Andreas Dombret: New regulation on trading with OTC derivatives

Introductory statement by Dr Andreas Dombret, Member of the Executive Board of the Deutsche Bundesbank, to the panel discussion "Financial markets – finding a regulatory normal", Euro Finance Week Conference, Frankfurt am Main, 20 November 2012.

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1. Introduction

Dear Ladies and Gentleman

The regulation of the OTC derivatives markets is more or less on track, but the ambitious timeline of the G 20 will not be kept. The G 20 goal to trade standardised derivatives on exchanges or electronic trading platforms and to clear all standardised OTC derivatives through a central counterparty (CCP) by the end of 2012 will not be reached. Whereas in Europe the clearing obligation established by the European Market Infrastructure Regulation (EMIR) is mostly in force. The trading obligation under the currently discussed Markets in Financial Instruments Regulation (MiFIR) will, together with the Markets in Financial Instruments Directive (MiFID), not enter into force before 2015.

It is remarkable that the United States has made more progress with implementing the trading and clearing obligation under Dodd Frank. However, this first mover advantage does not always produce the best solution for the global derivatives market.

2. Multilateral approaches are more promising than bilateral solutions

The forthcoming challenge will be the global application of the new regulatory framework.

While the United States of America seeks a bilateral approach to assess the equivalence of third country regimes, the European stance is to negotiate on a multilateral basis to grant equivalence of different regulatory regimes.

I am convinced that this approach is superior since it creates more legal certainty compared with a case by case equivalence assessment.

3. Regulation will be without effect if there is no adequate implementation and supervision

The implementation, application and introduction of the numerous rules will demand a huge effort: First of all, from the supervisors, as they have to supervise and oversee central infrastructures, as well as from the financial and non-financial industry. Furthermore, CCPs and market participants, both are affected.

CCPs have to adjust their risk management to cope with more clearing members and with accelerating volumes of derivatives to be cleared centrally. CCP clearing is required of market participants; otherwise they have to accept higher capital and collateralisation requirements. Besides, the standardisation of OTC derivatives should make good progress, so that the clearing and trading obligation becomes operational as soon as possible.

We are aware of the practical difficulties and do not underestimate the challenges that have to be met in order to fulfil the new requirements. But all our commitment will result in more transparent and more stable markets which will better serve all market participants in the future.

4. Transparency is the crucial cornerstone of each regulation

Transparency is a very important issue within the entire regulatory process around OTC derivatives markets. Supervisors but also market participants need more reliable, transparent and accessible data on the derivatives markets. And they will profit a great deal from the reporting obligation to trade repositories established under both EMIR and Dodd-Frank.

We expect reporting to trade repositories to work out next summer. The necessary technical details will be confirmed by the European Commission soon and the registration approval process by ESMA will also start.

But MiFIR, too, will increase transparency since it requires pre-trade transparency for derivatives traded on organised trading venues.

The future findings from the data gathering will be helpful for further reviews of the regulation and possibly new regulatory efforts.

5. Closing remarks

European and national legislators have made good progress in regulating the OTC derivatives markets. But further efforts have to be taken to complete the process embarked upon in the light of the G 20 commitments. The dialogue between regulators and market participants therefore must be continued and intensified.

Thank you for your attention.