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EUROCLEAR BANK (EB) AS LONG TERM CSD FOR IRELAND POST BREXIT

Minutes of the Irish Working Group 8/Transition to MIG Held on 21 May 2019 at Davy's Stockbrokers, 49 Dawson Street, Dublin 2

Members Present:

WG Chairman: **Brian Healy** (Proposed MIG Chair)
Issuer representative: **Ronan Deasy**, Kerry Group
International banks alternate representative: **Sofie Janssen**, BNY Mellon
Broker representative: **Aidan O'Carroll**, Davy
ETF issuer alternate representative: Ciaran Fitzpatrick, State Street
Registrar representative: **Joe Molony**, Computershare
Legal community representative: **Paul Egan**, Mason Hayes & Curran
Stock exchange representative: **Niall Gibney**, Euronext
CCP representative: **Bradley Arrowsmith**, EuroCCP
Euroclear representative: **An Mestdagh**, Euroclear

In attendance:

Susan Stenson, Euroclear
Nicolas Micheli, Euroclear
Christopher Twemlow, Euroclear

Apologies:

International banks representative: **Peter Stewart**, Citibank
ETF issuer representative: **Paul Young**, Vanguard

The Chairman opened the meeting and welcomed the members to the eighth meeting of the Working Group (WG).

Ms. Stenson informed the WG that she would be leaving Euroclear at the end of May. The Chairman and the members sincerely thanked Ms. Stenson for her involvement and valued contribution on this engagement and in related business over recent years. It was noted that Ms. Mestdagh will take over as Euroclear's representative on the WG and as Programme Director on the project going forward. The Chairman, on behalf of the WG, congratulated Ms. Mestdagh and noted how critical she had already been to what had been achieved in 2019.

PART I WG Governance

The draft minutes and summary reports of WG6 and WG7 were circulated with the WG document pack. The comments and proposed amendments already received were noted by the Chairman and it was agreed that the other members would have until the end of the week to provide feedback.

PART II White Paper (WP)

The Chairman noted the significance of the WP's publication and noted that, inter alia, it marked a milestone in what would be a fundamental change in the CSD and settlement arrangements for the Irish market, a major project now transitioning into implementation mode. He commented on how well the diverse market constituencies had been represented by the members of the WG and thanked the members for the time and effort which they had



committed since the end of January. He highlighted the positive engagement with the Authorities however he also noted that it was regrettable that the Authorities had not yet provided a definitive answer on some key areas , such as the proposed new Stamp Duty process and on the legislative migration mechanism.

Ms. Mestdagh thanked everyone for their contribution towards the publication of the WP. In response to a question from the Chairman she noted that, with the exception to some articles in the Irish and Belgian press, there had been no further questions or comments since its publication. She asked each member for feedback.

Mr. Deasy, on behalf of Corporate Issuers, noted the following:

- The feedback from the Issuer community was limited for two reasons:
 - They had previously given feedback on the earlier version
 - AGM season had started
- The focus now needed to increase again as implementation began.

Mr. Egan, as a representative of the Legal community, made the following points:

- In light of the practices and protocol on sharing Law Society submissions, Mr. Twemlow requested a meeting with the relevant members of the Law Society's Business Law Committee (BLC), so as to understand the points that might be made in the BLC/ Law Society submission and to ensure that the BLC had the benefit of full information and context for the change of issuer CSD. **ACTION: Mr. Twemlow to liaise with Mr. McKenna to organise as a matter of priority a meeting with the members of the BLC.**
- After discussion in the WG it was agreed that it would be very useful if the BLC were to put in an immediate and separate submission on the desirability of a legislative solution to enable migration without the need for Schemes of Arrangement.
- The CLRG's Part 23 Committee's deliberations were concerned with examining what, if any, changes should be made to the Companies Act to take account of the new CSD model, including the intermediated system of shareholding. The Part 23 Cttee. had met very recently and contact had been initiated with Euroclear to seek further information to assist the Committee in its work.
- Mr. Twemlow confirmed that the migration does not trigger a prospectus requirement.

Ms. Mestdagh indicated that she and Mr. Twemlow had met with the Authorities in the morning. On the legal aspects and legislative changes, the Authorities had indicated that they were reviewing the changes that Euroclear had proposed. There were still confident, that by the end of June they would be able to provide feedback. Not only on the legislative changes in relation to the migration but also all other legislative changes. Ms. Mestdagh stressed that if there was more than just the Euroclear' list of changes then the Authorities needed to have sight of such further changes without delay. Any such proposed changes should focus on the "must have" only as well as providing solutions to the stated problems. The Authorities did not want this to be used as a clean-up exercise to deal with "nice to have" legislative change. Mr. Twemlow added that similarly, Euroclear did not want other matters than what was absolutely necessary to make the EB model work and he opined that all changes absolutely necessary from a Euroclear perspective had been identified, with input from external Irish counsel, Arthur Cox.

