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***Openness, resilient efficiency and EU supervision should be at the heart of
EMIR 3.0***

QED Lunch Debate on the EU Clearing System

21 March 2023, Brussels

Good afternoon everyone - it is a pleasure to be here, albeit only for a short while.

Last December, the European Commission put forward the second CMU package of this legislature.

The first one contained, amongst others, the MiFIR review that many of you have been also following, the second contains the EMIR review. You have decided to discuss it today.

The December package might be the last set of harmonisation efforts in the capital markets domain hopefully to be completed under the von der Leyen Commission but I hope that the retail investment strategy soon to be published will also be brought to the full fruition in this mandate.

I am sure we all agree that it is important to get all that can better the capital market right. It is not only about the ambition of driving the co-legislation effort on both MiFIR and EMIR to conclusion but getting it right. I trust that long consultations and exchanges with the stakeholders have been conducive to this ambition.

A fresh look at the post-trade market infrastructures is like installing a proper 'plumbing' for our financial services. These infrastructures are at the foundation of a healthy CMU.

We know that today's proposal is enshrined in broader reflections about the future of EU financial services and the Union's objective of healthy strategic autonomy, based on openness and resilient efficiency.

We had many discussions on how Brexit influenced the clearing environment, and I believe we have reached a consensus about the need to invest heavily and smartly

in the European market not only because the old one has floated away and we need a rational approach to the dependency on a third-country CCPs. The EU economy and its financial potential will continue expanding and require an attractive, competitive regulatory framework to grow. The current one is not sustainable in the long-term. So, yes, the EU needs reliable regulatory arrangements for central clearing.

And I also believe that reflections on strategic autonomy should always take place alongside considerations of 'openness'.

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

And we need to remember that clearing members of CCPs have - very often - a global footprint. In our regulatory reflection we must avoid the logic of divergence, the logic of location policy. What we do is reforming the system to make it fit for the future. For legislators and regulators understanding decisions of those seeking to access clearinghouses as well as CCPs themselves is important.

Today in the panel we have a good representation of the diversity of opinions between market participants. I expect to hear from you how we can strike the right balance between achieving the required resilience of the European

clearing system and efficient functioning of the markets.

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

On the supply side, the COM has taken into account the feedback from the lengthy consultation, proposing measures that will enable EU CCPs to broaden their offer more rapidly.

It appears clear that simplification and reduced burden, should be key objectives of the reviewed legislation. All of us know stories about unjustified and even damaging long periods the EU CCPs need to wait for the approval of new products and risk models.

This impairs the ability of EU CCPs to be globally competitive, as the clearing market has a strong first mover advantage. 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.

On the demand side, the main element, present in all our discussions so far, is the active account requirement.

Indeed, the proposal mandates market participants subject to the clearing obligation to maintain an active account to clear a proportion of relevant products with an EU CCP.

It is true that the Commission has chosen a very targeted approach by limiting the 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.

I am sure that Jennifer will be able to share more details around the proposal and the thinking behind it, which actually has led to not including more forceful measures.

And I know that there are many questions regarding the active account.

One of them relates to what is considered by account being active. The proposal mandates ESMA to define it, 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 I also know that this decision is also seen as political and controversial by some of the clearing members, in particular by those with a global footprint.

And some argue that the active account limits clearing members in their choice where to clear based on efficiency considerations.

It is also a measure that only hits EU clearing members. Those that are not bound by these rules will be free to choose where to clear. It seems legitimate to ask whether this will become a competitive disadvantage for our firms. It will be interesting to hear what other panellists think about this element of the proposal.

There are also questions about the timing of the implementation of this requirement. Will such a system allow us to achieve a critical mass of clearing in before the 2025 equivalence deadline.

I understand that there is a widespread consensus about the need to leave existing contracts where they currently are and only subject new businesses to the active account requirement.

I am sure the issues I mentioned represent only a part of your reflection.

I would like to mention one more area which is close to my heart. It is about the supervision.

If the EU is to be successful in increasing the attractiveness of the EU clearing market, it is legitimate to give a hard look at the supervision system.

I was the European Parliament Rapporteur for EMIR 2.2 and I recall that at the end of the legislative work we believed we had 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.

The unique set up of the CCP Supervisory Committee developed under EMIR 2.2 brought together the NCAs supervising EU CCPs and improved the depth of cooperation between NCAs, ESMA and central banks, as well as between NCAs.

But is it fit for the tasks ahead?

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. Member States were not ready and willing for this back in 2018. And also today they do not seem to be ready to accept ESMA supervision for the EU CCPs.

But the situation that we face today is not the same as the one a few years ago. And, again, it is not only about London that floated away. European capital market will grow. There is no reason to assume that the attractiveness of the EU economy and its capital market will not be successful in boosting the competitiveness of the EU CCPs. There will be increases in the clearing volumes, even though it is more than just volumes, and that will put pressure on a supervisory system that is today largely nationally based. I am convinced that there are merits in supporting efforts towards deeper Europeanisation of the supervisory system.

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.

And it seeks to better monitor the risks stemming from high volume of clearing in third country Tier 2 CCPs by establishing enhanced cooperation with the third country competent authority. This is very important. But these measures will not achieve or even get us closer to the full EU supervision. But Member States are against any further Europeanization of the supervisory system of our capital market, facilitating level playing field for market participants in the global world of clearing.

I know that the world of business is not united on this issue. I believe the European Parliament will not be timid in standing against further fragmentation of European capital market. The EU cannot show a credible commitment to its capital markets and to the competitiveness of its clearing sector when there are so many different layers in the supervisory processes.

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.

Aiming only at marginal changes of some existing rules would be a lost opportunity. We should be bold to open new territory for supervision. And we need to avoid that the EU CCPs would be functioning in a world of duplicative and conflicting rules. Thank you.