



EUROPEAN CENTRAL BANK

EUROSYSTEM

EUROSYSTEM OVERSIGHT POLICY FRAMEWORK

I INTRODUCTION

Payment and settlement systems play an important role for the stability and efficiency of the financial sector and the euro area economy as a whole. For instance, the daily average of the total value of payments processed in the euro area's large-value payment systems alone stood at €2,713 billion in 2007. This was 30.5% of the euro area's gross domestic product (GDP). Moreover, the implementation of monetary policy in the euro area depends on the existence of reliable and effective market infrastructures. Promoting the smooth operation of payment systems is, therefore, a key task of the Eurosystem. For the performance of this task, the Eurosystem applies three different approaches: it takes an operational role, conducts oversight activities and acts as catalyst. These approaches are not mutually exclusive, but complement each other.

The purpose of this framework is to describe the role of the Eurosystem in the field of oversight. It provides an overview of the existing set of tools and instruments that the Eurosystem employs. This document replaces the Eurosystem's earlier policy statement "Role of the Eurosystem in the field of payment systems oversight" of 2000. In its structure and focus, it follows the report "Central bank oversight of payment and settlement systems" that the Committee on Payment and Settlement Systems of the G10 central banks issued in 2005. In line with this report, the following definition is used: "*Oversight of payment and settlement systems is a central bank function whereby the objectives of safety and efficiency are promoted by monitoring existing and planned systems, assessing them against these objectives and, where necessary, inducing change.*" As they are an integral part of payment systems, the Eurosystem deems payment instruments to be included in the definition of central bank oversight. Moreover, this framework uses the term "payment, clearing and settlement

systems" as a generic label for payment systems (including payment instruments), clearing systems (including central counterparties) and (securities) settlement systems. Where necessary, the document differentiates between these types of systems.

By publishing this framework, the Eurosystem seeks to further strengthen the transparency of its oversight policies. Transparency enables payment and settlement system operators to better understand and observe the applicable policy requirements and standards. Through transparency the Eurosystem can also demonstrate an appropriate degree of consistency in its oversight approach. Finally, transparency provides a basis for judging the effectiveness of the Eurosystem's policies, and thus ensures accountability with respect to the performance of oversight.

2 THE NEED TO PROMOTE THE SMOOTH FUNCTIONING OF PAYMENT AND SETTLEMENT SYSTEMS

THE RATIONALE BEHIND THE EUROSYSTEM'S INVOLVEMENT

The Eurosystem's involvement in payment, clearing and settlement systems reflects the task assigned to it in Article 127 (2) of the Treaty on the Functioning of the European Union (hereinafter referred to as the "Treaty") with respect to promoting the "smooth operation of payment systems". Indeed, ensuring that the systems are safe and efficient is an important precondition for the Eurosystem's ability to contribute to financial stability, to implement monetary policy and to maintain public confidence in the currency.

The payment and securities infrastructures are exposed to a wide range of risks, including legal risks, credit risks, liquidity risks and operational risks that may have implications for the system operator, participants in the system and any other

infrastructures with linkages to, or dependent on, them. Under certain circumstances, these risks may become systemic, and thus pose a serious threat not only to the proper functioning and stability of the payment and settlement systems, but also to that of the wider financial sector and, subsequently, the economy as a whole.

Delays in settling transactions will typically not only have a “knock-on” effect on the system’s participants, but may also affect their ability to complete payments or securities transactions. In such cases, a participant or the system operator may externalise costs to other parties and, therefore, does not necessarily have sufficient incentives to act prudently and to avoid risk. This is particularly true if the participants or the operator assume that they are “too big to fail” and expect that a public authority will intervene in a crisis situation. The Eurosystem considers that minimising systemic risks and negative externalities may require some form of public involvement to ensure the existence of the right incentives for participants and operators to act prudently, avoid risk and minimise overall costs for the society.

In addition to the focus on safety, the Eurosystem is also concerned about inefficiencies that affect the payment and securities infrastructures. On account of inherent network externalities and scale economies, payment and settlement systems tend to concentrate on very few large-scale providers or even monopolies. This has been the case in many countries of the euro area. Nevertheless, the euro area infrastructure partly suffers from fragmentation that results in inefficiencies and higher costs, especially for cross-border transactions. The Eurosystem’s involvement in payment and settlement systems is consequently also aimed at overcoming the fragmentation problem in the euro area wherever it still exists. The integration process has started, but faces a number of barriers that cannot be fully removed by the private sector alone.