Mr. Deasy indicated that from an Issuer's perspective, the expectation was for a legislative mechanism to effect migration. He stressed that so far, little to no effort had been put into contingency planning by issuers in case the legislative mechanism might not be available or not available in time. He noted the concern regarding special resolutions being that shareholders may vote against them. Contingency planning constituted a very considerable amount of work and cost. Ms. Mestdagh stressed that the Authorities wanted every Issuer to have a contingency plan. Mr. Twemlow added that it could be argued that not only was a plan B required but also a plan C in case the Schemes of Arrangement approach did not work as planned. The WG discussed the nature and the implications of this contingency planning. The Chairman then summarised the discussion by noting the need for each entity and constituency to consider its contingency plans while strongly pressing for the migration to be by legislative mechanism, the latter being the unanimously backed and least risky way of achieving a successful migration of the market from EUI as issuer CSD to EB.

Mr. Deasy added that following the meeting with the Authorities earlier this month, Issuers would separately communicate with the Authorities emphasising why migration should only happen through legislative change.

Mr. O'Carroll, for the Brokers community, noted:

- No further feedback had been received since that provided by the Broker Subgroup during the review process for the WP.

Mr Fitzpatrick, for the ETF issuers community, commented that:

- The feedback on the WP and discussion of the implementation phase was on the agenda of the next Irish Funds ETF subgroup meeting, scheduled within the week.
- Mr. Oliver Gilvarry of the DoF had agreed to a meeting with the ETF issuers on the 29th of May to discuss the WP and how the ETF issuers needed to address this.
- The Authorities insisted that ETFs should not wait until the end of March 2021 to migrate. While this could be considered fair to a certain extent there also needed to be provision, critically the availability of a legislative migration mechanism, in case of delays considered especially likely for smaller ETF issuers which do not have the resources.

Mr. Gibney, as the representative of market venues, noted that:

- Euronext had so far been engaging with the larger issuers
- Euronext was trying to organise another issuers' event in late June, possibly 25th, to increase and broaden the level of knowledge in the Issuer community overall as well as awareness around the need for contingency planning.
- At this stage, it was difficult to understand what exactly plan B would look like. However the Authorities had been very clear on the need for contingency planning and this needed to be addressed as a priority in a meeting with Issuers as equity Issuers had not been through such Schemes of Arrangement yet. Mr. Molony added that Issuers were not sufficiently aware of the need for plan B.
- The Authorities had asked to receive the confirmation of this Issuers' meeting as well as who had attended so they could communicate with those Issuers that did not participate.
- Euronext shared the WP with the LSE and CBoE. Euronext was trying to set up a meeting later this week to discuss the WP and the split of settlement flows between EB and EUI. The Chairman noted, and it was agreed by the WG, that this was a key consideration and one which market venues, especially ENX, LSE and CBOE, needed to proactively address.

Mr. Molony for the Registrars community noted that:

- The WP had been shared with all Registrars' clients. Comprehensive feedback from those clients had yet to be received. Ms. Mestdagh stressed that we had now moved from consultation to implementation mode so the earlier responses to the WP were given, the better. Any fundamental concerns would need to be raised as soon as possible.

Mr. Arrowsmith, as representative of the CCP community, noted:

- No further feedback on the WP from the CCPs. They were however very keen to receive feedback from the Authorities on the proposed new process for the collection of Stamp Duty.

Ms. Janssen commented, as she did not attend the AFME meetings and had not had a chance to catch up with Mr. Stewart, that she had no specific feedback on the WP at this point. It was noted that based on a first internal review, no major issuers had been identified. Ms Janssen too was keen to have the Stamp Duty process finalised but understood EB was waiting for feedback from the Revenue Commissioners.

PART III: UPDATE EB BOARD

Ms. Mestdagh indicated that the EB Board meeting had accepted the proposal to formally commence work on the project implementation. Internal governance had been set up along with an internal project to implement the solution.

- EB defined a timeline with a deadline of end of March 2021. Each constituency needed to know what the changes from EUI to EB would be in order to assess the impact and

budget. Those details for each constituent would take the form of Online Market Guides and it was planned to have these available by the end of September 2019, in time for the budget planning exercise in October 2019 which meant a full year for implementation. Ms. Mestdagh invited the WG to inform her of any topics on which they would like to receive additional detail. The outlined approach and timings were noted as reasonable by the WG.

