

2 September 2016

## Outcome

# 18<sup>TH</sup> MEETING OF THE T2S HARMONISATION STEERING GROUP

DATE	9.6.2016 to 10.6.2016
VENUE	European Central Bank

## 1. Chairman's introduction and updates from members

### Outcome:

The HSG chairman, Mr. Joel Merere, welcomed the members to the 18<sup>th</sup> T2S HSG meeting. The key objective of the meeting was the finalisation of the T2S harmonisation mid-year publication.

The chairman of the Message Standardisation Subgroup, Paolo Carabelli, reported on the three change requests (CRs) made by the T2S governance in May 2016 regarding the T2S ISO messages. These changes will be part of the 2017 ISO messages release. The HSG members agreed to support these requests in the relevant ISO forums they are involved.

### Action point:

- HSG members are invited to support the T2S change request in their engagements in the ISO committees

## 2. EU public authorities initiatives

### Outcome:

CSDR

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As reported by the Commission services, the adoption of the CSDR level II is foreseen for Autumn 2016. Priority is on the authorisation related standards. Adoption of the regulated technical standards regarding the settlement discipline regime will follow afterwards.

### ***EPTF***

The next EPTF meeting is planned for 13 July 2016. The key discussion item will be based on the material to be produced by the three subgroups (SGs). Their current work, i.e. phase 1, focuses on the stock taking of the post trade services.

In the meantime EPTF members will receive a stable version of the EPTF documentation on 24 June for a reviewing process with their constituents, i.e. the T2S AG in the case of the T2S community of stakeholders and the MIPC for the ESCB.

The HSG members agreed that due to the very short reviewing window, this process should be run in parallel with the HSG and the AG. The comments to be provided by the AG members will be the key input for the 13 July 2016 EPTF meeting (from a T2S perspective).

### ***Withholding Tax Procedures***

The ECB team reported on the status quo of the work on the withholding tax procedures (WHT). The main group at EU level currently investigating the issue is the “Experts Group on Barriers to Free Movement of Capital”, chaired by the Commission in the context of the CMU Action Plan. The results of the T2S survey on WHT (2016) have already been shared with the group. The outcome of this work may result, in the course of 2017, in a code of conduct of WHT best practices.

Some HSG members noted that the two issues on WHT on standard securities and on market claims fiscal status (see HSG agenda item 4) are highly connected. Any possible outcome of the HSG work on market claims should also be transmitted to the Commission’s Experts Groups (on Barriers to Free Movement and the EPTF).

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#### **Action points:**

- ECB team to distribute the EPTF documentation [24 June 2016] in parallel to the HSG/AG for their comments in view of the 13 July EPTF meeting;
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### 3. T2S Harmonisation Activities

#### 3.1 Settlement Finality I

##### Outcome:

The ECB team reported on the status quo of the work on SFI and the related work on the insolvency procedures in the context of T2S:

- The CSDs and the NCBs are in the process of completing the signature of the Collective Agreement (on Settlement Finality I).
- The relevant T2S change requests (CRs) are expected to be in place by June 2017, at the latest.
- The completion of the drafting of the T2S Manual of Procedures regarding insolvency procedures is targeted for September 2016.

Based on the above, the HSG members agreed that there is value in considering launching the monitoring survey with T2S NUGs in Autumn 2016. The HSG chairman points out that we need first to clarify with the CSG the issue of the Collective Agreements' "entry into force" date.

##### Action points:

- HSG chairman to present to the CSG the issue of the entry into force.

#### 3.2 PORTFOLIO TRANSFERS

##### Outcome:

Pierre Colladon, chairman of the EWPGT, presented the outcome of the work of the EBF forum on the exchange of information in a portfolio transfer within T2S markets. The draft EWGPT proposal to the HSG focused on a potential, voluntary, best market practice rather than a mandatory T2S harmonisation standard.

The HSG members identified two key elements requiring further elaboration:

- Is the proposal compatible with T2S functionalities as well as with the T2S harmonisation standards?
- Assuming that the answer to the above is positive, is this proposal endorsed and supported by the T2S stakeholders? Can the AG endorse a T2S best market practice on this topic?

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Some HSG members were in favour of a voluntary best market practice, at least for those T2S markets willing to follow it. It was argued that a T2S best market practice, although not a T2S standard as such, is better than today's situation.

Others objected to the endorsement of such practice by the AG, on the grounds that it is incompatible with the T2S standard on "interaction with T2S (tax)". In addition, some HSG members noted that the proposal in its current status, is only fitting the needs of a few markets, not the full T2S community. These markets could therefore possibly follow the proposal, assuming it is T2S compatible, but there would neither be a need nor legitimacy for adopting it at T2S governance level.

In any case the HSG members agreed that, as a very first step, the XMAP should be invited to analyse further the EWGPT proposal in terms of T2S functionalities and T2S standards compatibility.

