

Global Effects of the Regulation

Currently many regulatory measures concern also the Liechtenstein financial market and its participants. BANKENMAGAZIN spoke with Alex Merriman, Head of Market Policy at SIX Securities Services, about the main initiatives and asked about their impact and effect - especially on Liechtenstein banks.

Interview with Alex Merriman

There is a huge regulatory programme impacting both financial services firms and financial market infrastructures (FMIs). Why is this?

It results directly from the financial crisis of 2007-08. The G-20 decided that not only the regulation of a range of actors, such as the globally systemically important financial institutions (G-SIFIs), needed tightening up, but that aspects of the FMIs' role in the financial system also needed changing. Regulators in particular want FMIs to be restored to the centre of the financial system and to manage the systemic risk. And this is despite the fact that FMIs, to a large extent, remained resilient during the crisis, and coped well with the uncertainties, including the increased volumes and volatility. Managing the failure from, e.g. Lehmans, was one example.

What are the specific regulatory measures affecting FMIs?

These occur on two levels. Globally, a number of organisations such as the Financial Stability Board, the Basel Committee, and a combination of the BIS's Committee on Payment and Securities Settlement (CPSS), together with the international securities regulators' forum, IOSCO, have been involved. They have notably been active in ensuring that OTC Derivatives will be traded, centrally cleared and reported by the end of 2012. This will particularly mean an additional burden for Central Clearing Counterparties (CCPs). CPSS-IOSCO have also revised their Principles for Financial Market Infrastructures, covering an extensive range of requirements, notably in the management of risks, which will be rolled out next year. These initiatives are complemented at the European Union level, by an equally detailed programme, affecting all segments of the value chain. The review of the Markets in Financial Instruments Directive (MiFID) will tighten up the

trading segment, for instance in terms of price transparency and prudential requirements for trading venues (so potentially SIX Swiss Exchange). This is still being negotiated in Brussels. The European Market Infrastructure Regulation (EMIR) is on the point of finalisation. It will introduce the EU OTC derivatives framework referred to above, as well as detailed revised prudential requirements for CCPs and their clearing members. A parallel measure for CSDs, the Regulation on Central Securities Depositories (RCSD), issued in March and is being negotiated. Finally, a proposal for a Securities Law Directive is expected by the end of the year. This is intended to harmonise the underpinning legal framework on the holding and disposition of securities.

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How will these initiatives affect SIX Securities Services?

We can expect that there will be two broad sets of impacts on the SIX Group CCP, SIX x-clear AG, and the CSD, SIX SIS AG. First, a number of prudential rules will oblige us to change or tighten up aspects such as governance and risk management, notably

Alex Merriman

Alex Merriman has been handling the external regulatory affairs for SIX Securities Services, the post-trading arm of the SIX Group, since joining them in Zürich in October 2010. After graduating from Trinity College, Oxford, Alex's early career was spent at the Bank of England, where he specialized in EU financial services issues, as well as an extensive spell as a banking supervisor. More recently, he led the British Bankers' Association work on Market Infrastructure and Financial Market issues, also chairing the European Banking Federation's Clearing & Settlement Working Group, and being present in the European Commission's advisory groups lifting the Giovannini Barriers and implementing the Code of Conduct for market infrastructures.



the way in which we assess our exposure, and risks, to market participants. The Principles for Financial Market Infrastructures are particularly key in this respect, and will also be introduced via the EU EMIR and RCSD measures. One example, for the CCP, is in potential changes to margining or default fund contributions from clearing members, and, for the CSD, rules governing the provision of intra-day credit in commercial bank money. Additionally, EMIR and the RCSD harmonise the authorisation and supervision frameworks for, respectively, CCPs and CSDs in the EU. The second aspect relates to SIS's and x-clear's continuing access to the EU market. As infrastructures from a "Third Country", both entities will need to be re-authorised by the European Supervisory Authority, ESMA. As EMIR has been more or less finalised, we are anticipating that x-clear will have to submit its application to ESMA by the middle of 2013. As the RCSD is in a different part of the EU legislative cycle, it will be a lot later for SIS, say by the middle of 2015. But the good news is that until the re-authorisation occurs, the operations of both x-clear and SIS are "grandfathered" on the territory of the EU, so it will be business as usual. The re-authorisation will also be beneficial because it will bring with it a full European Passport, enabling x-clear and SIS to operate anywhere on the territory of the Union, without requiring a separate host member state permission. So this should alleviate any legal uncertainties.

How will the EU legislation affect participants, including Liechtenstein banks, which use x-clear and SIS?

As noted above, we can expect to see some changes in a number of aspects relating to risk management. There are for instance requirements to ensure that a system participant maintains segregated accounts for its own funds and for that of its clients.

Margining and default fund requirements will be tightened up, and the regulators would also like to ensure that no uncollateralised intra-day exposures exist. FMIs are also being encouraged to be more inquisitive about the underlying business flows from a participant's clients, for instance what influences the level of a non-clearing member's business with a clearing member. An outstanding question is also how the Swiss Confederation intends to implement the requirements for trading, centrally clearing and reporting OTC Derivatives. This is currently under examination by a working group led by the Federal Department of Finance, which is expected to issue an interim report towards the end of June.

What is the impact of the RCSD on the European Central Bank's "Target 2 Securities" Project?

The two go hand in hand. There are a number of harmonisation initiatives in the RCSD which are designed to facilitate the introduction of Target to Securities (T2S) in Europe by the middle of 2015. One is to shorten the settlement cycle from T + 3 currently to T + 2, by 1st January 2015. Other initiatives include the proposed complete dematerialisation of securities (certificates) by 2020, a harmonised system of dealing with settlement fails and buy-ins, as well as the ability for an issuer to issue into the CSD of its choice anywhere in Europe.

How do I find out more?

SIX Securities Services are maintaining a regular and active dialogue with the Liechtenstein Bankers Association and the Liechtenstein authorities. We also produce a quarterly regulatory affairs newsletter "Oversight", which is available, free of charge, from our website: www.six-securities-services.com.