



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

Minutes of the Market Implementation Group, Meeting 8 Held on 22 April 2020 via Webex

Members Present:

Chairman: Brian Healy
Issuer representative: Ronan Deasy, Kerry Group
Broker representative: Aidan O'Carroll, Davy
Registrar representative: Joe Molony, Computershare
Registrar representative: Pat O'Donoghue, Link
Legal community representative: Paul Egan, Mason Hayes & Curran
CCP representative: Bradley Arrowsmith, EuroCCP
International banks representative: Peter Stewart, Citi
ETF Issuer representative: Paul Young, Vanguard

Euroclear representative: Sandra Aboutboul, Euroclear

Apologies:

Stock exchange representative: Eric Bey, Euronext

In attendance:

Euronext Project Manager: David Fitzgerald
Euroclear: An Mestdagh
Euroclear: Christopher Twemlow
Euroclear: Raymond Mallon
Euroclear: Olivier Lefranc
Euroclear: Sébastien Deprez
Euroclear: Kathleen Seurinck

The Chairman opened the meeting at 10:00 and welcomed the members. He noted that this ad hoc meeting had been organised prior to the regular MIG scheduled on 13 May, to consider the impact of COVID-19 and its consequences for the project, the main purpose of the meeting was to:

- take stock of the project status;
- highlight the key achievements since last month; and
- discuss the MIG members' assessment of how COVID-19 is impacting the constituency they represent.

The Chairman informed the MIG that a Steering Board had been held on 1 April which had discussed the same matters, the conclusion being that the timeline remains unchanged and that stakeholders should continue, and are continuing, their efforts to deliver the project in accordance with the agreed timeline.

APPROVAL OF MINUTES

The MIG approved the minutes of 11 March 2020, as presented.



PART I: KEY MESSAGES

Before proceeding to the regular project update, Ms. Mestdagh highlighted that – despite the current challenges as a result of the COVID-19 pandemic – operational effectiveness and resilience has been maintained by the large majority of stakeholders involved in this project by successfully activating business continuity measures. The MIG heard that in Euroclear, project momentum is being sustained, work is progressing as planned for Irish CSD migration to EB before the end of March 2021 when EUI will no longer be able to act as Issuer CSD for any EU 27 issued securities. Equally, and as re-enforced by the Steering Board, it was essential that all stakeholders continue to work to the common goal of go-live in March 2021 so as to avoid disruption to the Irish securities market beyond March 2021, there being no “Plan B”.

PART II: OVERALL PROGRAMME UPDATE

Ms. Mestdagh then presented the overall programme update to the MIG members, highlighting the following points:

- Some key deliverables had been finalised and published since March:
 - 3 March: a process for Issuers to follow when notifying EB of their intention to migrate from EUI to EB, and subsequent confirmation from EB that an Issuer’s securities are eligible;
 - 1 April: a Service Description (SD) for Registrars which will be used as the baseline for the services as of migration. This had been acknowledged by the Registrars, albeit with some points of detail requiring further elaboration. These points are, however, not considered to be stumbling blocks and work is ongoing on how to accommodate them; and
 - 9 April: a fully updated current Service Description for EB Investors, noting that EUI participants, as well as having the SD can also contact their Sales & Relationship manager.
- Issuers with a significant number of US beneficial owners may potentially be impacted by one aspect of US securities law, which is currently being clarified with the SEC via four US law firms who are handling the matter on behalf of Irish Issuers. Such Issuers should approach their Irish counsel who in turn can reach out to one of the US counsel.
- Confirmation had been received from the Irish Authorities that legislation covering Stamp Duty will be updated as part of the Finance Bill in 2020. For any other potential tax considerations (such as CGT, CAT and Close Company provisions of the CT code), the Irish Authorities have re-iterated that the intention and application of these taxes and the related taxation policies do not change as a result of EB becoming Issuer CSD. If it were to become clear that legislative change may be required under any of these tax heads, then this too would be addressed as part of the Finance Bill or associated tax legislation in Q4, 2020.
- A formal reply had yet to be received from the IRC regarding a potential deferral of the implementation of Dividend Withholding Tax changes beyond January 2021, their main focus now being on COVID-19 related matters.
- Upon request of the Authorities, a joint letter from Euronext and Euroclear Bank will shortly be sent to the Issuer constituency, outlining that: migration is in less than one year, the benefits of the migration, what needs to be done before then and the need for focus among all parties to ensure readiness. It will also include the more recent points that need further clarification (i.e. US securities law issue, possible tax considerations) as already discussed at MIG level. The letter would be issued in the coming days and will also be shared with the MIG members.