The issue will not therefore be presented to the July AG and will be further considered in the November HSG meeting, following the XMAP assessment.

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#### **Action points:**

- XMAP is invited to check the compatibility of the EWGPT proposal with the harmonisation standard 4 (on tax interaction) and the current T2S functionalities. XMAP to report to the November HSG meeting.
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## **4. CASG reporting**

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### **Outcome:**

#### ***CASG gap analysis***

The chairman of the T2S Corporate Actions Subgroup (CASG), Mr. James Cunningham, presented the outcome of the CASG gap analysis and the ongoing work of CASG on clarifying certain issues on CA management on T2S. The HSG endorsed the current draft subject to some further analysis to be conducted in particular as regards the compliance of the Austrian market.

In addition, the HSG members invited the CASG to update the Frequently Asked Questions (FAQs) document and in particular to clarify further the so called "user friendly facility" in the context of the T2S market claim standard no. 23. While doing so, the CASG should include very clear guidelines on the timing of the availability of the "user friendly facility". The HSG will be asked to endorse the drafting and if needed involve the AG.

The issue is relevant for the Italian but also for other T2S markets. In the end, it

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was clarified that CASG will launch a survey among NUGs in order to receive further input on various CA issues including the implementation plans on market claim standard 23.

The HSG clarified that the current compliance status assessment of each T2S market should be based on the currently endorsed T2S CA standards and the published FAQs.

Given the impact of the FAQs on the interpretation of the T2S CA standards and the resulting implementation plans of the T2S markets, there is a need to have the FAQs deliverable always endorsed, at least, by the HSG before publication on the ECB website.

### ***Fiscal status of market claims***

The HSG members praised the chairman of the CASG on the first draft of the paper regarding the fiscal status of the market claims. It was agreed to kindly invite James to elaborate further on the issue with the help of some market experts on the topic. The analysis of the non-paper could be relevant for equities and debt and it applies to stocks (balances), flows (pending transactions) as well as collateral and stock lending.

The resulting revised note could be subject to a HSG written procedure and could possibly be shared outside the T2S governance. It was stressed in particular that the revised note could also be relevant for the Commission led work on the withholding tax procedures.

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#### **Action points:**

- CASG will re-assess the compliance status of the Austrian market given the latest information provided by the AT NUG on their corporate actions implementation plans;
  - CASG to update the FAQs, and in particular, the “user friendly facility” in the T2S market claim standard no. 23, by July 2016;
  - HSG to endorse, via a written procedure, the FAQs upon CASG proposal;
  - James to coordinate an informal drafting group on the fiscal status of market claims and share with the HSG by end September 2016;
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## **5. T2S Harmonisation mid-year update**

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#### **Outcome:**

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The ECB team presented the current draft of the mid-year AG publication on T2S harmonisation. The post migration wave 2 results confirm the soundness of the harmonisation methodology. What was green prior to migration, in the vast majority of cases, turned to blue after migration. The notable exception is the compliance with the T2S and the market (CAJWG) corporate action standards.

- The HSG members agreed in principle to present the current draft to the AG in July for approval (subject to any delta information to be received by the T2S markets in the meanwhile);
- It was agreed to propose to the AG as publication date, the week before the third T2S migration wave which is planned for 12 September 2016.
- ECB team to add some explanation on the disparity of scope and granularity between the T2S CA and CAJWG standards.
- HSG members agreed to maintain the current, diverging, monitoring methodology between the two sets of CA standards based on the indirect character of the monitoring exercise (T2S NUGs vs MIGs) and the granularity provided by the current methodology.
- Euroclear is expected to provide to the AG a detailed plan for complying fully with the T2S CA standards by February 2018. The announcement of the plan is expected by 3 July 2016.

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**Action points:**

- ECB team to prepare a revised version for the 5-6 July AG meeting;
  - HSG chairman to present the mid-year update to the AG for its endorsement for publication in September;
  - ECB team to prepare a first draft of the Seventh T2S harmonisation progress report for the next HSG meeting (8-9 November 2016) and for publication before the migration wave 4 (Feb 2017).
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## **6. Impact Analysis monitoring update**

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**Outcome:**

See outcome of agenda item 5 regarding the implementation plans of the ESES markets.

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**Action points:**

- The ECB team to prepare a revised AG impact analysis for the MIB in
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Autumn 2016

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## 7. XMAP reporting

### Outcome:

#### ***Catalogue of restrictions rules***

The ECB Team presented the outcome of the CSDs' Restrictions Rules catalogue, version 0.5.

*The following changes to the catalogue version 0.4 were reported:*

- CDCP: 5 restriction rules divided between Corporate Actions (CA) and Regulatory Compliance, Limitations due to CSD Legacy Platform
- KDD: 4 restriction rules divided between Issuance, CA, Regulatory Compliance, Operational Procedures
- Euroclear: Operational Procedures
- *Six restriction rules were discarded by the CSDs after bilateral clarification with the ECB Team*

The HSG members agree that the Belgian market registration process should also be of "black status".<sup>1</sup>

The HSG agreed to present the catalogue to the AG in July for subsequent publication.

