

Keynote speech Olivier Guersent

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INTRODUCTION

Many thanks to ECSDA for inviting me to this event. I am delighted to speak at this conference.

Even if the new Commission has not taken office yet, I will try to give you an outlook on what the priorities could be over the coming months and years. I would like to (1) start by speaking about the Capital Markets Union more generally, before turning to (2) the Commission's post-trade agenda; and (3) finally I will say a few words on CSDR and its forthcoming review.

The Capital Markets Union under the next Commission

The single market for capital is one of the cornerstones of Europe's integration and a source of sustainable economic growth.

The Capital Markets Union (CMU) project aims at creating more integrated capital markets to increase regional cohesion by ensuring equal access to investments and funding opportunities for citizens and businesses across the EU, irrespective of their geographical location. Increased financial integration would also

generate economies of scale, which would reduce the cost of capital, allow firms to raise capital more easily, facilitate direct (foreign) investments and make the EU a developed global hub for financial services. The need to complete the Economic and Monetary Union (EMU) and the possible departure of the United Kingdom from the European Union make CMU even more important to deliver a more stable, innovation-based and sustainable economic growth.

Post-trade services are the 'plumbing' behind these capital markets. Ensuring that post-trade services function efficiently and smoothly is therefore vital for an integrated and efficiently functioning capital market union.

Post-trade agenda

Now, I would like to turn more specifically to post-trade - a cornerstone of the Capital Markets Union. Since the Giovannini reports of the beginning of the century, the EU's post-trade landscape has gone through heavy lifting.

Major EU regulations adopted in response to the 2007-2008 crises – such as:

- European Market Infrastructure Regulation (EMIR),
- Central Securities Depositories Regulation (CSDR); and
- Securities Financing Transactions regulation (SFTR)

have made post-trade activities and infrastructures safer, stronger and more transparent.

Post-crisis EU rules have modified and continue to change the way post-trade services are provided in the EU. They have contributed to removing major obstacles to an integrated post-trade market, for instance national differences in settlement cycles. And more changes are coming, with significant implementation efforts.

Let me start with clearing and a number of recent amendments to EMIR, the EU's framework for OTC derivatives and CCPs.

First, in June this year, amendments to simplify and make the EMIR rules on clearing and reporting more proportionate have become applicable. They will help reduce burden and costs for market participants, without putting financial stability at risk (EMIR REFIT). A number of technical acts are necessary to implement EMIR REFIT. A consultation is now ongoing for instance on how to ensure that access to clearing is fair, reasonable and non-discriminatory. The need for policy action on specific areas will also be assessed more closely through a number of reports, including notably on the interplay between the trading and the clearing obligations.

Second, in mid-October, co-legislators adopted another set of targeted amendments to EMIR to strengthen the supervision of CCPs in light of their growing systemic importance (EMIR 2.2).

EMIR 2.2 is all about risk and how to mitigate it. Its objective is twofold: first, fostering convergence in the supervision of CCPs established in the EU, and second, improving the supervision of third-country CCPs that provide services to EU firms according to the risk they present for the stability of the EU financial system. Preparatory work is ongoing to ensure that the new supervisory framework is effective as soon as possible. We are working to make the new approach proportionate, predictable and efficient, while safeguarding financial stability. The Commission intends to seek public feedback on that approach before the end of the year.

Third, negotiations are ongoing on how to mitigate CCP risk in case of a crisis: this is the CCP Recovery and Resolution Proposal. The objective is to ensure that both CCPs and national authorities have the means to act decisively in a crisis scenario. The European Parliament adopted its negotiating mandate earlier this year. The Finnish Presidency aims to reach an agreement in the Council before the end of the year.

Implementation is also going full steam ahead in other areas. For instance, in settlement, the settlement discipline regime for CSDs is expected to become applicable in late 2020. I will speak more about CSDR in a minute. The reporting obligation under the Securities Financing Transactions Regulation (SFTR) will start to be phased in in spring 2020.

In light of the significant changes that have taken place, and that are in the pipeline for post-trade, are there remaining cross-border obstacles to address? Have new challenges emerged, potentially as an unintended result of the new rules?

The Commission ran a public consultation on post-trade in CMU and published the feedback at the end of last year. The main messages we took away were:

- We should focus on the implementation of ongoing initiatives;
- Any further adaptation of the EU post-trade legislation should be carefully thought through.