- The momentum in Euroclear is increasing, with the next key milestones being:
 - the publication of the Migration document, a first draft of which Euroclear hopes to share with the Registrars by the end of April. In May, the Migration document will then be released to the wider community;
 - the communication on the tariff, also expected by the end of April once the internal Euroclear governance process is completed. This tariff pertains to the Irish securities held for safekeeping and settlement through EB as well as the EUI tariff for the part that clients may wish to hold as CDIs through EUI. A fee simulation tool will be made available for clients to calculate the cost impact on their own firm of the new tariff, including when holding split positions of Irish securities in EB and as CDIs in EUI;
 - the draft of the legal contract with Registrars to be shared with them by the end of April;
 - the finalisation of comments received from Registrars on the Service Description for Registrars; and
 - further discussions on the testing timelines and testing scenarios with the Registrars to prepare for testing from September. Some scenarios including the first functionalities to be tested had already been shared with Registrars for them to confirm whether the right priorities had been identified and all necessary scenarios covered.

Following the programme update outlined by Ms. Mestdagh, the MIG asked a number of questions and a discussion followed on the matters outlined below.

- The potential US securities law compliance issue for Issuers with a significant number of US beneficial owners related to the technical nature of the CDI in EUI at the time of migration. No indication had been received that this would affect ETF Issuers, most of which will migrate using an Individual Scheme of Arrangement (ISoA) instead of relying on the Migration Bill.
- The Issuer representative highlighted that the Belgian law section in the draft circular had raised some questions for which the legal advice received to date had been inconsistent and he asked whether this was a known issue. The MIG noted that neither Euroclear nor the Legal Taskforce had received any details regarding such a matter. However if there was any specific concern then it should be raised with the Legal Taskforce and the matter would be considered, with input if necessary from EB counsel.
- The Chairman noted that the COVID-19 pandemic posed a new and material risk to the project, the potential impact of which had been raised and discussed at length by the Steering Board on 1 April. The MIG queried whether any concerns had been raised by market players and Ms. Mestdagh responded that mixed reactions had been received from some players regarding the firmness of the migration date. She emphasised that the March 2021 migration date has not been determined by Euroclear but was driven by a political decision, itself in response to Brexit. Noting that a broad stakeholder base had been involved in the project from the outset as well as the very significant amount of progress made in realising EB as Issuer CSD for Ireland, the Chairman then asked MIG members to give their views, and those of the constituency they represent, on the impact and consequences for the project, if any, of COVID-19:
 - Mr. Molony highlighted that a critical phase of work for Registrars would start now following the recent publication of the Service Description and the pandemic was a very unwelcome further complication and challenge at this point in time. However he noted that business and this project were being successfully and robustly progressed in the face of these challenges. The Chairman added that the COVID-19 context was an extraordinary and global situation, however, securities markets businesses and market infrastructures had proven to a high degree to be resilient, had successfully invoked their business continuity plans and were operating effectively in these much changed circumstances. The MIG agreed with this assessment and noted also the extent of regulatory interactions with the Authorities, for many occurring on a daily basis. While

being mindful of the difficult market circumstances and fundamentally altered working environment, which undoubtedly was a new risk consideration, there was consensus in the MIG at this point that the timeline could not be pushed beyond end March 2021 when EUI's emergency equivalence will end;