#### ***French Registered Securities***

The key issue and source of the French accounting process stems from a single ISIN possibly representing two different kind of securities (registered and bearer). The only way then to make a distinction between those two types of securities is to hold them through separate securities accounts. The two securities accounts required for each version of the ISIN should be replicated throughout the whole holding chain. As presented to the HSG in Autumn 2015, this has an impact on the cross-border settlement efficiency.

One possible solution could be a T2S change request (CR) in order to revise the cross-border settlement functionality in T2S and make it compatible with the French, or potentially other similar, registration models. The HSG members were sceptical about this approach, independently of the CR feasibility, which

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<sup>1</sup> Black status, as per the XMAP methodology: *A necessary service or process for an Investor CSD is not available. Hence, the Investor CSD cannot put any controls in place and it raises the question whether the Issuer CSD is compliant with the CSD access criterion 3 of T2S*

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involves a major change in T2S. In addition, any CR would not be solving the underlying source of the problem. As an example, some HSG members noted that in some EU countries the different forms of a same security are dealt with via separate ISINs.

Another solution would be the usage of a “technical CSD” as a participant in Euroclear FR. The HSG members invited the ECB team to investigate further the legal, regulatory and even tax status of such of a “technical CSD”.

Independently of the “work around solution” which could potentially be implemented in T2S, the HSG members were of the view that this would not solve the source of the problem, i.e. the non-harmonisation of the registration procedures in the EU.

As was already raised by the AG in the context of the CMU Green paper last year, the issue of harmonisation of registration procedures in EU should be earmarked by the T2S community for the EPTF agenda. The AG should elaborate further and contribute actively to the EPTF work on the issue.

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#### **Action points:**

- ECB team to check the status of the Belgian registered securities in the catalogue v0.5;
  - ECB team to present the catalogue v0.5 to the AG for endorsement and publication
  - HSG members to raise the registration barrier in the relevant EPTF work-streams;
  - ECB team to produce in July 2016, a draft “terms of reference” (ToR) note on the French and the Belgian registered securities, as a good example of the registration barrier. HSG members will consider using this ToR note in their interactions with the EPTF.
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## **8. Distributed Ledger Technologies**

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### **Outcome:**

The ECB team presented the three different perspectives regarding the ECB’s interest on financial innovation and in particular on the Distributed Ledger Technology initiatives:

- Operations and Eurosystem service provisions to the market (e.g. T2 and T2S services);
  - Oversight and impact of innovation/DLT on current or upcoming financial regulation;
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- The “catalyst” role of ECB regarding financial integration in the post trade services (e.g. impact on T2S harmonisation agenda and wider financial integration).

It is obvious that all three perspectives are interconnected and could all have a material impact on the wider post trade landscape. However, what is most relevant from an AG perspective is the catalyst role the T2S community can potentially play in the EU harmonisation agenda. Could the AG, and the relevant community of stakeholders, coordinate their efforts in issues related to financial innovation and DLT?

The HSG members agreed to present a revised HSG mandate to the 5-6 July AG meeting. The mandate should refer, at a high level, to an additional task for coordinating T2S stakeholders’ efforts on DLT and in particular on potential initiatives to foster financial integration in the post trade services.

As a first instance of this engagement, the HSG will propose that the AG provides input in the discussion paper on DLT published by ESMA on 6 June 2016.

Provided that the AG approves the revised mandate, the HSG could explore the possibility and resource needs of establishing a dedicated task force on DLT.

#### Action points:

- HSG chairman to present to the AG (5-6 July) a revised HSG mandate reflecting, at high level, the HSG’s potential involvement in DLT. ECB team to prepare and HSG to approve via written procedure by **Friday 24 June**.
- HSG members to provide input to the ECB team on which (few) questions from the ESMA discussion paper should be proposed to the AG for response (by **Wed 15 June**)
- ECB team to prepare a “terms of reference” (draft and tentative) for a new HSG Task Force on DLT (by 6 July) –the Terms of Reference will be shared with the HSG members before and informally but this should formally been sent out AFTER the AG approves the revised HSG mandate.

Subject to the AG approval (on 6 July) of the revised HSG mandate:

- HSG members to propose candidates for membership in a HSG Task force on DLT (by Fri 9 July)
  - First meeting of the DLT Task Force to take place in September 2016.
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## 9. Any other business

### 2016 MEETINGS

**19<sup>th</sup> HSG meeting:** 8 November 2016 (starting at noon) – 9 November 2016 (finish at 04:00 pm), ECB, Frankfurt.

#### THE HSG IS INVITED TO:

- Take note of the next HSG meeting date

#### DOCUMENTS:

- None