

**Minutes of the European Repo Committee meeting held on 12 January, 2015 in Frankfurt**

Present:	Mr. Godfried De Vidts	ICAP (Chairman)
	Mr. Constantino Toribo Garcia	Bankia
	Mr. Eugene McGrory	BNP Paribas
	Ms. Maria Arauzo Arranz	Caixabank
	Mr. Grigorios Markouizos	Citigroup
	Mr. Romain Dumas	Credit Suisse
	Mr. Andreas Biewald	Commerzbank
	Mr. Tony Baldwin	Daiwa Capital Markets
	Mr. Ronan Rowley	Deutsche Bank
	Mr. Olly Benkert	Goldman Sachs
	Mr. Andrea Masciovecchio	Intesa SanPaolo
	Mr. Stefano Bellani	J.P. Morgan
	Mr. Ulf Bacher	Newedge Group
	Mr. Michel Semaan	Nomura
	Mr. Sylvain Bojic	Société Générale
	Mr. Guido Stroemer	UBS
	Mr. Eduard Cia	UniCredit Bank
On the phone:	Mr. Jean-Michel Meyer	HSBC
Also Present:	Mr. Peter Schmidt	Commerzbank
	Mr. Nicholas Hamilton	JP Morgan (ERC Ops Group Chairman)
	Mr. Richard Comotto	ICMA Centre
	Mr. David Hiscock	ICMA
	Ms. Lisa Cleary	ICMA
	Ms. Lalitha Colaco Henry	ICMA (Secretary)
Apologies:	Mr. Simon Kipping	Bank of America Merrill Lynch
	Mr. Ed McAleer	Morgan Stanley (IRC Co-Chairman)
	Mr. Andy Hill	ICMA

**Welcome by the Chairman**

The Chairman warmly welcomed the Committee to Frankfurt and thanked Commerzbank for kindly hosting the meeting.

## 1. Minutes of the previous meeting

The draft minutes of the last ERC Committee meeting, held on 19 November, 2014 in London, were unanimously approved and accordingly will be published on the ICMA website.

## 2. Meeting with the ECB

**Welcome** - The Chairman noted that he would highlight to the ECB the inconsistencies that are building up as a consequence of the numerous regulatory initiatives that have been developed in a silo-like manner. Additionally, even though the central bank community and the ECB, in particular, had looked to ease monetary policy, some of the proposed regulations seek to reduce the flow of collateral and would directly hinder the objectives the central banks are trying to achieve. The [ERC's collateral fluidity study](#), published in April 2014, outlined the increasing importance of collateral and the need for regulators to consider the impact of financial regulation on the movement of collateral. Inhibiting collateral fluidity could negatively impact on the stability and efficiency of capital markets. The danger that market participants now face is that the cumulative effect of collateral demands may produce temporary shortages of a wide range of securities. As many regulatory initiatives begin to bite, market participants are holding on to stock in order to satisfy LCR and CCP margins, which is counterproductive to what the ECB and other central banks are attempting to do.

**Current market conditions** – it was agreed that the Committee should emphasise that the market is currently characterised by an increase in volatility and a decrease in market liquidity both of which impact negatively on clients and the wider economy. It is more difficult to price securities for clients, while it is harder to make a market for government bonds, which in turn makes it more expensive to trade in such securities. The significant amounts of cheap cash liquidity that are currently in the system mask these problems – a liquidity illusion. This raises a concern that should cash liquidity be reduced in the future, these problems will be exacerbated, which would be detrimental for clients, the market and the wider economy. Negative interest rates exacerbate the current situation. Proposals by the ECB to implement quantitative easing (QE) may result in a further reduction in the number of bonds available. If QE is introduced and the ECB is unable to lend bonds, the repo market could seize up and the market would become dysfunctional.