Now, as a new Commission enters, it is the perfect moment to take stock and think about what may come next in post-trade. In our dialogue with the industry and other stakeholders, we regularly hear about potential challenges to tackle, often related to the need to keep up with market developments, technological change and to ensure competitiveness and a level playing field.

A number of questions may or may not need to be looked into in more detail. For instance:

- First, is there a need to upgrade centrepiece Directives adopted in the turn of the century in light of recent regulatory and market developments? In particular:

- Are EU rules on collateral set out in the Financial Collateral Directive fit for the future? Do they cater for the major evolution in the use of collateral assets over the last 10 years?
- Thinking of the Settlement Finality Directive: Should we consider broadening the scope of participants to designated payment systems to non-banks? Does the definition of finality remain adequate in light of the increased importance of certain functions, such as collateral transfers for instance?
- Second, how can the Commission better tackle long-standing issues, such as corporate actions processes and withholding tax, which stakeholders continue to identify as remaining obstacles to efficient post-trade activities?
- Third, is the current EU post-trade framework technology neutral? Does it allow embracing the opportunities FinTech offers, while providing the necessary protection against some of the challenges it raises?

These are some of the questions we hear from the post-trade community. There are others of course. Some of which are a lot more technical than those I mentioned just now. We will need to reflect on all of these collectively and there will be opportunities to do so as the new legislature gets in place.

CSDR / Review

Finally, let me say a few words on CSDR, the piece of legislation you are most interested in.

A lot has already been achieved since 2014 when CSDR was adopted.

- A number of important processes, such as settlement cycles, have been harmonised across the EU.
- 14 CSDs have been authorised and we hope the remaining ones will follow suit in the near future.
- the level 2 measures under CSDR have all been finalised and adopted.

But not all of CSDR applies yet. Importantly, the regulatory technical standard on settlement discipline will only apply from September 2020. On that point, I would like to underline that I know CSDs and other market participants are working hard right now to implement the requirements of the settlement discipline regime. We understand the complexity of the task at hand and very much welcome the commitment of CSDs and the efforts they undertake.

Due to their key position in the settlement process, CSDs and the securities settlement systems that they operate are of crucial importance for the functioning of securities markets.

The key objective of CSDR is to increase the safety and efficiency of issuing and settling securities. A successful implementation of CSDR is therefore a cornerstone of the post-trade strategy in the Capital Markets Union and CSDs will benefit from it.

Now, I know that there are still open questions on some parts of CSDR and that there are potential areas of improvement. Some of these could potentially be addressed in a review of CSDR.

That being said we need to carefully consider how to approach a review of CSDR. In this respect, there are several aspects to take into consideration.

First, important provisions of CSDR, such as the settlement discipline regime, are not yet applicable. Even the authorisation of EU CSDs is not yet complete (although we hope it will be shortly). With this in mind, we should ask whether now is the right time or not to undertake a comprehensive review of CSDR.

Second, we are aware, through our conversations with stakeholders, of certain targeted areas which many of you see as a priority, for example:

- how CSDR operates in relation to the cross-border provision of services;

- The challenges faced by CSDs of all sizes in relation to CSDR requirements for providing banking-ancillary services, in particular cash settlement.

Third, we need to bear in mind that providers of CSD- and ancillary services are increasingly exploring new technologies, in relation to both ‘traditional’ and digital assets. An evaluation of CSDR could aim to identify potential obstacles for the use of such technologies while maintaining technology neutrality in line with the Commission’s Fintech Action Plan. It could also identify potential regulatory gaps or deficiencies in the light of the objectives of CSDR, i.e. to ensure the safety and efficiency of securities settlement and settlement infra-structures.

Finally, our reflections on CSDR should not only take into account regulatory aspects. There have been significant market driven efforts, in particular the development of the Eurosystem’s settlement platform T2S. Hence, the complementarity between CSDR on the regulatory side and T2S on the operational side is an important aspect for the review of CSDR.

A conversation on how best to approach the CSDR review needs to take place.

After the new Commission has taken office, we will discuss and decide how best approach to evaluate CSDR and to which extent a sequencing or phasing approach could be envisaged. A market consultation will obviously be part of that process.

But the Commission will not act on its own. ESMA plays an important role in the CSDR review process. The reports that ESMA is planning to prepare under Article 74 of CSDR will be an essential element to feed into the analysis of the Commission and the approach to the review.

At this stage, it is difficult to make more definitive statements on the way forward.

But this is not something that we will do alone. ECSDA and its members are key interlocutors in this process. And we will move forward in any assessment together.

I look forward to engaging with you moving forward.

Many thanks.

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