It is important that payment and settlement systems strike a good balance between operational costs, safety and reliability.

As payment and settlement systems consume substantial resources, operators of systems need to be conscious of the costs of their systems and the charges they pass on to the participants. Cost constraints are likely to require choices to be made which will have an impact on the system’s functionality and safety. At the same time, participants will have a preference for safe and reliable systems. Only systems that satisfy this preference will be widely used and thus achieve the corresponding scale effects.

COMPLEMENTARY APPROACHES TO PROMOTING SAFETY AND EFFICIENCY

In promoting safety and efficiency, the Eurosystem applies three different approaches: it takes an operational role, conducts oversight activities, and acts as catalyst. These approaches are not mutually exclusive, but complement each other.

- (a) As the *owner and operator of a system*, the Eurosystem has the most immediate and powerful tools to determine the safety and efficiency levels of that system;
- (b) while primary responsibility for an individual system’s safety and efficiency rests with its owner and operator, the Eurosystem wishes to be reassured that systems (irrespective of whether they are run by a private entity or by the Eurosystem), as well as the overall clearing, payment and settlement infrastructure, are safe and efficient. To this end, it carries out *oversight activities* within the framework set out in this document;
- (c) finally, the Eurosystem also acts as *catalyst or facilitator*, especially when the aim is to improve the overall efficiency of the euro area market infrastructure. As catalyst, the Eurosystem aims at supporting or speeding up market developments by using its technical and analytical expertise, as well as consultative and cooperative contacts with the private sector, banking supervisors and other public authorities. Given the network character

of payment and settlement systems and the scale benefits that European financial integration promises, the Eurosystem plays a particularly important role in facilitating coordination among market participants and with public authorities in order to set common standards and ensure interoperability.

3 OVERSIGHT RESPONSIBILITIES

THE LEGAL BASIS FOR OVERSIGHT

The Treaty and the Statute of the European System of Central Banks and the European Central Bank (hereinafter referred to as the “Statute”) contain a number of provisions relating to “clearing and payment systems” and assigns oversight responsibilities to the Eurosystem, composed of the ECB and the national central banks (NCBs) of the euro area. According to the fourth indent of Article 127 (2) of the Treaty, as mirrored in Article 3.1 of the Statute, one of the basic tasks of the Eurosystem is to “*promote the smooth operation of payment systems.*” The means by which this task is assigned is specified in Article 22 of the Statute, according to which “*the ECB and national central banks may provide facilities, and the ECB may make regulations, to ensure efficient and sound clearing and payment systems within the Union and with other countries*”. From this, two elements of the general task can be discerned: on the one hand, it is incumbent on the ECB and the NCBs to perform not only the traditional task of ensuring the functioning of effective “clearing and payment systems” and related facilities, but also that of exercising oversight powers; on the other hand, the Statute provides the ECB with regulatory powers in respect of both its operational role and oversight, which are however restricted to euro area Member States. In addition, the oversight activities of some NCBs are carried out on the basis of national laws and regulations, which complement and, in some cases, duplicate the Eurosystem’s competence.

In interpreting the legal basis for oversight, the Eurosystem gives due consideration to the historical context in which the Maastricht Treaty was signed in 1992. First, the term “oversight” is not explicitly mentioned in the Maastricht Treaty because the understanding of oversight as a separate function was only just developing then. At the time, oversight was not yet linked to a formalised competence, but rather seen as a natural consequence of the more general central bank functions in the field of payment systems, financial stability and monetary policy. Despite the lack of an explicit reference to “oversight”, the Eurosystem has a clear oversight competence over “clearing and payment systems”, which derives from the above-mentioned provisions of the Treaty and the Statute. Furthermore, many of the national laws relevant for the NCBs’ roles in payment and settlement systems include oversight competencies.

Second, at the time the Maastricht Treaty was signed, clearing and settlement systems had not yet gained the size and relevance that they subsequently acquired, particularly on a cross-border basis. As with the term “oversight”, national laws in several Member States currently reflect developments that occurred after the Maastricht Treaty was signed and assign explicit competence for overseeing clearing and settlement systems to the NCBs, often in cooperation with national securities regulators.

