

Statement

DACSI **10-1082**

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NYSE's clearing strategy for Europe

DACSI has taken notice of NYSE Euronext's announcement of 12 May, that it will commence clearing contracts traded on its European trading platforms and will terminate its clearing contracts with LCH.Clearnet as per 2012.

This strategic choice by NYSE Euronext will affect the European post-trade landscape substantially; as some important steps in this strategy are not yet made clear, the effects for users are not easy to predict. Nevertheless, DACSI wants to express its view on the possible consequences.

DACSI is supportive of competition in the clearing space, since competition can bring service quality improvement, and can pass efficiencies to users. However, competition between CCPs should not focus on risk management or margining policies, as these risks will be paid for by users at the end. We trust that European legislation (EMIL) will set the boundaries in this perspective and realise that this will also define the actual possibilities for competition.

NYSE Euronext has not made clear whether its new clearing houses will have the exclusive right to clear the group's trading business.

If NYSE Euronext would (commercially) govern the CCP clearing of its trading business and enable no or limited interoperability, or when interoperability turns out to be too costly for users, we envisage a new landscape: a situation where "silo"s (of incumbents or MTFs) compete against each other, offering in one package the trading and clearing of the full range of products enabled by MiFID.

If any form of interoperability is envisaged, we point out that interoperability can only bring the competition advantages to users if harmonised processes and standardised information flows are achieved.

The development of two new, purpose-built, clearing houses (one in London and one in Paris) will not only require material investments from NYSE Euronext, but also substantial costs to be borne by users (out-of-pocket and implicit). DACSI observes the promises made by NYSE Euronext in this respect (a. low migration frictions, b. better distribution and aggregation of risk-correlated instruments, c. attractive economic terms). Fulfilment of these promises is essential for users, but we question how they could follow from the approach of building new clearing houses, and how potential competition between CCPs and resulting lower clearing fees could compensate for these investment costs.

We note that in practice, the number of competitors offering the same (clearing) service for the same asset class will remain limited, because of the substantial fixed costs for providers and users (rather an oligopoly than a fully competitive situation). In that perspective, and in order to avoid competition on risk management by clearing houses and to support responsiveness to user needs, DACSI prefers "user-owned and user-governed" infrastructure providers. Competition and consolidation would ideally go hand-in-hand and result in very few – or even only one – provider per asset class. Specialised along asset classes, CCPs can reach optimal solutions in terms of risk management and dedicated processes and procedures.

Hence, NYSE Euronext's timing of its strategic move is quite surprising. With today's knowledge of NYX plans and today's understanding of the political and legislative landscape, DACSI thinks that users are better served by user-owned / user-governed CCPs than by a newly built couple of captive CCPs.

* The Dutch Advisory Committee Securities Industry is the principal, not for profit association in The Netherlands for firms active in the securities industry. The Association represents the interests of its members on all aspects of their securities and securities related business - both domestic and international - and positions the Dutch view to the market infrastructures service providers and regulatory authorities in The Netherlands and the European Union.