



**afme** / **European Public Policy Committee**

# Topics Update

Thursday 10<sup>th</sup> November 2011

- CONFIDENTIAL -

- FOR EPPC MEMBERS ONLY -

**AFME Expert Lead: Rick Watson and Peter Beales**

**(Capital Markets: James Kotsomitis, Compliance/Policy Process: Angela Teke)**

**AFME Advocacy Lead: Gerry Cross & Anette Bratteberg**

## Background, key dates and AFME Aim

1. MiFID Review Consultation paper was out 8th December 2010. Deadline for responses was 2<sup>nd</sup> February 2011.
2. Legislative proposals for **MiFID/MiFIR published on 20<sup>th</sup> Oct.**
3. **Council:** Working Group meetings 11<sup>th</sup> November, 2<sup>nd</sup> working group 25<sup>th</sup> November. Jan 2012; further meeting in Denmark, July 2012 handover to Cypriot presidency. Q3 2012: Common position
4. **Parliament:** First exchange in ECON end November. Rapporteur Ferber expected to circulate a questionnaire on the review in December.
5. **Trilogues** (Commission/Presidency/Parliament): Q4 2012
6. **Political Agreement** (EP Plenary/Council/Ecofin): Q1 2013
7. **Translation/publication/adoption:** Q3/Q4 2013
8. **Level 2:** Q1 2014 – ESMA/Commission draft delegated acts

## Upcoming actions and next steps

1. AFME has updated our advocacy plan:
  - MiFID Insights Sessions in Brussels, starting early December.
  - Host a dinner for attaches on the 1<sup>st</sup> December
  - Meetings with MEPs on the week of the 14<sup>th</sup> November in Strasbourg
  - AFME is preparing a plan to involve the investors in the advocacy activities
  - AFME is contacting academics to help drafting a note on a market liquidity.

## Actions Taken Since Last Meeting

1. AFME is close to finalising the High Level Analysis Issues Briefing Note.
2. AFME has started writing a 2-3 page core note setting out the key themes from the High Level Analysis Issues Briefing Note.
3. On Monday 24<sup>th</sup> October AFME hosted a 'Webinar'
4. Members had meetings with Cabinet officials during the last part of the inter-service consultation period
5. AFME's Securities and Trading Committee was closely involved with the development of a European Consolidated Tape Blueprint which was published in September. Since publication, the Blueprint has been covered on panels sessions at a number of events. AFME continues to publicise this document where possible.
6. The Fixed Income Working Group continues to work on the Post-Trade Transparency Framework Project, and is currently preparing a technical note on the project. A working group is being formed to develop an implementation model. Legal advice is also being sought.
7. AFME has set up a Third Country Proposals working group.

**AFME Expert Lead: James Kemp / Roger Cogan (ISDA)**

**AFME Advocacy Lead: Anette Bratteberg**

## Background, Key dates and AFME

1. 15<sup>th</sup> Sept: Publication EC Proposed Regulation on EMIR.
2. 29<sup>th</sup> April 2011: The US Treasury announces proposed determination to exempt foreign exchange forwards and swaps transactions from forced clearing under the Dodd-Frank Act
3. 24 May 2011: European Parliament's Economic and Monetary Affairs Committee (ECON) votes on amendments to EMIR
4. European Parliament (EP) Plenary vote on EMIR 5 July, though EP votes only on amendments and not on Resolution, leaving more time for adoption of Regulation at 1<sup>st</sup> reading.
5. 4 October 2011, Council agrees general approach (but leaving third-country issues to be agreed), therefore allowing the beginning of the trilogue discussions.
6. On 10 and 25 October, the first two trilogue meetings took place. Delegations were confident of reaching an agreement before Christmas. However some important questions, such as third-country issues, could postpone a political agreement to the first quarter of 2012.

## Actions Taken Since Last Meeting by AFME

### FX

1. EMIR FX road show in progress to support both level 1 and 2 FX issues. Meetings held with HMT and Dutch AMF & central bank. Further meetings with Spanish, Germans, French, Swedish and Italians scheduled.
2. Further meetings with CFTC to discuss trade reporting requirements and upcoming rule releases.
3. Phase 1 sign off of BRD documents for FX Trade Repository.