**Study on the impact of regulations on liquidity in the European Repo Market** - Mr. Comotto noted that the quantitative study on the impact of regulations on liquidity in the European Repo market had looked at data provided by ICAP's BrokerTec and MTS for repos against French, German and Italian collateral. The data comprised prices and volumes from January 2012 to end-June 2014. Unfortunately, it had not been possible to combine this data with data from Eurex Euro GC Pooling. Various statistical tests were performed but they failed to identify any regime change in the repo market, at least for the ATS-traded, CCP-cleared rates analysed. However, work in this regard is continuing. Nevertheless, the data showed spikes in volatility and that volatility increased from the second half of 2013. In particular, spikes in volatility occurred at month-end and at the end of each quarter. This periodicity is also reflected in the Eurex GC Pooling rates. The frequency suggests that the excessive volatility is linked to regulatory requirements. Leverage Ratio reporting started in many countries in 2013 and LCR reporting started in 2014. The data also showed that the volatility did not coincide with the end of the ECB's reserve maintenance periods. The data could also be showing that the market is more sensitive to volatility and there may be underlying liquidity strains. There was high volatility in April 2014 which continued into May and June.

One of the aims of the study had also been to assist the ERC Secured Benchmark Working Group in its work to develop a new benchmark. However, Mr. Comotto noted that the data had not shown much more than the Repo Funds Rate as it was based on similar data.

**Net Stable Funding Ratio (NSFR)** – The Committee had noted, at its November 2014 meeting, that the NSFR appeared to incentivise balance sheet inefficiencies and further impeded liquidity, with potentially negative consequences on market making activity. It was agreed that this concern should be raised with the ECB. Additionally, it was felt that the LTRO's mask the effect in Europe.

**Securities Financing Transactions Regulation (SFTR)** – The European Council recently published its [amendments to the Commission's proposals](#). Significantly, the Council's paper uses the term "re-use" rather than "re-hypothecate". It is clear that regulators and policy makers continue to confuse the two terms. The Council's proposal does not specifically set a limit on re-use. Should such a proposal be taken forward, the repo market would seize up (as it would be difficult, even impossible, to work out the extent to which a security had been re-used previously) and accordingly, large amounts of collateral would be taken out of the market. There are concerns that the requirements to obtain consent and notify counterparties could create legal uncertainty and could undermine existing legal concepts, such as netting, on which the market is based. It is important to stress to the European Parliament and Council the importance for EU legislation to be consistent with the FSB's proposals (which advocate the imposition of conditions on re-hypothecation but not re-use). The Chairman said that it was hoped that a further education session will be held in Brussels in the coming weeks.

**Central Securities Depositories Regulation (CSDR)** – The Commission has agreed that the Regulation inadvertently prohibits the trading of forward forwards on electronic trading platforms. Market participants are currently able to quote for example T+3 trades anonymously on some electronic platforms. The Chairman noted a 2014 ruling by the EU Court of Justice on the UK's challenge to ESMA's powers under the Short Selling Regulation<sup>1</sup> and referred the Committee to his article titled "The Meroni principle" in the [ICMA Quarterly Newsletter Issue 30: Third Quarter 2013](#), p. 41.

[ESMA's CSDR Level 2 consultation papers and draft Regulatory Technical Standards](#) were published on 18 December 2014. ESMA proposes a daily flat penalty rate of 0.25bp (0.90% annualized) for government bonds; 0.5bp (1.8% annualized) for corporate bonds and 1.0bp (3.60% annualized) for equities. The underlying rationale is that penalty rates should be based on the liquidity of the security – i.e. instruments which are easier to borrow should be subject to a higher penalty. Also notable in the ESMA consultation is the change to the penalty provisions so that CCPs are now apparently within scope. ESMA is holding an open hearing on 13 January and the deadline for responding to the consultation is 19 February. It is anticipated that the whole of the CSDR will only take effect in 2017. By this time, most of the CSDs will have migrated to the Target2 Securities (T2S) platform and other initiatives, such as the ERC Operations Group work on improving trade affirmation and confirmation, will have been put in place. It is hoped that these measures may help to mitigate some of the impact of the CSDR. It was noted that it would be advantageous to speak further with SWIFT regarding repo messaging in advance of the ERC annual general meeting on 18 May.

**Haircuts** – it was noted that the FSB had set out, in its October [Regulatory Framework](#), a proposed mandatory minimum haircut to apply to non-centrally cleared securities financing transactions (SFTs) in which financing against collateral other than government securities is provided to

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<sup>1</sup> Case C-270/12 United Kingdom v European Parliament & Council of the EU

entities other than banks and broker dealers (referred to for simplicity as “non-banks”). Qualitative standards for methodologies used by market participants that provide securities financing to calculate haircuts on the collateral received are also proposed. However, these qualitative standards would apply to all SFTs, i.e. repos where the collateral is government bonds would not be exempt. The FSB is consulting in relation to non-bank to non-bank haircuts; and is expected to complete its work on the application of numerical haircut floors by the second quarter of 2015. The Committee felt that the EU Commission should be urged: (1) to wait for the FSB to complete its work before proposing any regulation in this area; and (2) to carry out a thorough examination of how any proposed haircut regulation would sit alongside other pieces of legislation such as the CRR.

