

**Minutes of the ERCC Committee meeting held on 19 June in Lisbon
Hosted by ICMA (in the margins of the ISLA conference)**

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| Present: | Mr. Godfried De Vidts | BrokerTec (ERCC Chairman) |
| | Mr. Grigorios Markouizos | Citigroup (ERCC Vice Chair) |
| | Mr. Richard Hochreutiner | Swiss Reinsurance (ERCC Vice Chair) |
| | Mr. Dan Bremer | BAML |
| | Mr. Michael Manna | Barclays |
| | Mr. Eugene McGrory | BNP Paribas |
| | Mr. Jean-Robert Wilkin | Clearstream |
| | Mr. Andreas Biewald | Commerzbank |
| | Mr. Michel Semaan | Crédit Agricole |
| | Mr. Romain Dumas | Credit Suisse |
| | Mr. Nicola Danese | J.P. Morgan |
| | Mr. Paul Van De Moosdijk | PGGM |
| | Mr. Sylvain Bojic | Société Générale |
| | Mr. Harald Bänsch | UniCredit Bank |
| | Mr. David Hiscock | ICMA |
| | Mr. Alexander Westphal | ICMA (ERCC Secretary) |
| On the phone: | Ms. Jayne Forbes | AXA IM |
| | Ms. Emma Cooper | Blackrock |
| | Mr. Jean-Michel Meyer | HSBC |
| | Mr. Antony Baldwin | LCH Limited |
| | | Mr. Adam Bate |
| | Mr. Andy Hill | ICMA |
| Apology: | Mr. Gareth Allen | UBS Limited |

Welcome

The Chairman welcomed members to the meeting and thanked ICMA for having set up this meeting in the margins of the ISLA conference.

1) Minutes from previous meetings

Members approved the minutes of the last ERCC Committee meeting held on 18 April 2018 and of the joint meeting with the ISLA Board on 15 May 2018 without further comments.

2) Margins and haircuts

On 14 June, the ESRB in cooperation with ESMA and many national regulators held an industry workshop on margins and haircuts Frankfurt. A broad range of trade associations, both from the sell-side and the buy-side, had been invited and were represented either by market

practitioners from member firms or senior association staff (mainly on the buy-side). The Chairman, Mr. Markouizos and Mr. Semaan attended the workshop on behalf of the ERCC.

3) CSD Regulation

Andy Hill updated members on the latest developments in relation to CSDR. On 25 May, after more than 2 years, the [RTS on settlement discipline](#) have been adopted by the Commission. The final rules, including the problematic mandatory buy-in provisions, are largely unchanged from the initial ESMA proposals. The rules are now subject to a 3-month scrutiny period by Parliament and Council, which is however not expected to lead to any significant improvements and will then be published in the Official Journal. The rules will apply around September 2020, after a 24-month transition period. Following the approval of the final RTS by the Commission, on 5 June, ESMA organised an industry workshop on settlement discipline which ICMA attended alongside other trade associations. Unsurprisingly, a key focus of the meeting was on mandatory buy-ins. The discussion highlighted the various difficulties with the rules, including the perverse incentives introduced by the asymmetry, potential negative impacts on market liquidity and the important nexus between repo and cash. Despite the clear message from the industry, ESMA insisted that the only way to address the potential negative impacts from mandatory buy-ins was for market participants to avoid fails. In terms of ICMA's approach, Mr. Hill explained that the objectives of the revived ICMA working group on buy-ins were threefold: (i) Raise awareness among market participants: in particular among buy-sides and non-EU entities who are often still not aware of the major implications; (ii) Prepare implementation: which is expected to be a major challenge and includes work to update the existing ICMA buy-in rules in light of CSDR, and (iii) Advocacy: while there is little scope to achieve any change at this stage, a remaining hope is the regulatory review of CSDR which is due before mandatory buy-ins will go live, although authorities have indicated that rules that have not been implemented are usually not subject to the review (as this is based on actual impacts). Given the important direct and indirect implications of mandatory buy-ins for repo specifically, Mr. Hill encouraged ERCC members to ensure that they actively participate in the discussion.

