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„A Forward-Looking Perspective on EMIR 3.0"

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Thank you for giving me the opportunity to share with you some reflection on the importance of the Emir revision in the context of already identified challenges and those looming on the horizon.

It is true that the Commission's draft aims at increasing the share of euro derivatives cleared in Europe, reducing the exposures of EU market participants to third countries' CCPs. This, of course, brings immediately the question on what an excessive exposure is, and how it generates risk, in particular in the so-called bad times.

In this context, the first objective of the Commission was to ensure the resilience of our clearing ecosystem. We know that the current architecture was born out of the reflection that followed the financial crisis fifteen years ago.

Since then, we have made significant progress in establishing a regulatory framework and expanding central clearing, but regulatory frameworks require regular updates to remain effective and fit for purpose. How often those updates become a necessity depends, among other, on the way we legislate, flexibility of the provisions and the role the level two legislation plays in the framework.

The landscape affecting clearing has changed significantly compared to the time of the first EMIR or even EMIR 2.2.

The withdrawal of the UK, the global pandemic, the energy crisis, the geopolitical shifts impacting global markets, macroeconomic situation and the inflationary pressures, the investment decisions logic shifting from sheer cost-efficiency basis to the one of security and resilience. Capital markets have been affected by these changes and related policies.

The need of reassessing the European post-trade market infrastructures and ensuring that they provide a solid foundation for a healthy Capital Markets Union in light of the economic realities of today and tomorrow does not come as surprise. Let me, however, emphasise the imperative of building our capital and financial markets deeply rooted in openness, efficient resilience and global mindset.

That takes me to the second objective of the Commission which is the intention to increase the attractiveness of the EU clearing ecosystem and maintain the global competitiveness of all the market participants. Security and resilience should go shoulder to shoulder with competitiveness.

As I see it, this review gives us an opportunity to look at the future clearing system of the European Union taking also into account its role in the global markets. Our efforts should aim at the EU clearing framework that would contribute to a deep, liquid and attractive capital market, and make the EU an important clearing hub in the global world.

The review also provides an opportunity to address financial stability risks by a single supervisory framework, with a single EU authority capable of adequately supervise the growing share of clearing activity in Europe.

The current revision of the Emir and other relevant regulations and directives is organised around three pillars: an increase of attractiveness and competitiveness of the EU clearing ecosystem, facilitation of demand for clearing services at EU CCPs and establishing an adequate supervisory framework.

Reading the title of our today's exchange of views which is “Scaling-up the competitiveness of EU Clearing via EMIR 3", I must say that focusing on the issue of competitiveness is an excellent choice. We must not continue fighting the old battles. Focusing on competitiveness is the way forward.

Today, more than ever, we need to strengthen our capital market, and make the Union a more attractive place for investments. This might be a boring statement but, let us be clear, we are not yet there. And yes, the post-trade infrastructures are the backbone of well-functioning capital markets and Europe deserves improvement in this field.

Our approach must be forward-looking, seeking changes with long-lasting and resilience bringing effects. We should go beyond the simple logic of defending European interests and building a European hub for euro clearing toward making Europe globally competitive clearing hub, capable of attracting not only euro clearing.

And the Commission's proposal provides a good basis for our conversation on how to best achieve the objectives of the review.

The EMIR 3.0 proposal contains incentivizing measures, to stimulate the growth of clearing volumes in the EU by making it more attractive to clear with EU CCPs. Some of these measures enable EU central counterparties to expand their offerings rapidly, a change which EU CCPs have been demanding for a long time with regard to approvals for new products and risk models. And here there are low hanging fruits and there is a sense of urgency.

The ability of CCPs to innovate and attract flows through the development of their offering might increase the liquidity available to end-users and create greater efficiencies for them.

And there are several measures that we are discussing in the Parliament that go beyond the Commission proposal, including an exemption from the clearing obligation for transactions stemming from Post Trade Risk Reduction Services and a possible extension of collateral eligibility.

We also intend to increase transparency on the margin models between CCPs, clearing members and clients. I trust that additional transparency in this area will give clearing members and clients more certainty on when they can expect margin calls, so that they can better manage their liquidity and plan ahead.

Transparency, simplification, burden reduction will, hopefully, enhance the overall competitiveness of EU clearing.

But even if these supply side measures might be low hanging fruits to increase competitiveness, these measures will need some time to deliver.

Creating conditions for a vibrant, innovative clearing market in the Union is in my view the most effective and sustainable way to encourage clearing members and clients to choose EU clearing and increase clearing volumes. And this is why I think that to identify the best way to implement the Active Account Requirement is not going to be a walk in the park.

The Active Account Requirement as proposed by the Commission is a measure to increase demand for clearing services in Europe. But it is a measure that begs the question on how it will impact the international competitiveness of the EU clearing ecosystem as a whole.