**Money Market Statistics** - The ECB recently published a [Regulation](#) in the Official Journal imposing a daily reporting requirement to report all trades in repo (including tri-party repo) denominated in euro with a maturity of up to and including one year entered into with other monetary financial institutions (MFIs), other financial intermediaries (OFIs), insurance corporations, pension funds, general government or central banks. This daily reporting requirement additionally requires reporting of all other money market trading activity, including callable bond and puttable bond (“a debt instrument in which the holder has a put option, i.e. an option to seek early repayment from the issuer, with a first exercise date or notice period of not more than one year from the date of issuance”) trading activity, which represents a significant extension of all reporting requirements and proposals suggested by the European Commission and the FSB to date. It is also not clear which firms would be required to make such reports. While reporting will not be required until 1 April 2016, it was noted that it took 3 years in order to put into place the reporting framework for EMIR. The 1 April 2016 deadline for reporting pursuant to the ECB regulation would present a significant challenge for reporting firms.

**Extension of the repo survey** – there had been no responses to the note outlining possible additional coverage.

**GMRA protocol and buy-side annex** – There was some discussion regarding the decision to discontinue the ICMA legal opinions for the 1995 GMRA from 2016 onwards. However, the legal opinions will continue to cover the 1995 GMRA where it has been amended by way of adherence to the 2011 GMRA Protocol. While adherence to the 2011 GMRA Protocol can also amend a firm’s 2000 GMRAs, firms can nevertheless opt to limit their adherence so that only their 1995 GMRAs are updated. It was agreed that Committee members would work towards updating their 1995 GMRAs in advance of the 2016 deadline and will assess their progress in October 2015, before the start of the annual update of the legal opinions. Ms. Cleary noted that the development of a buy-side annex continues to be a work-in-progress.

### **3. ERC Operations Group update**

Mr. Hamilton said that the Group’s end-of-year meeting had focused on the forward agenda for 2015. It had been agreed that work would continue on (a) T2S, (b) trade matching and affirmation (TMA) and (c) SFT data reporting and repo trade repositories. All three of these issues highlight the need for standardised messaging. The Group had agreed that a paper should be drafted on problem statements in messages. Mr. Hamilton was finalising the paper and hoped to circulate it shortly.

The Group had agreed that TMA standardisation and harmonisation would be a significant focus for 2015. The Group had agreed to show the draft TMA template to the vendors, who were

becoming more receptive to the idea of building an interoperable matching model for SFTs. Some of the vendors had requested a follow-up meeting for early in 2015.

On T2S, the work with Rule Financial had made clear that the T2S platform lacks any specific functionality for repo and this could result in bifurcation in the market. It is hoped that the CSDs will develop better product solutions to make up for the lack of repo functionality.

Mr. Hamilton noted that the Group had discussed the Crest Term DBV product. While the product had been launched in August 2014, Crest had proposed further improvements to be effected in early 2015. The Group would continue to monitor the development of the product.

The Group had also discussed membership and the possibility of reaching out to buy-side firms. Moreover, given the significant infrastructure changes to come in the next eighteen months, particularly as a result of CSDR, MiFID II, SFT data reporting and trade repositories and TMA harmonisation, it would be important for the Group to reach out broadly to Ops colleagues for assistance. It was worth noting that the Group had reached out to AFME and ISLA, with regular information sharing and updates.

#### **4. ERC Secured Benchmark Working Group update**

Mr. Romain Dumas said that the ERC Secured Benchmark Working Group had met with the EMMI Eurepo Steering Committee on 25 November at ICMA's offices in London. The meeting additionally included representatives from RFR, STOXX, Eurex, Tullett Prebon, Monte Titoli, LCH.Clearnet, and Grupo BME. It has now been agreed that the focus of the new index should be composed of transactions on electronic platforms as the result of an on-screen quote, that are CCP cleared and backed by ECB eligible paper. There is now consensus to take this proposal forward, so the next stage of the work will focus on technical details to consolidate populations of transactions on GC baskets (GC Pooling, GC Plus) and transactions on individual bonds. This then raises the question of filtering and the aggregation of data sourced from the various pools of liquidity. BrokerTec and STOXX have both said that they will support the new index, which will be subject to regulatory scrutiny. It was noted that the Eurepo index was discontinued as of 2 January 2015.