Mr. Hill also briefly introduced the new ICMA discussion paper *'How to survive in a mandatory buy-in world'* a draft of which had been shared with Committee members ahead of the meeting and clarified its objectives. The main purpose of the paper is to raise awareness and alert market participants as well as regulators to the potentially huge negative impacts from mandatory buy-ins. The rather drastic "tips" included in the paper should be seen in this context. *[Post-meeting note: the paper was published on 26 June and is available on the [ICMA website](#)].*

Members also had a discussion on the broader impacts of CSDR on market participants beyond mandatory buy-ins. Mr. Wilkin specifically mentioned the prudential requirements for (I)CSDs with a banking license, which are set to increase costs of CoBM settlement as they will introduce stricter requirements for the collateralisation of intraday liquidity provided by the ICSDs. Members confirmed that they are already feeling these impacts. This has put pressure on firms

to improve the efficiency of their collateral and liquidity management processes and provided an incentive to look into ways of optimising these. In this context, shaping was mentioned as a tool to help minimise intraday liquidity consumption. While in Europe shaping is considered mainly for settlement efficiency purposes and is hardly applied in practice, it does play a much more important role in the US where this has been one of the key factors to help firms manage intraday liquidity more efficiently. Members suggested that the ERCC should initiate a broader cross-industry discussion on the use of shaping in Europe and decided that a first workshop could be set up in September to discuss this topic and consider possible next steps. Besides industry representatives, it was suggested to also invite the ECB/T2S to attend given the important role of T2S in this discussion. In preparation for the September meeting, the ERCC Ops Group is also planning to focus over the summer on intraday liquidity and will in this context consider shaping as a potential tool.

4) Balance sheet netting in T2S

The Chairman introduced a short update on balance sheet netting, following up on previous discussions on this topic. As regards the rules for regulatory netting set out in the CRR, there have been some positive developments. After different stakeholders have raised concerns with the proposed amendment to the relevant netting conditions put forward as part of the ongoing CRR review, the co-legislators have decided to go back to the initial wording (“settlement mechanism”) which is considered less ambiguous than the proposed new wording (“settlement system”) and thus preferable. While this addresses the concerns in relation to netting for regulatory purposes, Mr. Hiscock explained that this does not directly resolve the issue that has been highlighted by the ERCC in relation to netting rules for accounting purposes as defined by the IFRS. These remain unclear on the status of T2S. Accounting experts within member firms continue to consider this issue and members are asked to report back to the Committee on any new developments on this question.

5) Update from the ERCC Operations Group

Mr. Adam Bate, ERCC Ops co-chair, updated members on the latest work undertaken by the group, excluding the extensive work on SFTR (which has been covered in detail at the previous two Committee meetings):

(i) Collateral management harmonisation: ERCC Ops members continue to be actively involved in the work on collateral management harmonisation undertaken under the umbrella of the ECB’s AMI-SeCo group. A dedicated CMH-TF has been created to pursue the detailed technical work. An important objective of the work is to create the necessary conditions for the Eurosystem Collateral Management System (ECMS) which is being developed by the ECB as a consolidated framework for the management of central bank liquidity and which is due to go live in 2022. In line with the needs of ECMS, the harmonisation work currently focuses on two key areas: (i) triparty processes and messaging and (ii) corporate actions. On both issues,

detailed harmonisation proposals have been prepared by the CMH-TF and submitted to AMI-SeCo for approval at the next meeting. SWIFT is closely involved in the work to develop relevant tri-party messages in ISO20022 that are needed for ECMS. Three further workstreams are currently on hold but expected to be revived once the work on the two top priorities has been concluded.

(ii) T2S pricing review: On 17 May, the AMI-SeCo approved a proposal put forward by the Eurosystem to significantly increase T2S settlement fees in order to ensure timely cost recovery in light of lower than anticipated T2S volumes (and hence revenues). In the context of the discussion, the ERCC had raised its concerns with the proposal in a letter to the ECB and also through the ERCC Ops co-chairs who represent the ERCC on the AMI-SeCo. The concern is that the fee increase comes at a time when firms are still adjusting to the new environment and therefore risks to disincentivise firms to pursue any plans to consolidate activity in T2S, even if such consolidation conceptually makes a lot of sense, in particular from a repo perspective. The revised pricing proposal has now been sent to the ECB's Governing Board for final adoption, which is highly likely. Members reiterated the concerns with the pricing decision and discussed the evolution of the settlement landscape more broadly and the link between central bank money settlement and commercial bank money settlement. The latter is expected to remain an important part of the settlement landscape, in particular for client flow and non-euro activity, but members also stressed the significant benefits of a further consolidation in T2S where possible, in particular in terms of intraday liquidity.