- Mr. O'Donoghue confirmed being on track from an IT perspective, noting that key management's bandwidth (often with the same people working on different projects e.g. SRD II) will need to be closely monitored especially during the project's testing phase;
- Mr. O'Carroll as Broker representative added that while day-to-day business can largely be dealt with remotely, it was much harder to accommodate significant business change projects such as a CSD migration due in particular to the demands of development and testing, hence COVID-19 he felt represented a significant new risk which needed to be kept under ongoing review;
- Mr. Deasy commented that Issuers in general have moved from putting migration circulars and resolutions to Q2 & 3 AGMs to instead an EGM cycle in Q4 as there were some unclarified points on the US securities law and potentially tax issues, as well as the obvious and fundamental COVID-19 implications for AGMs. He further noted that the focus of all businesses is presently on the health of their staff and stakeholders and on business continuity, not on migration;
- Mr. Young noted that ETF Issuers' focus was mainly on market volatility and dealing with the consequences of COVID-19 in that context as well as the HR and BCP aspects referred to already. Most ETF Issuers had submitted their plans to migrate and are acting according to those plans. He noted that some questions have been raised concerning ETC and ETN migration on which clarification is being sought;
- Mr. Stewart commented that the International banks also continue to work towards the March 2021 migration date. He noted that while some closer interaction may be needed with EB by some participants overall businesses have been extremely resilient, have successfully transitioned and continue to operate effectively and efficiently in their new remote working arrangements;
- Mr. Arrowsmith noted that CCPs too were working remotely and the market and infrastructures had reacted well, with just a small decrease in settlement efficiency. Some additional work would be required due to COVID-19 but to date progress towards the migration date was on track;
- On a question about the possibility for ETF Issuers to have virtual court hearings with respect to migration using an ISoA, Mr. Egan highlighted that matters evolved on a daily basis. This was a logistical issue, not a barrier. There was consensus among lawyers that, as long as social distancing is kept, they are able to work through this in August. He agreed to keep the MIG informed in this regard (**action point**).

The Chairman in summarising the discussion, noted that COVID-19 is a highly challenging and unprecedented situation and as such it gives risk to increased risk, however, the market has proven to be resilient and all key stakeholders have plans in place which are successfully coping with this unforeseen challenge. Therefore the timeline and the approach to the migration of Issuer CSD to EB remains unchanged. The MIG agreed with this while fully recognising that the risk on the project has significantly increased and needs to be continually monitored.

PART III: EURONEXT/EXCHANGES' UPDATE

The Chairman invited Mr. Fitzgerald to provide the Euronext update who then highlighted the main elements not already covered.

- The end-to-end process for handling paper certificates had been agreed between EB/Registrars/Brokers, with minimal disruption for certificated shareholders. It was

expected that this process would be fully signed off in the next few days, with details incorporated in Service Descriptions.

- To meet its obligation under the Migration of Participating Securities Act, Euronext will publish on its website the deadline by which Issuers must notify that resolutions have passed, as well as the intended live date and the list of participating Issuers (i.e. as resolutions are passed).
- Interaction with Issuers regarding the planning of their AGM continued. It seems that many listed companies will not pass the migration resolution at their AGM and will choose to wait until full clarity on some recently emerged tax considerations and a potential US securities law requirement is obtained.

The Chairman then invited the Legal community representative to give an update on the discussions regarding legal and legislative changes, some of which are COVID-19 related. Mr. Egan informed the MIG that it was not possible for a General Meeting to take place as has been done in the past and proposals are being developed regarding virtual meetings, but were not conclusive just yet. Work was also ongoing at the level of the transposition of the Shareholders Rights Directive II into national law and the MIG noted that the CSDs and custodians should be consulted should this trigger any changes to Irish or UK Corporate law.

ANY OTHER BUSINESS

The MIG noted that the regular meeting on 13 May will be maintained but the duration will be somewhat shortened.

As there was no further business, the Chairman thanked the members for their participation and closed the meeting at 12:15.

Summary of new/outstanding actions:

Action item ID	Description of action items	Date of Analysis/Discussion	Assigned to	Planned Closure Date	Status
AC108	Euroclear to confirm EUI clients have started to be approached about tariffs	25/06/2019	Euroclear	05/07/2019	Ongoing
AC 262	Organise workshop with Issuers to take them through Issuers changes in more detail (to be organised)	11/03/2020	Euronext/ Euroclear	TBC	Ongoing
AC 267	Inform MIG on possibility for ETF Issuers to have virtual court hearings or some equivalent mechanism with respect to migration using an ISoA	22/04/2020	Mr. Egan		New