

ICMA CSDR-SD Penalties Workstream

Meeting of November 23, 2021

Summary notes and action points

The meeting was chaired by Nic Hamilton (JPM)

Recap of deliverables

- ❖ At the last meeting on October 26, 2021, the Workstream decided on a broad scope of actions based around both CSD and individual institutional preparedness, and a number of deliverables related to this, particularly around potential best practice.
- ❖ It would be good to hear from members any specific concerns or questions that could help shape the eventual output of the Workstream and to identify any outliers.
- ❖ JP Morgan stated that it has a bank of questions, which they will share with the Workstream, subject to internal clearance. If other firms could similarly provide questions, then ICMA could look to frame these in an FAQ or market best practice (or alternatively as a Q&A submission to ESMA). It was noted that any resulting guidance would likely sit outside of the Secondary Market Rules & recommendations or the Repo Guide to Best Practice.
- ❖ Bloomberg supported the proposal and stated that subject to legal approval, it too may be able to share a list of potential FAQs.
- ❖ It was noted that this would also require internal ICMA legal validation.
- ❖ An action was agreed to start building out a collection of FAQs submitted by members.

ECSDA Workshop

- ❖ On November 8, ECSDA held an industry workshop based around the [ECSDA CSDR Penalties Framework](#) and CSD dry-run testing.
- ❖ The view is that the CSD community is mostly well placed for the go-live, with many institutions now in testing mode. The only outlier is the Hungarian CD (KELER) which is not expected to be able to go-live in February. This leaves an open question in terms of what this will mean for participants.
- ❖ ICMA now has a very open communication channel with ECSDA. It would be useful to use part of each meeting to discuss any issues that could be shared with ECSDA as they continue their testing.
- ❖ SocGen reported that there had been some issues arising from testing with T2S, such as zero value penalties, but it is now expected that such issues will be fixed.
- ❖ An action was proposed to follow-up with ECSDA on the potential impact for participants of KELER not going live in February.

Article 6

- ❖ Article 6, in terms of order management and allocation calibration, is a key focus.
- ❖ The investment firm should be allocating by close of business, if executing before 4pm CET, with confirmation of the allocation within two hours of receipt.

Article 6 scheduling (timetable shared by JPM):

Investment Firm Time Zone	Professional Client Time Zone	Execution Time	Allocation Submitted	Allocation Confirmation
CET	CET	Before 16:00 CET	by COB (T)	< 2 hours after receipt
CET	CET	After 16:00 CET	by 12:00 CET (T + 1)	< 2 hours after receipt
CET	CET	Before 16:00 CET	< 1 hour before COB (T)	< 1 hour after SOD (T + 1)
CET	CET	After 16:00 CET	< 1 hour before COB (T)	< 1 hour after SOD (T + 1)
CET	CET +/- 2 hours	Before 16:00 CET	by 12:00 CET (T + 1)	< 2 hours after receipt
CET	CET +/- 2 hours	After 16:00 CET	by 12:00 CET (T + 1)	< 2 hours after receipt

- ❖ The question was raised as to scope, and whether this should also apply to repo as well as cash. Nobody in the Workstream felt that it should not apply to repo.
- ❖ It was agreed that this question should be put to the wider group for validation.
- ❖ With respect to monitoring compliance with the Article 6 requirements, it was noted that ESMA has not produced a template to support tracking. This was probably because the expectation is full compliance, however there may be actions that institutions can take to monitor compliance and to take appropriate measures where there are challenges. Identifying these issues from the membership, including from buy-sides, and understanding the underlying reasons, could be useful in informing market best practice.
- ❖ Allspring Global Investment shared that one of their biggest challenges came from new accounts, where matching and allocating confirms took longer than usual. One potential solution is requesting that sell-side counterparties set up accounts as part of the onboarding ahead of transacting, but any other suggestions were welcome.
- ❖ It was suggested that in monitoring the flagged Article 6 issues, these be categorized by type (e.g. account onboarding).
- ❖ Jefferies agreed that onboarding new accounts is certainly one of the identified areas that are posing risks to compliance.
- ❖ A further question was how are firms dealing with third party platforms where there is no automated feed to manage allocations, and how do they monitor the timing of the workflow sequencing? It was not clear whether this is a widescale problem. It was agreed that CTM was not such a problem, as this provided an automated receipt. Bloomberg confirmed that their interpretation was that wherever a platform provided an automated receipt, this fulfilled the regulatory requirement, adding that this was only a view. But there remained an issue with non-CTM clients.
- ❖ It was suggested that some guidance on automated processes as well as adherence in the case of more manual processes could be helpful.
- ❖ ICMA proposed that it would track issues raised in a spreadsheet that could be shared with the Workstream.

Claims process

- SocGen stated that from a custodian perspective they would be sharing the penalty calculations with their clients on a daily basis in order for them to validate, noting that there was a prescribed deadline for making claims against CSDs. In the French market it was agreed that any claims from clients could only be made no later than BD+8 (on Month+1). This is because when receiving a claim from its client, a CSD's participant needs sufficient time to analyze the claim and to decide if it has to be passed on the CSD or not
- SocGen added that they see two types of claims: vertical between participant and CSD, which has a very tight and prescribed scope and timeframe; and horizontal between counterparties, which are largely covered by the AFME Guidelines. The advice in the case of vertical claims is for clients to check on a daily basis, rather than wait until the end of the month.
- ❖ It was agreed that this was a good way for ICMA to frame claims and to provide advice to members on validation and claim timeframes.
- Another discussion point around the AFME best practice is the threshold for claims in the case of cash and repo and to reach agreement. This could be in line with interest claim best practice (e.g. €500), but it was important to do this quickly before go-live. This may also need to be discussed in the relevant fora, i.e. the ERCC and SMPC.
- It was noted that the rules on reference prices applied by CSDs are very clear under CSDR and that any related discrepancies are likely to be easily noticeable (even if not explicitly mentioned on the monthly CSD reports), but this also highlights the importance of a timely validation process. It was noted that such a discrepancy would likely not lead to a claim against the CSD but would have to be settled between counterparties.
- It was asked whether discrepancies could arise as a result of wrong CFI codes being applied. It was agreed that this was possible and could lead to a claim against the CSD.

Next steps

- ❖ The Chair and the secretariat would start populating content for the proposed market practice framework for bonds and repo.
 - Readiness and technical issues / observations
 - Article 6 compliance and measurement
 - Penalties scope and claims process
 - Settlement efficiency and fails prevention
 - FAQ's (see enclosed)
- ❖ JP Morgan and Bloomberg would start check for internal clearance to share FAQs [JPM completed and shared]
- ❖ Follow up with buy side attendees for co-chair role
- ❖ Join AFME prep call on testing readiness and connectivity – Thurs 2nd Dec