In addition, it is clear that the Eurosystem has a keen interest in ensuring the proper functioning of clearing and settlement systems across the euro area. This stems from the importance of clearing and settlement systems for the smooth conduct of monetary policy, from their close links to payment systems and from their relevance for the stability of financial systems in general.

THE OVERSIGHT OBJECTIVES AND STANDARDS

In its oversight policies, the Eurosystem focuses on the objectives of safety and efficiency and does not actively pursue other public policy objectives, such as the fight against

money laundering and terrorist financing, data protection and consumer protection where other authorities have an explicit mandate. However, the Eurosystem may, especially in its role as catalyst and facilitator, support initiatives of the private sector on a case-by-case basis and contribute to the work of other public authorities with regard to other policy objectives.

The Eurosystem has translated its oversight objectives into specific standards and requirements that payment systems should meet. These standards and requirements are largely based on international standards that were developed by the Committee of Payment and Settlement Systems (CPSS).

The interest of the Eurosystem in the smooth functioning of clearing and settlement systems has resulted in a joint working group of representatives of both the European System of Central Banks (ESCB) and the Committee of European Securities Regulators (CESR) for the formulation of non-binding recommendations that are addressed to public authorities. The ESCB/CESR recommendations are based on recommendations for securities settlement systems and central counterparties developed jointly by the CPSS and the International Organization of Securities Commissions (IOSCO).

International standards and recommendations ensure equal treatment at the international level and a convergence of central banks' oversight activities and, where relevant, other authorities' regulatory approaches towards internationally accepted best practices. At the same time, by adapting and specifying the international standards and recommendations for the euro area context, the Eurosystem ensures that the standards and recommendations take into account the specificities of the euro area.

4 SCOPE OF OVERSIGHT

The scope of the Eurosystem's oversight activities is generally guided by its objectives

of promoting the safety and efficiency of the "clearing and payment systems" for the euro to the extent determined by the relevant provisions of the Treaty. Within these general boundaries, the scope and depth of oversight may change over time, as the financial market infrastructures themselves evolve. The scope is defined here along the different types of entities and instruments that form the payment and settlement landscape of the euro area. A key consideration for the Eurosystem in setting the scope of oversight is applying policy requirements and standards in a consistent way that does not create inappropriate competitive distortions between comparable systems. An overview of the relevant policy documents is provided in the annex.

PAYMENT SYSTEMS

Large-value payment systems form the backbone of the euro area market infrastructure. The Eurosystem applies the Core Principles for Systemically Important Systems of the CPSS and has refined them further by issuing "Business continuity oversight expectations for systemically important payment systems" that elaborates further on the business continuity aspects of the Core Principle on security, operational reliability and business continuity.

Retail payment systems are used for the bulk of payments to and from individuals, and between individuals and corporates; these systems are currently subject to major changes as a result of the implementation of the Single Euro Payments Area (SEPA). Even if many of them are not of systemic importance, they play a major role with respect to both the safety and efficiency of the financial system as a whole and citizens' confidence in the euro. In recognition of the relevance of retail payment systems, the Eurosystem has introduced "Oversight standards for euro retail payment systems", which distinguish between systemically important payment systems, prominently important payment systems and others, and specify which of the Core Principles are also of relevance for prominently important retail payment systems.

In order to ensure a consistent application of these oversight standards by the different NCBs and the ECB, the Eurosystem has released a common methodology for the assessment of systems against the respective standards.

SECURITIES SETTLEMENT SYSTEMS AND CENTRAL COUNTERPARTIES

Securities settlement systems and central counterparties (CCPs) are key components of the financial system. A financial, legal or operational problem in any of the institutions that perform critical functions in the clearing and settlement process can be a source of systemic disturbance for the financial system as a whole. This is particularly true for CCPs, which are, by nature, a focal point for credit and liquidity risk. Moreover, because securities transactions are typically composed of a securities leg and a cash leg, disturbances in the transfer of securities may spill over to disruptions of the payment systems that are used by the securities settlement systems.