### Actions Taken Since Last Meeting by ISDA

1. ISDA sent a set of textual amendments (to a small number of countries and MEPs) in relation to third countries, drafted by Clifford Chance.
2. ISDA provides MEPs and Financial Attaches with several briefing notes on specific issues, such as intra-group transactions, bilateral risk mitigation, reporting, obligation, legal certainty, third country treatment, indirect clearing, frontloading, CCP use of clearing members' collateral and phase-in.
3. ISDA/AFME continuing to meet with participants in trilogue and gather intelligence.

## Upcoming Actions and Next Steps

### FX

1. US - further submissions on clearing. Plan to start work with BoE and Fed on FX Options models.
2. EUR - Continue road show to MEPs and member states to strengthen resolves on FX amendments and then with ESMA.
3. Provision of key arguments for FTT debate.
4. Continued international activities to seek convergence where possible.

### ISDA

1. ISDA/AFME to continue to inform trilogue discussions via commentary and briefing papers - directly and indirectly - to participants .
2. ISDA/AFME to keep members appropriately informed of developments in trilogues.
3. ISDA/AFMR to input to ESMA process..

**AFME Expert Lead: Michael Lever & Christine Brentani**

**AFME Advocacy Lead: Gerry Cross**

## Background and inter-linkages

### Global:

1. December 2010: Final Basel standards on capital and liquidity
2. December 2010: FSB – BCBS report on macro-economic impact assessment using agreed Basel III framework
3. January 2011: Requirements on loss absorbency of regulatory capital
4. February 2011: FSB issues progress report
5. April 2011: Stefan Walter speech on Basel III
6. June 2011: BCBS reissues the Basel III capital standards (BCBS 189) for changes in the calibration of CVA
7. June, October: BCBS publishes FAQ's on Liquidity and Capital
8. November 2011: BCBS consultation on Capitalisation of Bank Exposures to CCPs

### EU:

1. January 2011: EC working document on possible EU framework for bank recovery and resolution (Crisis Management)
2. February 2011: Mini EC CRD IV Consultation focussed on CCR and CCPs
3. March 2011: Commission single rulebook workshops
4. June 2011: ECON Committee publishes CRD4 Impact Assessment Study
5. 13 July 2011: Head of Cabinets meeting (chaired by Michele Sutton) ahead of the college of commissioners' meeting planned on July 20<sup>th</sup>
6. 20 July 2011: EC released CRD IV proposal
7. August-December 2011: Council to develop position on CRD IV text
8. Dec: 2011: Expected Council agreed approach
9. 14 December 2011: EP presentation of draft report on CRD IV proposal
10. 27 February 2012: Deadline for amendments
11. April 2012: ECON Vote on report is expected to take place on CRD IV

## Upcoming actions and next steps – in agreement with Prudential

1. 9 November: EPFSF Lunch on CRD IV
2. November: working on finalising CRD IV drafting amendments
3. 14-17 November: Meetings with MEPs and MEP Assistants in Strasbourg
4. November -December 2011: Member state capitals meetings with finance ministries and competent authorities (visits planned to Poland, UK, Denmark, Netherlands, France, Spain, Germany, Italy, Cyprus)
5. November 2011: Remuneration Working Group to draft technical analysis document

