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Remarks during the discussion on Securities Financing Transactions
Consideration of draft report

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Our discussion on the SFTs draft report is very timely. With it, we are in effect adding a missing piece to the financial regulatory landscape.

SFTs are at the heart of a smooth functioning financial market as well as pivotal for monetary policy. While being key for the provision of market liquidity, SFTs can also be used in a risky fashion in the shadow banking sector, lead to a build-up of leverage, with a potential for undesired contagion. This is why knowing more about the types and volumes of SFTs in the market can shed light on emerging problems.

Mr Soru's report certainly provides a good basis for our discussion. Nonetheless, I would like to still stress a few points where improvements can be made. My amendments will be focused on these issues:

Haircuts:
My first comment concerns the issue of haircuts, which is a novel addition, relative to the Commission proposal. I remain wary of including haircuts in this report. While, I do not disagree on the principle of SFTs haircuts, I disagree with the timing. For the moment the spotlight should be on transparency. In order to understand haircuts, we must first have data on SFTs and for that we need transparency. So we first need to get the transparency right and then go into other issues.

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 haircut 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. Additionally, my understanding is that we do not have consent between Basel and the FSB on haircut guidelines. It is far too early to tell what will be the final global solution on the matter.

Even if we decide to start looking at haircuts at this point, this will further delay the adoption of the proposal. We understand from the Commission that the addition of haircuts in a proper way will more or less double the size of the proposal and would also lead to difficulties during Council negations, seeing as the latter did not address this issue at all.

Finally, Mr Soru envisages far reaching powers for ESMA when it comes to haircuts. My understanding is that this could be legally problematic in light of the Meroni case and requires further thinking. We had a similar debate in the SSM case, when we were considering giving the supervision task to the EBA. More specifically, Mr Soru's report provides relatively little guidance on the work due to be conducted at level two by ESMA.

Taking all of the above into account, I propose we put forward the haircut issue as something we will come back to in the future (in a new regulation or an amendment of the current regulation). We can make this point in a review clause.

SMEs:
My second point is focused 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.

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.

A relevant question to ask at this stage of course is roughly how big is the market segment which we would be missing out on in terms of information. We do not have any official data on the size of central bank SFTs, however according to repo survey data provided by ICMA, the proportion of the amount of collateral posted on average by euro area banks to the ECB, out of the total EU repo market, is considerable.

I am certainly still sensitive to the concerns of central banks and would not be in favour of ignoring their worries. I would however like to support Renato in considering a compromise solution. This could entail the central bank sending 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. I would be curious to hear what colleagues have to say about this idea.

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 collaterlise 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. I still have some doubts about this matter and it would be very useful to hear what the other shadows think about this topic.

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 could make it clear that TTCA is fully exempted from article 15 (not just partially exempted, as is the case in the current 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. It would be good to hear your thoughts on this issue.

Double-sided vs one-sided reporting, review of 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.

It would be good to consider this issue also under SFTR and think about whether the EMIR experience can give us guidance on which approach is preferable.

I look forward to discussing these and other issues with colleagues.