LEADING TREASURY PROFESSIONALS

EMIR hearing 29 May 2015

Commission (Lord Hill and Jonathan Faull):

- Need to check whether all the data is enabling the regulator to spot effective market risks
- EMIR recognises that non financial corporates (NFCs) are not systemic; the EC has to keep asking itself whether there is the right balance in terms of NFCs' obligations
- First clearing obligation to be adopted shortly as discussion with ESMA have been finalised, should be in place by April next year for some instruments, 3 year delay for NFC+s
- Pension funds central clearing: further 2 years delay from central clearing
- Margin for non-cleared/ draft requirements to be delivered by the ESAs in the next few months, to begin late next year
- EMIR hearing and public consultation: not planning a fundamental change to the main objectives to EMIR; by no means a given that there will be EMIR 2; if the evidence shows that the rules are not proportionate to the risks, then adaptation of the existing framework is possible
- Report later in the year with the findings and proposed next steps

Panel on NFCs:

- Hedging done by NFCs important and it seems to be recognised that regulation should not burden them too much; recognition that the reporting is burdensome
- Challenging for supervisors too make judgements on areas they were previously not experts on
- Is the hedging definition / clearing threshold approach good? Hedging definition of vague Comes with complexity and subjective judgements
- Question of whether all classes of NFCs should be treated the same way?
- Impact on hedging activities: move towards cleared trades which increases cost of hedging
- Dual-sided reporting puts EU NFCs' in a competitive disadvantage vis-à-vis US competitors

Questions:

- Two-sided reporting can in any case be delegated to banks, so the argument of two-sided reporting as a tool to check the accuracy of the FC reporting is questionable
- Single/double sided reporting: in the end a policy decision
- Idea of using the shadow banking initiative to have a few of risk posed by NFCs

Panels of TRs and trade reporting:

- From the supervisors' perspective transparency has improved thanks to trade reporting; for supervisory purposes the data is useful, but supervisors sometimes struggle to understand what has been reported; reconciliation statistics should not be seen as the measure of success of EMIR
- From financial counterparties' perspective:
    - Some elements of the current regulation are limiting the effectiveness of reporting

    - Dual sided reporting: one of the key factors limiting the effectiveness of supervisory measures, therefore would be preferable to have one-sided reporting; dual sided reporting does not bring any additional risk mitigation benefits
    - Content of reporting: need consistency across jurisdiction of key fields
    - Harmonisation of the reporting timelines
- Trade repositories argue that time needed to reach a certain quality of data; little appetite to make fundamental changes at this stage (one-sided reporting) but rather optimise what has been built until now
- Questions:
    - How can single sided reporting achieve a high quality of agreed data that the supervisor is looking for? Rather than debating one-sided vs dual-sided reporting, should look at developing the data processes already established to achieve other goals such as confirming trades; idea of having some products (e.g. exchange traded derivatives) out of scope of the dual-sided reporting but not OTC
    - Should reporting time be extended from T+1?

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