## Actions to date

### 2011:

1. February to April 4<sup>th</sup> – Engagement with member state capitals: Budapest, Paris, London, Berlin, Warsaw (Feb) ; Rome, The Hague, Copenhagen (Mar - Apr)
2. April - Issued two case studies (leverage ratio and interplay of ratios) and shared interplay of ratios with the IIF
3. April 8<sup>th</sup> - Joint GFMA/ISDA letter to Basel Committee on first wave of technical issues (interim list to FSA 25<sup>th</sup> Mar, finalised letter to BCBS 8<sup>th</sup> April)
4. April 11<sup>th</sup> /13<sup>th</sup> 2011 - AFME attended IIF meetings on liquidity and capital
5. May 4<sup>th</sup> - EPFSF lunch on Basel III / CRD4
6. May 10<sup>th</sup> - AFME attended meeting with Basel Liquidity Working Group
7. May 12<sup>th</sup> - Meeting with Danish and German attaches and Mario Nava
8. May 25<sup>th</sup> - AFME/GFMA attended meeting of the FSB Standing Committee on Supervisory and Regulatory Cooperation
9. June 1<sup>st</sup> – AFME/GFMA attended meeting with Basel Standards Implementation Group
10. June - Publication of AFME General Briefing Note and Specialised Briefing Notes on Liquidity Coverage Ratio, the Net Stable Funding Ratio, the Definition of Capital, Counterparty Credit Risk, Leverage Ratio, and Limiting Procyclicality
11. July 6<sup>th</sup> - FSB Standing Committee on Standards Implementation Dinner
12. July 20<sup>th</sup> - Educational session for Danish financial attaché;
13. Sept 7<sup>th</sup> - ECON Secretariat meeting
14. Sept 7<sup>th</sup> - Dinner with financial attachés
16. September 8<sup>th</sup> - EU Parliament: MEP Assistant briefing sessions
17. September 13<sup>th</sup> – EBA: Meeting with Andrea Enria, Adam Farkas and others
18. August/September: AFME analysis of CRD IV text (in cooperation with other trade associations); CRD IV vs. Basel III /CRD IV vs. consol CRD gap analysis
19. 26 September 2011: Educational session for Polish financial attaché
20. October : Meeting with Basel Chair of Policy and Development Group
21. October: Phase I of Advocacy plan - meetings with Juergen Baum, Anke Klein, Olle Schmidt, Sharon Bowles, Elisabeth Ottawa, Vicky Ford, Brian Booth, Martin Bresson, Francisco Calçada, Mario Nava
22. November: First round of CRD IV Briefing Notes, CRD IV Positions slides and Core Narrative Document completed

# afme / Common Eurozone Bond

**AFME Expert Lead: Sander Schol**

**AFME Advocacy Lead: Gerry Cross**

## Process

- An AFME working group of member research and trading staffs has been working on a technical study from the market's perspective on the options for designing a common Eurozone bond. The working group is comprised of 8 investors<sup>[1]</sup> and 22 sell side members, comprising Heads of Interest Rate Strategy/Research.
- The Working Group submitted its draft to the Commission and the ECB on 6 October last. Subsequently, AFME has met with senior officials at the Commission and ECB to obtain their detailed feedback. The study was well received by the policymakers. They indicated they would appreciate follow-up studies and Q & A sessions with AFME and its members going forward. It was agreed to leave the initiative with them for the moment.
- For now, the study will be kept confidential. It will not be published, nor will its contents be discussed with policymakers outside EC and ECB. However, an exception will be made for Sharon Bowles (chair of ECON) with whom the report will be discussed shortly.

## Contents of the report

- In the report, titled 'Proposals for common Eurozone sovereign issuance, AFME suggest a framework to determine the attributes essential for the success of a common Eurozone sovereign bond and suggests three different structures that have a reasonable probability of success. The study of the Working Group initially started with 5 potential models of common Eurozone bond issuance, but after initial results demonstrated that some of these models were quite similar in practice, it was decided to present the results in the form of 3 major structures.
- The three structures are an expanded EFSF, a modified "red bond/blue bond" proposal with several but not joint liability (modeled on the EPDA report of 2009) and a full joint-and-several liability approach.
- The report includes advantages and disadvantages of each approach including potential legal, treaty, and ratings issues, and also provides trader and investor views on likely investor appetite and pricing. It allows policy makers to select from a menu of primary and secondary attributes to create a Eurobond of choice, keeping in mind that some structures will have higher probability of success than others.

[1] The working group consists of the following sell-side firms: BAML; Banca IMI; Barcap; BBVA; BNP Paribas; Citi; Commerzbank; Credit Suisse; Deutsche; Goldman Sachs; HSBC; ING; JP Morgan; Morgan Stanley; Nomura; RBC; RBS; Santander; Scotia Capital; Societe Generale; UBS; Unicredit. The following buy-side firms are also part of the working group: Allianz; APG; AXA; DWS; NBIM; PGGM; PIMCO; Union.

## Background and AFME Aim

Our members tell us they see value in a bank-focused operation on commodities.

Priorities for banks (relative to non-banks) are different capital charges, position limits and regulatory treatment. Also want research on drivers of market volatility.

Proposed approach:

- Create temporary capacity by hiring experienced consultant.
- Key deliverables would be position papers, proposed amendments to legislation and regulation, press communications, research and events.
- Possible participation by c. 10 banks. Consider non-bank non-member participants in task force, such as corporates, to strengthen advocacy impact.
- Estimated cost for commodities task force is £500-750k per annum.
- Review operations after 12 months.