6) Benchmarks

The Chairman introduced a discussion about ongoing benchmark reform in Europe. At the ICMA AGM in May, this topic had been prominently discussed in a panel of regulators from the major jurisdictions/currency areas that are currently involved in benchmark reform work, including the UK, euro area, US and Switzerland [Note: a [video](#) of the panel is available on the ICMA website]. In the euro area the work started later than in other jurisdictions and a working group on euro risk-free rates (RFR) was established only this year. David Hiscock who represents ICMA on the Euro RFR working group reported back from the third and latest meeting of the group held on 17 May. The minutes and meeting documents are available from the [ECB website](#). The group has started the selection process for a Euro RFR. Two secured candidate rates were presented at the latest meeting (Nex' Repo Funds Rate and GC Pooling Indices by STOXX), competing with ESTER, the unsecured candidate rate that is being developed by the ECB. A broader market consultation on the selection of the RFR from these three candidate rates will be released in due course. [Post-meeting note: the consultation was released on [21 June](#) for comments by 13 July.]

Members discussed whether the ERCC should submit a formal response to the upcoming consultation. It was decided that the ERCC should remain passive as the impacts for repo are much less significant than for other activities, in particular derivatives and long-dated bond

issuance. A significant consideration is likely to be whether the new RFR requires firms to contribute actively or passively (eg through regulatory reporting), with the latter being less sensitive and thus preferable from the perspective of contributors. Notwithstanding the decision not to formally respond, some members further discussed concerns regarding the choice of one or other candidate RFR. A widely recognised concern is that there will likely be only very little time between the moment ESTER becomes available and the relevant deadline set out in the EU Benchmark Regulation (BMR). Mr. Hiscock confirmed that the Euro RFR working group has spent time debating this point and explained that the BMR sets a transition deadline of 1 January 2020 for all benchmarks to be recognised as BMR-compliant for EU usage purposes. It is already clear that EONIA will not comply with the BMR and can therefore not be used for new contracts as of 1 January 2020. There is a possibility that the restrictions also apply to legacy contracts that reference EONIA, although this depends on a decision to be taken by the FSMA (Belgian regulator). The fate of Euribor is less certain, as there is a possibility that this benchmark will achieve BMR compliance and can thus be used beyond 2020. Unlike in the UK, European authorities have not taken a firm view on this question, which remains dependent on the outcome of ongoing reform efforts being led by Euribor's administrator, EMMI. It remains therefore possible that Euribor will be made BMR-compliant and clarity on this is needed as soon as possible. But careful consideration must also be given to the future willingness of panel banks to continue their EURIBOR contributions.

A question was raised on the future of French Repo which is commonly priced using EONIA. Although French Committee members generally did not anticipate any major issues for the market to adjust to the change, it was decided that the ERCC should review this question with the French debt market Association, run by ICMA in Paris, in order to obtain a more detailed understanding of possible implications.

7) Other regulatory updates

Mr. Hiscock briefly updated members on other recent regulatory developments impacting the repo market. Legislative discussions are currently under way on a number of relevant initiatives that the ERCC has been actively monitoring. On the proposal for CCP Recovery and Resolution, on 30 May, the Parliament has adopted its Report on the file. Trilogue discussions between Parliament, Council and Commission to finalise the text will start once the Council has followed and adopted its respective position. Discussions are also still under way on the related proposals regarding CCP location policy under EMIR, proposed amendments to the EU's BRRD to introduce new moratorium powers and the review of CRR, including proposals on NSFR and LR. Overall, the discussions on these files are at an advanced stage and generally seem to be going in a reasonable direction with many of the ERCC's key concerns looking to have been adequately addressed. Mr. Hiscock noted that more generally there is currently a strong push for legislative discussions to be concluded given the approaching end of the current Commission in 2019.

