

## ICMA CSDR-SD Penalties Workstream

Meeting of October 26, 2021

Summary notes and action points

---

*The meeting was chaired by Nic Hamilton (JPM)*

- It was noted that the ICMA CSDR-SD efforts had been very focused on mandatory buy-ins, in light of both the advocacy and potential implementation lift, but while that was now looking increasingly less likely to go ahead in February 2022, cash penalties were very likely to go ahead as scheduled.
- It was also noted that the meeting on October 12 was helpful in setting the scene, with good overviews provided by ECSDA and AFME on the work they have undertaken to support the implementation of the penalty regime. This also provided clear touchpoints for the ICMA workstream.
- The purpose of this initial meeting was to set out and agree a framework to focus the

### Preparedness

- AFME suggested that they were receiving member feedback from members on some issues arising from the various CSD dry runs, but that this was the purpose of the exercise, and this should hopefully result in enhancements. There were also concerns about whether the Hungarian CSD would be ready. They were discussing whether to flag concerns to the CSD and/or the local NCA, and also what should be the process in the case of concerns around other CSDs. They suggested that this could be a join process.
- AFME also mentioned a call with ECSDA, AFME, and AGC which has been moved to November in order to invite ICMA members.
- ❖ ICMA will share the ECSDA invite with the WG members.

### Article 6

- Article 6 (*Measures to prevent settlement fails*), while not directly part of the Penalties provisions, is a key component of the industry's work related to settlement efficiency and discipline.
- AFME updated that they had produced some model legal provisions to incorporate Article 6, which is a legal requirement. Also, they have provided some guidance, noting that scope and application is fairly clear from the RTS with respect to outright equity and bond transactions, but less so for SFTs.
- ❖ AFME informed the WS that they were scheduling a call to discuss Article 6 issues and confirmed that this would be open to interested ICMA members. (ICMA Secretariat will forward the invite to the WS.)
- With respect to Article 6, there are a number of potential SFT specific issue, particularly related to the allocation process.

- There are also some critical considerations with respect to measuring the timelines and sequencing of the confirmation and allocation processes. There is potentially some work to be done with respect to socializing this among the ICMA membership.

#### Penalties workflow and preparation activities

- It was suggested that while the process for penalty invoicing and payments is clearly defined, there is scope for intra-month activity around reconciliation for firms to get ahead of the claims process following every month-end.
- It was further suggested that there may be greater sensitivity among the SFT community with respect to the thresholds for claims, which warrants further analysis.

#### Fails prevention and best practice

- It was suggested that there was potential to build on existing best practices set out in the ICMA SMR&Rs and the ERCC Guide to the Best Practice which could be effective in supporting fails prevention.
- It was agreed that it would be important to ensure alignment and consistency between any best practice recommendations for secondary markets and repo markets, as well as with any existing industry best practices.

#### Settlement efficiency

- It was recognized that the extensive work being undertaken by ICMA, through the ERCC, on settlement efficiency, as well as parallel initiatives by other associations, was key interlock with this workstream.
- ❖ It was suggested that as part of this work, it may be helpful to undertake a mapping of existing best practices and other initiatives to improve settlement efficiency in the bond and repo markets, beyond the three key tenets of the ICMA work (partialing, shaping, and auto-borrowing).

#### FAQs

- It was proposed that one of the key deliverables of the WS should be a set of FAQs, which would provide a valuable industry resource.
- AFME updated that they had also produced some general guidelines beyond the Bilateral Claims framework, which was still ongoing work. They confirmed that they would be happy to share this.

#### Next steps

- It was agreed that the Workstream would aim to meet every two weeks for one hour. This would allow the WS to focus on key issues and topics. This should allow the WS to build up a decent tome of work by the end of the year and in good time for the February 2022 implementation date.
- The first half of the next meeting would focus on recapping and refining the proposed structure for the deliverables, while the second half would focus on Article 6 related issues.
- ❖ The ICMA Secretariat would investigate the use of the Zoom voting functionality which could be used to facilitate decision making by the WS. The plan is to trial this at the next meeting.