#### **5. Legal update**

The Chairman said that he had spoken to the Vice Governor of the ECB, Mr. Vítor Constâncio, who had expressed his opinion about the need for a stay on repo termination rights. Ms. Cleary said that that it was important to closely monitor the implementation of the Bank Recovery and Resolution Directive (BRRD) in Europe and, in particular, how any limitation on termination rights may be applied.

#### **6. Elections to the ERC Committee and membership of the European Repo Council**

Ms. Cleary noted that the introduction of electronic voting would require an amendment to section 1000. Rule 1015 sets out the procedure for amending the rules, which provides that any proposed amendments must be notified in writing to all members of the European Repo Council who then have 30 days within which to object to the proposal. As the timeframe would be very tight to complete a consultation exercise and run an electronic ballot in advance of the proposed

March deadline, it had been decided to introduce electronic balloting in advance of the 2016 AGM. The Committee also agreed that, further to the Secretary's paper, there is no need for voting to be carried out by way of secret ballot (allowing ICMA, but not others, to see who votes for whom). European Repo Council firms should be required to provide contact details (and keep such details up-to-date) of a named repo contact, who would be the person who would submit the firm's vote in the elections. Finally, voting will take place at a fixed time each year. In early January, the list of candidates will be sent to Council firms (and published on the ICMA website) and the period for Council firms to vote will open. The voting period will then close in early February, after which ICMA will email Council firms the names of the new Committee members (which will also be published on the ICMA website).

## **7. Regulatory update**

Mr. Hiscock said that he had looked at the [MiFID/MiFIR ESMA Consultation Paper](#) and ESMA's [Final Report](#) to the European Commission on delegated acts, both of which were published on 19 December 2014. The Consultation Paper looks briefly at title transfer collateral arrangements, but only in relation to their appropriateness for retail clients. A section of the Consultation Paper also examines the transaction reporting of SFTs and concludes that SFTs should be exempt from transaction reporting under MiFID, where they will have already been reported under SFTR. However, it is not clear from the Consultation Paper whether this exemption would apply in case MiFID requirements are in force prior to SFTR reporting. The deadline for responses is 2 March 2015.

## **8. Term sell/buy-backs**

Mr. Comotto said he had received no further comments on the wording that had been discussed at the last Committee meeting. Therefore, the proposed wording will be added to the Repo Guide to Best Practice.

## **9. Repo FAQs**

Mr. Stroemer had reviewed the proposed revisions to the Repo FAQs and was happy with the revisions. Accordingly, the revised FAQs will be added to the ICMA website.

## **10. AOB and upcoming dates**

**US developments** – it was noted that the US Treasury Department's Office of Financial Research had started collecting US repo data.

**FSB consultation on data collection and aggregation** - Mr. Hiscock noted that the FSB had published a [consultative document](#) on standards and processes for global securities financing data collection and aggregation in November 2014. The deadline for responding to the consultation is 12 February 2015. Mr. Hiscock said that he had drafted a proposed response which had already been circulated to the Committee and that he was happy to receive comments. The FSB had also written to the Committee inviting the ERC to attend the FSB Data Experts Group meeting on 13 January in Tokyo to discuss the consultative document. Mr. Lee of the ERC Operations Group

would be dialling into the meeting while a local representative from Goldman Sachs would attend in person.

Future **European Repo Committee meetings** have been scheduled as follows:

- (1) **3 March** – 10:30 – 13:00 GMT, hosted by HSBC (8 Canada Square, London E14 5HQ,UK);
- (2) **23 June** – joint ISLA/ERC Committee meeting – Lisbon, Portugal in the margins of the 24<sup>th</sup> ISLA Annual Conference.

In addition, Committee members were asked to take note of:

- (3) **European Repo Council General Meeting** – 18 May 2015, 11:00 – 13:00 CET, followed by lunch – hosted by Euroclear in the margins of the Euroclear Collateral Conference (The Square, rue Ravensteinstraat 2, 1000 Brussels, Belgium).