In the European Parliament, on the active account requirement, there are differences across and also within the political groups with respect to the scope of the requirement. Some propose a full deletion of the active account, others support quantitative active account requirements suggesting different activity thresholds, and there are those that propose an operational active account requirement with no quantitative thresholds. Some of the proposals would not lead to any meaningful encouragement towards the move to the EU CCPs. Some propose thresholds, which are arbitrary. In some cases, the impact on the market participants has not been assessed.
We have heard clearing members and clients raising concerns that creating location-based disadvantages for EU players may have a negative impact on their international competitiveness.

And data to inform the decision on the possible calibration of a quantitative requirement is lacking, making it difficult to estimate costs and benefits. These are actually arguments in favor of a phased approach to the Active Account Requirement, introducing in the first phase a qualitative requirement, sufficiently meaningful to avoid watering down the effectiveness of the measure. Qualifying market participants would be required to have an account with EU CCPs on which there is a daily exchange of margins and through which they regularly enter new positions.

The first phase would allow ESMA to collect data and assess the effectiveness of the requirement, before deciding whether to move to a second phase, introducing a quantitative threshold.

Behind the discussion on the active account requirements there is an inherent tension between the political goal of reducing the reliance on third country's CCPs and market arguments about the competitiveness of EU firms.

The calibration of the requirement becomes therefore a key element in guaranteeing that the obligation imposed on EU clearing members and clients does not have a negative impact on their choices and competitiveness.

Proposed material requirement should maximize the effectiveness of the active account requirement, without the necessity to subject the counterparties to a quantitative threshold. Based on the assessment by ESMA, the second phase could lead to the introduction of the quantitative threshold. Such an approach would enable them to collect the necessary data, assess the costs and benefits of the active account requirement and measure the impact of its implementation. It would provide enough time for the supply side and for the supervisory measures to start having an effect in terms of moving more clearing to the EU CCPs. Such a phased approach introduced the flexibility in the framework while addressing the inherent tension between the political goals of increasing clearing in the EU and market arguments.

A phased approach will not only give ESMA time to collect the data needed for the calibration of requirements, but it will also allow the supervisor to see the combined effects of the supply and demand side measures.

And it will allow co-legislators to evaluate whether the financial stability risks will be somewhat attenuated by the improvement of the relationship between the EU and the UK and by the content of the Memorandum of Understanding.

Lastly, to achieve financial stability and expanding clearing in the EU, we need adequate supervisory arrangements.

Indeed, this is the second issue that deserves a deep and forward looking reflection. Will decentralised supervision be suitable to cope with growing clearing volumes, increasing cross-border exposures and more systemic activity shifting to EU CCPs ? This is a relevant question.

On supervision, in the European Parliament there seems to be a unanimous support for the ESMA's role as a direct supervisor of the EU CCPs. We are of opinion that the current approach to supervision is not suitable to address the increasing cross-border exposures cleared at the EU CCPs and the systemic interconnectedness between the CCPs, clearing members and clients. This is especially the case if more systemic activity is expected to shift towards the EU. In an event of a problem, market players across European markets would be impacted. Our intention is also to look at streamlining the supervisory processes proposed by the EC, particularly on the joint supervisory teams.

A coordinated and integrated approach to the supervision of EU CCPs is in particular necessary, as the issues of bringing more clearing to Europe and supervision are interconnected.

Re-looking at our supervisory framework with a more European mindset is a necessity if we want to become a more attractive place to do business, increase the resilience of our market infrastructures and ensure financial stability.

Now, we can build upon the expertise acquired by ESMA CCP Supervisory Committee, abandoning unclear allocation of supervisory responsibilities and facilitating decision making in periods of stress.

Member states were not ready to engage on the discussion on European supervision of the EU CCPs back in 2017 , and it seems that today their readiness still remains limited. We accepted the choice of the Council in 2017 but with a strong intention to come back to the discussion with the next review. And the experience of the last years leads us to the need of change.

Europeanised supervision would strengthen risk monitoring, minimise systemic risk and spill-over effects across Member States, eliminate the duplication of tasks between national authorities, create economies of scale and ultimately increased efficiency.

Let me say that I have always been surprised to hear from market participants that they are proud of being agnostic on the supervision. CCPs do not work in a vacuum. The interconnectedness Ethernet banks and CCPs, as well as between clearing clients, banks and CCPs makes it impossible to think that a crisis in a CCP would not have consequences on the broader financial system. In case of the biggest CCps in

Europe, the magnitude of consequences of a failure of a CCP would reverberate through the entire economic system of Europe and beyond.

And we are talking about business worth billions, so the issues cannot and must not be seen through a national lens.

A functional, common supervisory framework is the best way to understand and manage risks that arise in this complex network of relationships that characterize derivative trading.

For CCPs, this would mean a reduced number of supervisory procedures to deal with, and a reduction in the administrative burden - in other words, lower costs and higher competitiveness.

With ESMA in the driving seat we will achieve efficient supervision that takes into account the cross border issues and the competitiveness of the EU market participants, while appreciating the local features of CCPs and cleared markets. And it would strengthen financial stability and the competitiveness angle. Thank you!