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“In search of a balance between competitiveness angle and financial stability objective”

Event on EMIR 3.0 in cooperation with EACH

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Dear all,

Thank you very much for participating in our exchange of views this morning. The number of participants - more than 80! - proves that the review of EMIR is gathering an advanced level of attention amongst the industry and public authorities.

Today we have a broad and faithful representation of all the participants that make up the EU clearing ecosystem. From the public authorities we have the Commission, the Parliament and the Council, as well as ESMA, the ECB and the ESRB. From the market participants, there are representatives of clearinghouses, clearing members and their clients, and we also have representatives of corporate treasurers who use derivatives (and indirectly create clearing demands) to hedge their exposures and finance their activities in the ‘real-economy’. For us in the European Parliament it is one more opportunity to better understand your views and concerns.

The 2008 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. The crisis was the catalyst for the changes that led to the current architecture of our supervisory system and capital markets, including clearing systems. Then, in 2017 with the Emir 2.2 we made next step toward structuring better the system and establishing the supervision. Now, we are looking once more at EMIR framework to ensure that the framework is fit for the future, for challenges we already face and those looming on the horizon.

I see the Commission’s proposal as enshrined in broader reflections about the future of EU financial services and capital market, as well as the Union’s objective of the

open strategic autonomy. Some say that this proposal is mostly a reaction to the fact that the UK left the Union. I see it more as a part of the efforts to make our capital markets bigger, more resilient but also more competitive.

We need healthy post-trade market infrastructures, as they are responsible for the ‘plumbing’ of our financial services. Of course, the fact that London left the Union plays a part in our conversation on EMIR. We had many discussions on how Brexit influenced the clearing environment, and we are aware of the fact that more than 80% of Euro-denominated interest rate swaps are today cleared in the UK. And many see this kind of dependency on third-country CCPs as not sustainable in the long-term. And it would be good to hear how many in this room suffer from insomnia in this context.

I am sure the ECB and the ESRB will be able to explain in greater details why actions towards a reduction in dependency may be necessary for financial stability. But I also believe that in our regulatory reflection, we should avoid the logic of divergence or the logic of location policy and remember that clearing is a global business.

It is important to look at the ecosystem as a whole when evaluating the impact of the measures that we propose to implement. Many clearing members have a global footprint and understanding the decisions of those seeking to access clearinghouses as well as CCPs themselves is important. That is why the European Commission dedicated so much effort to consultation with all of stakeholders.

The proposal of the Commission puts on our plate three, strongly interlinked, issues to focus on:

- how to increase the attractiveness and competitiveness of EU clearing
- how to ensure that our supervisory system is fit for purpose and capable of handling an increase in clearing volumes in the EU
- how to cope with dependencies on third countries’ CCPs without negatively affecting the markets.

I hope that Jennifer will share more details around the text and the thinking behind it. I feel tempted to say that we have no choice but to respond in a courageous and responsible way to the chance that this review offers. Marginal changes to some of the existing rules might be a lost opportunity.

Let me say a few words on measures to increase the attractiveness of the EU clearing industry. I have consistently engaged with market participants over the last few months, and I have to say that I only received positive feedback on the so-called supply-side measures, proposed by the Commission. My impression is that these changes have been long overdue. We all have heard 'horror' stories about damaging long periods of waiting for the approval of new products and risk models, stretching sometimes for as long as two years.

It is clear that the long waiting times impair the ability of EU CCPs to be globally competitive, as the clearing market has a strong first mover advantage. We must enable EU CCPs to broaden their offer more rapidly and to become more innovative.

There are important opportunities for EU CCPs to become more attractive by offering clearing in new products (such as crypto securities) or by trying to compete with established players. In this context and as we approach the date of the publication of the draft report, my question to you is whether we can go beyond the Commission proposal, simplifying the approval processes and reduce the burden on market participants even more. I believe that we have to exploit all options that would make EU clearing more attractive.

In fact I would like to ask the participants today whether there are any other provisions that they think we could consider to increase the competitiveness of EU CCPs even more and give them the tool they need to make clearing in the EU more attractive. I would also like to say that in all the events and conferences I have been to and the conversations I have had, this area has been treated as 'uncontroversial', and because of that often seen as less important, with less focus. So I would appreciate if you could convince me that by not adding anything to the Commission made toolkit we will not overlook anything important.

When focusing on moving clearing volumes to the EU via regulation we seem to have forgotten that the most effective and most sustainable (in the long- term) way to increase clearing in the EU would be to provide the conditions for clearing members and clients that would make them want to clear in the EU.

In short, we should pay more attention to this angle, and I would like to hear whether there is anything more that co-legislators can do to strengthen EU CCPs. I also think

that we should use the opportunity presented by the review to give a hard look to the supervision system. I see re-looking at our supervisory framework with a more European mind-set as a fundamental necessity. In particular if we want to have a supervision that can contribute to making EU a more attractive place to do business, that can increase the resilience of our market infrastructures, and that can ensure financial stability.

My question is whether there must be a tradeoff between caring about financial stability and competitiveness. There might be moments or situations when this choice becomes real and clear. Then I can imagine the stability will win. But in the mid and long term the system should be capable to deliver on both stability and competitiveness. Probably the competitiveness could be more an angle than a strict objective.

