

**From:** Sonja Erica Väisänen  
**Sent:** 22 January 2018 17:14  
**Cc:** cmce@humbrophy.com  
**Subject:** CMCE - Summary of EMIR WG call + request for availability for a meeting programme in February in Brussels

Dear member of the CMCE EMIR WG,

Please find below a key point summary and follow-up actions from the EMIR WG call that took place on 16 January.

As discussed, we suggest organising a **meeting programme with key MEPs**, if possible, on **20 / 21 / 22 February or 27 / 28 February**. These are the only dates in February when MEPs should all be in Brussels. Given the difficult agendas of MEPs, we should ideally have at least two dates that we can suggest for meetings.

**If you are interested to join the meeting programme in Brussels, please provide your availability on the dates suggested at the latest by this Friday 26 January.**

Best regards,  
Sonja

#### **1. CMCE engagement on the EMIR REFIT file - next steps**

The advisory team provided a state-of-play on the EMIR Refit file; the Council negotiating position was adopted just before Christmas and the Parliament is now preparing its draft report which should be public on 24 January. On **ETD transactions**, unfortunately the Council text is not as favourable as the Commission proposal was from the CMCE perspective. The text from the Commission proposal suggesting that CCPs report ETD transactions on behalf of counterparties has been removed on this point and a review clause has been inserted so that 18 months after the proposal is adopted, the Commission will report on the results of this review with respect to the reporting of ETD transactions, with a consideration of the overlap of the requirements between MiFIR and EMIR on ETD transactions. Regarding the **reporting of intragroup transactions and the exemption for NFCs**, the Council has modified the text so that the exemption applies only in the case of transactions **where both counterparties are NFCs**, while at the same time helpfully extending the exemption to cover third country transactions.

The advisory team suggested that CMCE should now engage with the European Parliament to make the case for improving the text on reporting and on Art. 10 on the frequency of the calculation of positions against the clearing thresholds. A member noted that while ETD reporting is the highest volume of the reporting done by firms and therefore relief in this area would be important, it was at this stage most important to preserve the positive areas of the proposal, e.g. the intragroup exemption.

On the **calculation of positions against the clearing thresholds**, there was a discussion on a solution CMCE could suggest to maintain the benefit of the proposal to move away from daily calculation of positions, while adding more flexibility to allow making the calculation more often once a firm has become subject to the clearing obligation. A member suggested that there should be an option to perform the calculation more frequently if a firm has exceeded the threshold on the basis of the annual March-April-May calculation. It was nevertheless concluded that it would be difficult to ask for firms to be able to perform this calculation at any point in time during the year, without accepting to potentially go back to the daily calculation of positions. The best option could therefore be to ask for a quarterly calculation on the basis of an aggregate month-end average position over the last three months.

The advisory team suggested that, following the publication of the draft EP report, the CMCE position paper should be updated for circulation to MEPs. It was suggested that CMCE should engage with MEPs on the basis of the updated position paper over the next few months to improve the text where

possible. Meetings should be sought with EMIR Refit rapporteur Werner Langen (EPP, DE) and Jakob Von Weizsäcker (S&D, DE), Peter Jezek (ALDE, CZ) and Kay Swinburne (ECR, UK).

**Action points:**

- Following the publication of the draft report from Werner Langen MEP the ECON Committee rapporteur, the advisory team will revisit the CMCE position paper to bring it up to date and circulate it to members.
- A CMCE meeting programme is to be organised ideally in February to meet with key MEPs. The advisory team will circulate a suggestion of dates and seek availability of members.

**2. Commission consultation on the fitness check on supervisory reporting requirements**

The consultation was published on 1 December and the deadline for responses is 28 February. MiFID II is outside of the scope of the consultation, so the focus from a CMCE perspective would be on EMIR, while REMIT could also be of relevance. The advisory team suggested that given the scope of the consultation which is asking for concrete data in terms of the cost of compliance with supervisory reporting frameworks, it may be most appropriate for members to respond individually where such data was available. CMCE could also write a letter to the Commission team to raise the inconsistency and overlap with ETD reporting under MiFID II and EMIR.

The advisory team encouraged members to respond to the consultation and noted that it would be important to raise any concerns in this context given that the Commission has provided the opportunity. If the Commission received no responses now, it may question this in the future when firms would be approaching it ahead of the review of EMIR reporting of ETDs as per the draft EMIR REFIT text.

**Action points:**

- The advisory team will raise this consultation again with Members of the EMIR WG by email.

Please do not hesitate to be in touch should any questions arise.  
Best regards,

Sonja Väisänen  
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