## Actions Taken

Board feedback is requested on:

- A) Formation of a bank-only working group on commodities; and
- B) Funding this activity through a special assessment of interested members.

**AFME Expert Lead: Sander Schol, Oliver Carter**

**AFME Advocacy Lead: Anette Bratteberg**

## Background, Key dates and AFME Goal

1. The European Commission issued proposals Sept 2010.
2. Members of the European Parliament tabled 516 amendments in Jan 2011.
3. ECON votes Green MEP Canfin's report through on the 7<sup>th</sup> March 2011
4. ECOFIN endorses Council General Approach on the 17<sup>th</sup> May 2011
5. EP in Plenary votes ECON's amendments. A roll call of the votes requested on the amendment introducing a ban on naked sovereign CDS reveals 80% of MEPs support such a ban.
6. Trilogues were held during the summer and Autumn 2011.
7. Agreement was reached on October 19<sup>th</sup> last. Text of final regulation has not yet been made public.
8. COREPER adoption is scheduled for 10 November and EP Plenary the following week of 14 November.
9. In draft versions of the regulation, the deadline for ESMA to prepare technical standards is still showing as 31 December 2011, however we understand that the Commission is thinking of proposing 31 March 2012, which would make sense given the date for the regulation to come into force has been pushed back from 1<sup>st</sup> July to 1<sup>st</sup> November 2012.

## Actions Taken Since Last Meeting

1. In the run up to the agreement in the Trilogue, the focus of the advocacy efforts was to limit the damage of a ban on uncovered CDS. (Focus on art 4 +12).
2. After the Trilogue agreement, attention shifted to positioning for the second round legislation (ESMA deadline 31 March '12)

## Upcoming Actions and Next Steps

1. Positioning for second round legislation (after final version of regulation has been made public).

**AFME Expert Lead:** Rick Watson, Richard Hopkin and Sidika Ulker

**AFME Advocacy Lead:** Gerry Cross

## Solvency II

### Background

Solvency II Directive was published on December 2009 and it incorporates into a single text both substantive amendments to the regulatory regime for insurers alongside certain elements of the previous regime which are carried forward largely unchanged

It is expected that Level 2 implementation measures will be published in 2013 and insurers must comply with them in Jan 2014.

Through 2011 AFME has delivered detailed analysis to the Commission on proposed Level 2 capital charges for securitisation for insurers using the Standardised Approach. Most recently, in Nov 2011 the Commission communicated its latest calibration, of 7% per year of duration for all European assets for AAAs, and higher for other tranches. At these levels, it is unlikely that any EU insurer will invest in any tranche of any securitisation. Although larger insurers are likely to use their own internal models, it is likely that regulators will insist that model results are not inconsistent with the standardised approach level. Insurers are aware of this and have begun in 2011 to reduce ABS holdings.

### Last actions taken and Upcoming actions

1. AFME has met and/or communicated with the UK, Dutch, French and German regulators.
2. The FT received on 8 Nov a leaked copy of the AFME 24 Oct analysis provided to the Commission, and will run a story.
3. AFME needs to next: a) meet with additional member state insurance regulators, b) approach MEPs and c) run additional industry analysis to try to refute Commission's choice of data used in their analysis.
4. Need members to approach their local regulators on this issue.

## Prime Collateralised Securities (PCS)

### Background and Aim

The EFR and AFME in co-operation with other associations are exploring a new securitisation market segment called Prime Collateralised Securities ("PCS").

### Last actions taken and Upcoming actions

1. AFME distributed the draft PCS term sheet, business plan and draft regulatory advocacy document to its securitisation members on 8 November. On 16 Nov, the AFME securitisation division will have a vote on whether to proceed to the next stage, which is fundraising. EUR 3.6 mm is targeted, to cover operating costs over the first two years. Four banks have agreed to provide EUR 250,000 each, and other members have indicated that they will provide financial support.
2. EFR members have already received a similar letter. If AFME securitisation members decide to proceed, the fundraising package will be distributed to all AFME securitisation members, with a deadline of early to mid Dec.
3. Recently, we were made aware that an amendment has been proposed to CRD 4, which would require the EBA to consider ". . . taking into account available market tools. . . such as the implementation of a quality label for covered bonds" in the composition of eligible assets for the liquidity buffers. Depending on member views, we could either propose a revised amendment which adds words such as ". . . quality label for covered bonds and securitisation," or propose alternative wording.