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More competitive and attractive EU CCPs need a 'fit-for-purpose' EMIR framework

EACH CCP Clearing CEO Summit 2023

28 March 2023, Brussels

Good evening everyone - it is a pleasure to be here, and I hope you can forgive me for not being able to stay with you for dinner.

I would also like to thank you Rafael and the EACH staff for the invite and for accommodating my schedule. Luckily, he told us that the evening programme had some buffers to allow for last-minute changes - indeed, it seems that even events like this keep in line with the long-standing tradition of risk management by CCPs.

Fifteen years ago, the financial crisis brought the derivatives market to the spotlight - highlighting the important role that derivatives play in the economy as well as the risks that they bring.

As we all know very well, that event was the catalyst for the changes that led to the current architecture of our supervisory system and capital markets, including clearing systems.

Regulations need to be fit for purpose. This is also what EMIR 3.0 is about. Some see it as a necessary reaction to the fact that the UK left the Union. I see it as a reform aiming at making the EU capital markets more attractive, bigger and more resilient. Part of our effort aims at shaping the future of EU financial services, based

on openness and resilient efficiency. And it is about taking another step towards a truly single Capital Market Union.

I also think that whatever can improve the capital market we must get it right now, not leaving some issues to the next review.

Somebody said that a fresh look at the post-trade market infrastructures is like installing a fir for purpose 'plumbing' system for European financial services. Indeed, these infrastructures are at the foundation of a healthy CMU.

Brexit had been on our mind for some years now, when we coped with EMIR related delegated acts and equivalence and I believe we have reached a consensus about the need to invest heavily and smartly in the framework of the European capital market not only because the old one has floated away.

The EU financial potential will continue expanding and to grow requires an attractive, competitive regulatory framework. And the EU needs reliable, fit for the future, regulatory arrangements for central clearing.

Clearing is a global business and it is important to look at what other jurisdictions are doing, what defines their attractiveness for clients.

I know that there is a diversity of opinions on the measures put forward by the Commission. This is good and we must be driven by the best choices.

I believe that in our regulatory reflection, we should avoid the logic of divergence or the logic of location policy. You know very well - much better than I do - that the footprint of your clients is, more often than not, global.

For legislators and regulators, understanding decisions of CCPs and of those seeking to access clearinghouses is important and requires adaptation of the system.

In the COM proposal, there are good responses to this challenge.

On the supply side, the Commission has proposed measures that will enable EU CCPs to broaden their offer more rapidly.

This is much needed - I heard from many of you stories about unjustified and even damaging long periods of waiting for the approval of new products and risk models.

I know it is not a consolation, but three weeks ago during our visit to London we could hear similar comments regarding the British system. Nobody is perfect.

The long waiting times impair the ability of EU CCPs to be globally competitive, as the clearing market has a strong first mover advantage.

There seems to be an almost unanimous positive response amongst stakeholders to the proposed changes under this area. Simplifications and reduced burden are key objectives of the reviewed legislation - and I am convinced that my colleagues in the European Parliament, including those in the audience tonight, will agree with me.

The thorniest issue is on the demand side, namely the active account requirement. I know that there are many questions and concerns regarding the active account. Will there be a quantitative or qualitative threshold, and will it be set in Level 1 or Level 2? What will be the timeline for the implementation and the scope of application? Is there a risk that liquidity will be driven away, and international clients will go to London?

And the list goes on.

The Commission has chosen a very targeted approach by limiting the active account requirement to the EU entities subject to the clearing obligation, regardless of their account type (direct or indirect), and only to the systemically relevant products identified by ESMA.

The proposal also mandates ESMA to define what is considered to be an active account, and I think this is a good choice. Level 2 requirements allow for data-driven decision making and introduce much-needed flexibility in the regulatory framework.

But much will depend on the co-legislators and how we will frame the mandate for ESMA and the criteria it should take into consideration.

The active account requirement applies to EU clearing members and clients only. Those that are not bound by the requirement will be free to choose where to clear. It seems therefore legitimate to ask whether this will become a competitive disadvantage for our firms.

It is too early to see the potential outcome of our work in the Parliament. I can assure you that we will be looking at your comments.

I also find it legitimate to give a hard look at the supervision system. This is an area where I expect the Parliament to be assertive and go beyond what we achieved in EMIR 2.2.

Relooking at our supervisory framework with a more European mind-set is a fundamental necessity if we want to (i) become a more attractive place to do business, (ii) increase the resilience of our market infrastructures, and (iii) ensure financial stability.

At the end of the legislative work on EMIR 2.2 we got a good piece of legislation. Still, the regulation set up a double supervisory system, which was the best compromise solution that we could reach at the time.

But it is may not be fit for the task ahead. There will be increases in the clearing volumes, even though it is more than just volumes that matter. This will put pressure on a supervisory system that is today largely nationally based.

It is true that we are not a unified jurisdiction, but we have a unique opportunity to pave the way to make further steps towards a EU-wide supervision of CCPs.

I know that the world of business is not united on this issue - and that there are different views even amongst CCPs.

I hear references to the fiscal responsibility of Member States should a CCP go under water.

Let me say a few words about fiscal responsibility argument.

Before a CCP goes under water, its clearing members - and we are talking about big European and international banks - will be under severe stress. Given the systemic relevance of CCPs, their access to central bank liquidity, and the role that the clearing members play in their national (and the international) economy there will be a ripple effect that will certainly not stop at the borders of a single Member State.

In today’s markets, seeing Member States as independent and closed-off units within the Union is misguided. That is why the Commission’s proposal seeks to strengthen the supervisory framework, entrusting ESMA with more steering powers.

At the same time, it lays down more cooperation between supervisory authorities, through the establishment of Joint Supervisory Teams for better coordination between the NCAs, ESMA and the colleges.

These are important measures, but when there are so many different layers in the supervisory processes it is important to make it clear who is at the steering wheel. I see ESMA there.

To conclude, the upcoming revision offers EU policymakers the chance to strengthen the EU clearing ecosystem, a vital step if we want to be serious about CMU.

And the Commission proposal is an excellent opportunity for the co-legislators to make European clearing system fit for the future.

We must not make the mistake to produce a piece of legislation that will be contributing to the fragmentation of EU capital market.

Thank you.