PART IV: TRANSITION TO MARKET IMPLEMENTATION GROUP (MIG)

The Chairman asked Ms. Mestdagh to provide the Euroclear proposal for implementation governance. She outlined the following points in this regard:

- Euroclear hoped that the same membership as for the WG would remain as it has proven very effective to date. She asked the WG members whether they were willing to continue as members of the MIG. Subject to confirming with their respective constituencies, as appropriate, each member of the WG confirmed their agreement to this.
- Ms. Mestdagh proposed that the name of the group change from WG to Market Implementation Group (MIG) to reflect the progress from consultation to implementation.
- A Chair would still be required and Euroclear proposed that Mr. Healy become Chairman of the MIG. This was unanimously endorsed by the members and Mr. Healy noted his willingness to fulfil that role.
- The regular meetings would take place through the MIG. In addition, Euroclear proposed to have two sub groups: Migration and Communication. The latter was necessary as it was very clear that communication with the whole of the market was crucial and this had been agreed also with the Authorities. This would encompass keeping both the Irish and the London market, and any other venues, informed. It was proposed that Euronext would take the lead on this sub working group. Mr Gibney noted that this matter was still being discussed internally by Euronext and that engagement with Euroclear was ongoing. Ms. Mestdagh noted that there would also be bilateral meetings, e.g. with individual clients, or group of clients, AFME, Registrars. A second meeting on SWIFT communication for Registrars was needed to cover the corporate actions topic. This was a broad topic and it was important to have it before the summer as SWIFT implementation typically takes at least one year for an end-to-end implementation.
- All meetings were to take place in person.
- Terms of reference of the MIG as presented in the meeting were approved. Each member is to seek confirmation from their own constituencies that they are content with continuing the existing representation on the MIG. They would also need to designate an alternate. Invitees could join the MIG when necessary.
- The Steering Board structure would also remain and the revised SB ToR were also noted.

PART V: NEXT STEPS

The Chairman summarised the next steps agreed in the meeting:

- Finalisation of the reports of WG 6 and 7 by end of week. **ACTION: Euroclear to publish final versions of these on the relevant section of the Euroclear website.**
- **ACTION: Euronext to finalise the organisation of the next Issuer session by the end of the week, to be scheduled for the last week in June.** Ms. Mestdagh indicated that ideally, the session would be done in person to enable maximum interaction. The Chairman agreed and recommended an approach and organisation of the session similar to the first full issuer briefing in April. He also suggested that this needed to happen as a matter of urgency and no later than June. Ms. Stenson suggested that the DoF should do an introduction to that session. After discussion the above approach was agreed and in addition it was concluded that Euronext ensure that in addition to the company secretaries, the CFOs of the issuers are also invited.
- **ACTION: Consideration and commencement of contingency planning by Issuers.** The Authorities require issuers to prepare for a possibility of no legislative change for migration and for Schemes of Arrangement as a contingency. Mr. Twemlow indicated that Euroclear together with Arthur Cox looked into how to streamline the SoA process through the Courts and issuers and their legal advisers should consider this further. It was also noted that the Authorities did not want the Issuers to start spending on this potential option at this stage. It was for the Issuers to familiarise themselves

with the requirements and timing of a SoA. The level of details required for the contingency planning remained high-level at this stage. It was expected that it could however become more complex later in the year depending on circumstances. The Law Society's Business Law Committee to consider whether there is merit in having common draft resolutions, affidavits, scheme circular outlines etc. It was suggested that the Issuers may need to start executing their contingency plans by end of December this year.

- **ACTION: Direct constituency advocacy, in writing and by meeting, with the Dept. of Finance on the pressing need for a legislative migration mechanism.**
- **ACTION: Euroclear to work on the development of Online Market Guides.**
- **ACTION: Euroclear and Registrars to schedule the second session on SWIFT communication.** The date of 27th of June was pencilled in.

PART VI: DETAILED TIMELINE

- The timeline remained very similar to the one published in the WP with a little finessing of some work streams.
- In order to enable a migration in March 2021, the market would need to be ready by December 2020 to perform testing activities.
- **ACTION: Euroclear to include a 5 months' arrow between Q1-Q2 2020 under the Issuers to indicate the AGM season.**

It was noted that Mr. Molony had taken over from Mr. Halligan as representative of the Registrar constituency. The Chairman and the other members thanked Mr. Halligan for his contribution to the WG.

Next meeting: 25th June, Citi, 1 North Wall Quay, North Dock, Dublin 1, Ireland.

Summary of new/outstanding actions:

Action item ID	Description of Action items	Date of Analysis/ Discussion	Assigned to	Planned Closure Date	Status
AC033	Euronext to discuss how and when to engage with the LSE	11/03/2019	Euronext	25/03/2019	In Progress
AC039	Euroclear to investigate whether a solution whereby the nationalities were reported on a transaction to transaction basis could be achieved as opposed to having the nationality at the level of the EU / non-EU accounts	11/03/2019	Euroclear	17/05/2019	In Progress
AC049	Euronext to raise awareness of the WG and the migration to EB among the Exchanges constituency by the end of the week	02/04/2019	Euronext	05/04/2019	In Progress
AC053	Mr. Twemlow to confirm that the migration does not trigger a prospectus requirement	21/05/2019	Euroclear	30/06/2019	Pending
AC055	Euronext to finalise the organisation of the Issuer session by the end of the week.	21/05/2019	Euronext	24/05/2019	Pending
AC056	Euroclear to include a 5 months' arrow between Q1-Q2 2020 under the Issuers to indicate the AGM season	21/05/2019	Euroclear	31/05/2019	done