The double supervisory system we have in place today was the compromise that we found at the time of EMIR 2.2, a kind of fallback position. That system left the supervision of EU CCPs to NCAs, giving ESMA a marginal role, but also subjected systemic third-country CCPs to direct oversight by ESMA. If the goal of EMIR 3.0 is to bring more clearing onshore to increase financial stability, fragmented, diversified national level supervision for EU-based CCPs will not improve the resilience of our ecosystem.

The Commission's text proposes to increase supervisory cooperation and co-ordinate common responses in emergency situations, which is a step in the right direction, but it does not give Europe the credibility it needs. Absence of European supervision is actually at least partly contradicting the main objective of the review, namely bringing more clearing in Europe for financial stability reasons.

It would be more consistent to fully leave supervision with ESMA, building upon the expertise acquired by ESMA's CCP Supervisory Committee. Leaving day to day supervision to a different institution than the one in charge of coping with emergencies creates lack of clarity in supervisory responsibility not facilitating decision-making in periods of stress. Maybe Europeanization of supervision could be gradual, maybe linked with a tiring system for EU CCPs or the cross border nature of business.

NCAAs do not have the tools and the capacity to have a complete view of the market - this became evident during the energy crisis, as ESMA also noted it.

In the draft, the Commission recognised the complexities of the clearing ecosystem by introducing two new bodies, the Joint Supervisory Teams and the Joint Monitoring Mechanism. The objective of the two is similar. It is to take a more holistic view on the CCP activities (in the case of the JST) and on the clearing ecosystem as a whole (in the case of the JMM).

My observation is that we should be careful and avoid introducing new layers and overcomplicating the whole supervisory framework. I think we all agree that a certain degree of simplification is necessary across the system. It is obvious that this is the active account that raises most concerns and criticism.

The objective of the active account is to increase clearing demand in Europe, and to increase the clearing volumes of substantially systemic products in EU CCPs. The Commission argues that the implementation of the Active Account Requirement and the expected relocation of clearing activities will reduce the financial stability risks posed by excessive exposure to systemic third-country CCPs. The argument is based on the assumption that the costs of maintaining active accounts do not outweigh the benefits of better financial stability control. The Commission also noted that many entities already have accounts within the EU, and that apart from some initial administrative costs there will be benefits from bringing more volumes to the EU and ultimately lower costs in the long term.

Today it will be interesting to hear the different views in the room. We have heard from the majority of clearing members and their clients that the problem is that international competitors in the derivatives markets (i.e. third-country banks) will not be subject to the same requirement, and will be able to continue clearing in large clearing centers. The result may be an unlevel playing field which will further disadvantage EU banks in these markets.

In addition, maintaining active accounts creates operational costs and liquidity challenges. EU actors may be forced to manage two accounts and two sets of margin calls, and may have to clear a certain portion of their activities in CCPs with higher costs and smaller liquidity pools.

There are different ways in which the Active Account Requirement can be modulated to minimize the impact on EU market participants while addressing the financial stability concerns. We heard that the Council is considering four different options, including the possibility of a phased approach, where during the first phase a qualitative requirement would be introduced and a second phase could bring a quantitative requirement, based on an assessment by ESMA. A quantitative requirement could be more effective but it may be necessary to better assess the costs and benefits. And there are questions about what is the right quantitative threshold, and about ESMA's ability to set this threshold based on the data they currently have - or the lack thereof. I am currently working on our draft report, and I am still assessing the different options - and for this reason the exchange of views today will be particularly useful.

Finally let me share with you some comments of a more general nature. This regulation is a piece of legislation that, due to its objective, has a strong component of precautionary provisions. Still, I think there is a natural expectation that we need a sufficient dose of flexibility that would allow businesses, regulators and supervisors to react without delay in the time of stress. So we need a good balance between a prescriptive and principle based approach, with the latter allowing to expand the role of level two legislation.

As co-legislators we face a number of choices to make in shaping the EU clearing ecosystem for the years to come. We need to ensure that the measures to increase the demand for clearing services in the Union are properly calibrated, without forgetting that clearing is a global business, and that the competitiveness of our firms depend on the freedom that they have to access the relevant liquidity pools. We also need to take into account the best possible balance between competitiveness angle and financial stability objective. It is important that we put EU institutions in the driving seat in the case of a financial crisis or of any adverse event of systemic proportions. And we need to provide the right conditions for EU CCPs to become more attractive by offering new products and services more rapidly.

These changes must go hand-in-hand with a revision of the supervisory framework if we want to be coherent and want to make the Union a credible actor in the global clearing space. ESMA has proven its worth as the supervisor of third-country CCPs,

and it is time that we move to a Europeanization of supervision for EU CCPs. A strong supervisory system is the pillar of a healthy clearing ecosystem, and it is a fundamental element of a single capital market union.

The legislative process is currently under way. The Council might reach an agreement on its negotiating position already under the Swedish Presidency. In the Parliament, we will publish my draft report at the beginning of June, and we will seek to conclude the negotiation in time to begin trilogues under the Spanish Presidency. Our common objective should be to close the file before the end of this legislature - and I trust that we will be able to do so.

Thank you very much again for coming today, and we look forward to the continued engagement in the coming months.