



Update on the reform process to the securities clearing and settlement system in Spain

In line with the CNMV's commitment to inform periodically on the situation of the reform of the Spanish securities clearing and settlement system, which began with the public consultation paper from February 12 to March 15, the CNMV reports on the work carried out to date.

SUMMARY OF WORK ON CCP AND RISKS.

The functional and institutional aspects of a CCP, the solvency requirements for CCP and its participants, the risk control mechanisms and the procedures to solve failed trades were analyzed among other aspects. In a second phase, the analysis of some of those issues was enhanced, as the treatment for failing trades, and some new topics were opened dealing with information flows, necessary changes in the settlement system and the matching of the reform process with the T2S project.

Since the last update some other issues related to corporate governance, the institutional design of the CCP and its interoperability with other CCPs or with other trading venues, have been discussed.

Some basic objectives in terms of corporate governance of the CCP have been identified. On the one hand, the relationships to be established must encourage the efficiency of the risk management mechanisms of the CCP. On the other hand, an appropriate model that balances neutrally the interests of the different agents of the CCP (shareholders, management, supervisors and users) must be established. Finally, the rules on appointment, composition and functions of the different government bodies (the Board and the different Committees) must be defined.

With regards to interoperability, several scenarios are considered, in accordance with the European legal framework, the existence of several CCPs providing services to the same trading venue or to different trading venues. This change over the initial scheme will imply an additional effort in risk control systems, collateral regime, analysis of the framework of the legal responsibilities and the applicable jurisdiction, some economic aspects, etc.

Discussions on legal requirements, the institutional design and the scope of the activity and services of the CCP have included a comparative analysis of different alternatives. Among others, the functions of the CCP has been analysed, as well as the relationship with its participants, the market or the different trading venues and with the CSD considering the possibilities that one or several CCPs could be involved. Finally, there were some discussions on issues related with the location of the CCP, the suitability of separating the risks raised from different systemic institutions, the need of maintaining the registry function as a public good and the requisites to be imposed in the case a CCP belongs to a vertically integrated group. In parallel with those issues it has been analysed and discussed on some alternative proposals for the registry and securities custody procedures in a context of a settlement model based on netting with previous CCP clearing. This work stream is developed in the following section.

All the aforementioned issues have been discussed in the context of a comparative approach of the current market practices in those jurisdictions where a CCP is already in place.

SUMMARY OF WORK ON SETTLEMENT FINALITY AND REGISTRY

The CNMV has presented as a base scenario for discussion, two possible different approaches for the supervision and control of the securities registry; i) a control model based on the update of the participant's tier of the securities registry, consisting on the delivery to the CSD of the numerical codes identifying the securities sold (based on identification codes –IC– of the securities' inflows and outflows) and ii) a control model based on the introduction and the use of standardised procedures to manage the securities accounts in the system. Both the settlement procedures and the consideration of the registry as a system of securities netting balances would be substantially the same in both alternatives for control and supervision.

In the first model the control would hinge on the securities flows through a direct tracking system for the updating of the identification codes of the trades settled which produced inflows and outflows in the securities registry. The main advantage of this first alternative is the operational continuity with the current system, which, in turn would potentially involve lower adaptation costs.

In the second model the control would be exercised over the outstanding balances of the aggregated securities accounts of Iberclear' participants and the corresponding securities holdings of their individual clients, through the introduction of standardised procedures for managing securities accounts and of some data extraction and consulting facilities available for either Iberclear or the CNMV for supervisory purposes. In this alternative the implementation cost would be initially higher, although it would mean an easier registry management system for the Iberclear' participants, which, in turn, would potentially involve lower operational cost for the entities. Additionally, this model would bring forward a stronger degree of alignment with the systems put in place in the European environment.

Both models would allow an adequate market surveillance and suitable control of the settlement process and of the management of the custody activity.

In both alternatives the migration towards a settlement system based on netting implies greater responsibilities for the participants that could merit more stringent requirements for them than the current ones in terms of financial resources and operational capabilities.

Moreover, the main legal aspects arising from the potential changes in the registry that should be implemented in relation with the new settlement and registry system have been analysed. Among others, the maintenance of a single book entry registry for securities, the need of reviewing the principles that should govern the new securities registry model, the supervisory regime and the responsibility of the institution in charge of the clearing and settlement system and the entry requirements for its participants. All those aspects will be developed taking into account the current legal initiatives developed in the European Union.

NEXT STEPS

The working groups have completed along these months the ambitious working agenda proposed by the CNMV for the discussion of the main aspects raised by the reform of the clearing, settlement and registry system. The CNMV has the intention to publish a public consultation document that, taking in account the work already done, will include a proposal for reforming the system with the aim of collecting the views of market participants and any other interested party. This public consultation might start at the beginning of 2011.