

(FISMA)

From: [REDACTED] (MARKT)
Sent: 18 April 2013 14:38
To: CALVINO Nadia (MARKT); PAULIS Emil (MARKT); [REDACTED] (CAB-BARNIER)
Cc: [REDACTED] (EP); MARKT LIST G3; PEARSON Patrick (MARKT); [REDACTED] (MARKT); [REDACTED] (MARKT); [REDACTED] (MARKT); [REDACTED] (MARKT)
Subject: Meeting with Barclays 18/04: meeting report

COM attendees: N. Calvino, E. Paulis, [REDACTED]

Barclays attendees: [REDACTED]

Cross-border issues: CFTC will have to decide whether to roll over the exemptive relief expiring on 13th of July. Barclays urges the EU to move as swiftly as possible on the implementation of the EMIR clearing obligation and the MiFIR trading obligation. They see risks of market fragmentation if the interim period between enforcement of US and EU rules is too long (might be up to 2 years for the trading obligation). About 95% of their clients in Europe and Asia are demanding the highest standards with respect to clearing and are therefore choosing to clear in the US. US clearing houses are apparently very good at marketing their services and a so-called higher level of protection. As a side topic they also expressed concerns about the unwillingness of India to engage in equivalence discussions with ESMA on clearing. Interests on both sides are different: Indian banks not very active in the EU markets while EU banks presence in India is significant.

US regulatory structure: US rules have created frictions between Designated Contract Markets (DCM) trading futures and Swap Execution Facilities (SEFs) building trading facilities for cleared swaps. All futures have to be traded on DCMs and are subject to lower margining requirements (1 day for futures versus 5 days for cleared swaps). In addition, to be a swap dealer in the US there is an obligation to register over a certain threshold of activity. The threshold is calculated taking into account swaps but not futures. This has led to a "futurisation" of the US derivatives markets. Two examples: ICE registered as a DCM and switched overnight its market from swaps to futures; CME developed a future on a cleared swap. Beyond these competitive distortions that might lead to the "death" of the SEF, this issue could raise difficulties when the EU will assess whether the US framework is equivalent (e.g. 1 and 5 days of margining requirements in the US for respectively futures and swaps and 3 days in the EU).

Pre-trade transparency: The views of the SEC and the CFTC on how to apply pre-trade transparency to Request For Quote (RFQ) models and ensure there is multiple to multiple interaction are diverging. In their view the CFTC requirement of each request for quote to be sent to 5 dealers is not aligned with the objective of having outsiders able to interact with this request for quote. They advocate for early engagement with the CFTC on this issue.

Market fragmentation: A too long interim period between the implementation of US and EU rules might lead to market fragmentation i.e. Bloomberg having two SEF compliant liquidity pools, one for the US and one for the EU. SEFs might become the global standard (in contradiction with their previous statement on the possible "death" of the SEFs).