On other issues, Mr. Hiscock noted that following on from the consultation earlier this year (to which the ERCC had [responded](#)), on 28 May, ESMA issued its [finalised guidelines](#) on anti-

procyclicality provisions for CCPs under EMIR which will become effective from 3 December 2018.

Mr. Hiscock mentioned that ICMA's buy-side constituency, the Asset Management and Investors Council (AMIC) was currently looking at restrictions for funds under UCITS, including on the use of SFTs, and is planning to prepare a paper on this topic possibly in conjunction with other buy-side associations and in coordination with the ERCC.

The Chairman informed members that the ICMA Board is currently finalising an open letter addressed to UK and EU authorities on Brexit cliff-edge risks in capital markets, which will be published in the next days. *[Post-meeting note: The letter was sent to UK and EU authorities on 22 June and is available on the [ICMA website](#).]*

8) **Legal update**

On behalf of Ms. Lisa Cleary, who was not able to attend this meeting, Mr. Hiscock updated members on recent discussions of the ERCC's Legal Working Group.

A focus of the discussions remains on Brexit and the potential implications for legal documentation. A number of foreseeable changes to the GMRA have been identified and continue to be considered, including BRRD recognition language (Art. 55 bail-in and of EU resolution powers), Art 46(6) MiFIR, and safe harbour provisions from claw back in insolvency. As regards the discussion on governing law, ICMA remains open-minded, but at this stage continues to see no need to develop alternative governing law provision in the GMRA. In terms of next steps, the ERCC legal working group is currently putting together a list of all GMRA related FAQs for completion and publication.

Another topic that was recently discussed in the Legal Working Group is SFTR reporting and the right to disclose relevant data, following a member query suggesting that there might be a need to develop a related provision in the GMRA. While the general view of the working group appears to be that existing documentation is sufficient to address this issue, further feedback from member firms would be welcome.

9) **Technology**

a) Digitising master agreements

The Chairman and Mr. Hiscock briefly reported back from a recent meeting with [REGnosys](#), a FinTech firm who is partnering with ISDA on a project to digitise the ISDA master agreement. This is undertaken in the context of ISDA's work on a [Common Domain Model](#) (CDM) for derivatives. The meeting was a helpful first step, but more work is needed to fully understand the implications of the work for repo and whether there is a case to extend the CDM agenda

accordingly. ICMA is looking to follow up on the discussion, in particular with the relevant colleagues at ISDA who are coordinating the CDM work.

b) Presentation by HQLAx

Mr. Guido Stroemer, CEO of [HQLAx](#), a FinTech company working on a DLT-based solution for collateral management, joined the meeting to present their initiative and its relevance for the repo market. A short set of slides had been circulated to members ahead of the meeting. Mr. Stroemer explained that the HQLAx solution is not attempting to reinvent the wheel but is leveraging as much as possible existing infrastructure, while improving significantly the efficiency of the settlement process. A first live trade on the HQLAx platform was done earlier this year in partnership with Credit Suisse and ING using the GMSLA as legal basis. For the platform, HQLAx is partnering with Deutsche Boerse/ Clearstream but is open for other custodians to join the initiative and currently discussing this opportunity with some of them.

Members thanked Mr. Stroemer for the interesting overview and discussed the HQLAx solution. Mr. Dumas added some detail on the successful first live trade achieved on the HQLAx platform from a Credit Suisse perspective. As regards costs and the main value added, Mr. Stroemer explained that in his view the main benefits do not arise from initial cost savings but rather substantial efficiency gains in the longer term, including in terms of intraday liquidity. Overall, members commented that the HQLAx initiative appears to be an elegant solution to address some of the long-standing concerns around the fragmentation of market infrastructure in Europe without fundamentally changing the way the market currently works. It was agreed that the Committee should continue to monitor closely any relevant FinTech initiatives and continue to discuss these on a regular basis, given that technology is expected to be a key priority for firms going forward.

10) AOB and further dates:

- **11 September:** ERCC Committee meeting in London, hosted by ICMA
- **12 September:** ERCC workshop on intraday liquidity and shaping in London, hosted by Credit Agricole
- **24-25 September:** [ICMA Workshop: Professional Repo and Collateral Management](#) in London, hosted by Euroclear
- **17 October 2018, 14:00 – 17:00 (UK time):** [ERCC General Meeting](#) in London, hosted by Bloomberg