided in detail to ESMA and the national competent authorities, while the aggregate data should also be communicated to retail investors.

Issues co-signed with Phillipe de Backer and Kay Swinburne:

Haircuts:
Together with Kay and Phillipe, we believe now is not the time to discuss haircuts.

The reason is that, in order to understand haircuts, we must first have data on SFTs and for that we need transparency. We also do not want to rush things. Adequate regulation on haircuts must be preceded also by an impact assessment. We cannot have an impact assessment for the haircuts in the SFTs file at this moment. Moreover, even the FSB work on the matter is still in progress, the FSB is due to complete its work on collateral haircuts by 2016, with the development of a final set of recommendations on haircuts for collateral delivered in non-centrally cleared non-bank-to-non-bank STFs.

With these thoughts at heart, we decided to suggest that within eighteen months of the entry into force of this regulation, ESMA and the EBA shall provide a report to the Commission on the final conclusions of the FSB's work on a regulatory framework for haircuts on collateral posted in non-centrally cleared SFTs.

Central bank issue:
Mr Soru, has opted for exempting central bank counterparties from reporting counterparties under the SFT regulation. I understand the rationale and feel tempted to accept it, namely the confidentiality of the transactions in question and their importance for monetary policy. Nonetheless, before we decide to go for a complete exemption it might be worth pausing for a minute and considering also the downsides of the exemption.

This might be quite a broad exemption, complicating our quest for transparency, undermining the powers of market regulators to intervene. Moreover, we do not know at this stage how the SFTs market will develop, where the risks will lie and how much risk banks are taking on for lending to central banks. Additionally, we also know that other global regulators outside of Europe are not granting their central banks this exemption. We might thus end up in a situation in which we have less of an understanding of SFTs in Europe than elsewhere.

With these thoughts at heart, I am in favour of a compromise solution, whereby the central bank sends information to the public authority in charge of supervision on a confidential basis. This means that the public authority has the big picture and can make use of it when it sees fit, without making the information public and putting the central bank at risk. Additionally, no specific timing for the disclosure of this information is specified, ensuring that the central bank can at its discretion decide when it is appropriate to disclose a certain piece of information, such that its monetary policy secrecy is not put at risk.

Re-use:

My fourth point concerns Mr Soru's definition of "re-use." The rapporteur goes for a different definition relative to the Commission and also to Council and in effect proposes a narrowing of the scope of re-use to collateral transactions (he defines re-use as "any use by a receiving counterparty of financial instruments delivered in one transaction in order to collateralise another."). In effect, Mr Soru's definition does not

capture for instance the sale of reused financial instruments, as this would be not "in order to collateralise another transaction".

The question that arises here is whether the narrower scope is sufficient and whether it would not be more beneficial for the sake of transparency to go for a broader scope. Together with Kay and Philippe, we propose instead to de-fine re-use as “the use by a receiving counterparty of financial instruments delivered in one transaction as collateral.”

TTCA:
Let me also make a point on one specific type of reuse, namely title transfer collateral arrangements (TTCA). I believe we have reasons to make reporting much less burdensome when it comes to TTCA then when we speak of other types of reuse. Essentially, TTCA implies that the collateral receiver also gets full ownership rights over the collateral. In virtue of this, it could be desirable not to attach conditions to the use of TTCA (such as the requirements to make disclosures or obtain express consent before collateral may be reused). By allowing for conditions on TTCA, we might create a risk that collateral is not relied upon should the collateral giver default. This in turn could destabilize the repo and securities lending markets.

To address this issue, we decided to make it clear that TTCA is fully exempted from article 15 (not just partially exempted, as is the case in the draft report).

Positions reporting
The SFTR puts forward transaction reporting (parties to SFTs need to report details of their transactions as well as modifications or terminations thereof to a trade repository.) However, taking into account the high volumes of transactions in SFT markets, along with the need for regulators to analyse and aggregate related transactions, reporting of transaction data might not be the best way forward. An alternative could be to go for “granular” position reporting for securities lending. This approach remains consistent with the FSB recommendations and would offer data which can be easily aggregated at any point.

More specifically, together with Kay, we suggest that for securities lending and margin lending, detailed positions reporting is preferable to transaction reporting.

Double-sided vs one-sided reporting, learning from EMIR
My fifth point concerns the issue of double-sided reporting. I do not want to sway the debate away from double-sided reporting necessarily, but I would however, like to open the discussion on how the EMIR experience thus far has cast light on double-sided reporting (the Commission is expected to release its review of EMIR by August this year). We hear arguments both for and against having two parties report to trade repositories. On the one hand this approach allows for more certainty that the transactions are reported and does not pose the question of which party should be doing the reporting. It also contributes to better quality data and faster identification of exposures in a crisis. On the other hand, double sided reporting comes with additional costs for market participants of course.

To address these concerns, together with Kay, we suggest that counterparties to a transaction should have the possibility to legally delegate the reporting to one of the

counterparties. Together with Philippe, we moreover decided to ask ESMA to consider, going beyond the SFT report, how duplication can be avoided and whether dual reporting is necessary.

Credit institutions and listed companies:

Mr Soru has decided to include credit institutions and listed companies to the scope of the regulation. Together with Kay and Philippe however, we are of the view that the administrative burden of reporting all SFTs to shareholders and the public would be disproportionate to the gains. In an attempt to put forward a compromise solution, we propose to have credit institutions and listed companies provide information in a high level, aggregate form to shareholders as part of disclosures under the directive on the disclosure of non-financial and diversity by large undertakings and groups (Directive 2014/95/EU).

Phasing-in

We are also of the view that in order to achieve an effective implementation of this regulation, a phased in approach is needed. We suggest that a phased in approach is developed in a delegated act.

There are many issues on the table of course, but I remain confident that we have sufficient time in order to reach a good compromise.