The oversight of clearing and settlement systems by central banks in most countries of the euro area is conducted by NCBs under national law competencies, alongside regulation by securities regulators and banking supervisors. The competencies and powers transferred to individual NCBs under such national laws differ. The Eurosystem promotes euro area-wide consistency among the oversight policies and activities in the different countries by cooperating with the CESR in order to develop ESCB/CESR recommendations, which were adopted in 2009.

In addition, the Eurosystem has adopted standards for the use of securities settlement systems in Eurosystem credit operations. These user standards, which are not oversight standards, ensure that the Eurosystem credit operations are conducted according to procedures which prevent central banks from assuming inappropriate risks and ensure the same level of safety for credit operations throughout the euro area.

TRADE REPOSITORIES

Trade Repositories (TRs) are financial market infrastructures that have continuously grown in importance for financial market infrastructures. A TR maintains a centralised electronic record storage for transaction data. This provides electronic evidence of the existence of the contracts thereby avoiding litigation risks in case of inability of one party to fulfil its contractual obligations. Moreover, these data enable regulators, overseers and supervisors to get secure access to information on the OTC derivatives market and developments that may have implications for the stability of the financial system as a whole.

TRs are increasingly becoming important for other financial market infrastructures since they can provide key linkage services to financial market infrastructures, such as the provision of information on trades that serves as input for CCPs and payment systems. The smooth functioning of financial market infrastructures may therefore directly depend on the safety and soundness of these infrastructures. In the light of this, a number of Eurosystem central banks participate in the establishment of cooperative oversight arrangements of TRs having a global reach and are actively involved in the ongoing oversight of TRs.

PAYMENT INSTRUMENTS

Non-cash payment instruments, such as payment cards, credit transfers, direct debits and cheques, are the means with which end-users of payment systems transfer funds between accounts at banks or other financial institutions. Payment instruments are an essential part of payment systems. The risks in the provision and use of payment instruments have not generally been considered to be of systemic concern, but the safety and efficiency of payment instruments are important for both maintaining confidence in the currency and promoting an efficient economy. The smooth functioning of payment instruments facilitates commercial activities and, thereby, welfare.

The creation of the SEPA is changing the retail payment landscape significantly, increasing the importance of having a consistent approach in the oversight of payments instruments. The Eurosystem has therefore developed a generalised approach and a minimum set of common oversight standards for payment instruments. These common oversight standards cover the SEPA direct debit, SEPA credit transfers and cards, as well as any other new payment instruments that are used SEPA wide. The specificities of the relevant payment instruments are reflected in the more detailed oversight frameworks (e.g. for cards, direct debit schemes, credit transfer schemes and e-money schemes). Each NCB may decide to apply the common standards also for the oversight of remaining national (non-SEPA) payment instruments, if they deem this to be appropriate. Since the goal of the SEPA initiative is a migration to common standards, the introduction of oversight for national payment instruments in countries where there is thus far no such oversight should only be envisaged if there is sufficient evidence that the national systems will not be phased out within the applicable SEPA deadlines.

CORRESPONDENT BANKS AND CUSTODIAN BANKS

Correspondent banks (which provide payment and other services to other banks) and custodian banks (which hold securities for their customers and provide related services) are key components of an economy's payment and settlement arrangements. In some cases, payment and settlement flows are concentrated in a few large banks, giving rise to possible financial and operational risks. Moreover, risks may also occur when correspondent and custodian banks provide services similar to those of payment and settlement systems, or when they incur large credit exposures in connection with the provision of uncollateralised intraday or overnight credit.

The Eurosystem has an interest in monitoring these risks. As correspondent and custodian banks are subject to banking supervision, the Eurosystem works with and through bank

supervisors to assess the management of potential risks, as opposed to applying specific oversight standards and recommendations. Thereby, it seeks to avoid any double regulation in relation to these institutions.

THIRD-PARTY SERVICE PROVIDERS

Third-party service providers to whom payment and settlement systems contract out parts of their operations, such as their IT infrastructures, are critical for the functioning of the systems. For the Eurosystem, a key principle is that the individual systems retain full responsibility for any activity that is material to the relevant system's operation, including responsibility for ensuring that the service provider complies with the applicable oversight policies. In particular when a service provider supplies important services to several key systems, direct oversight activities will also be undertaken. This holds true in the case of, for example, SWIFT, the global provider of telecommunication services, which is overseen by the G10 central banks and for which the Nationale Bank van België/Banque Nationale de Belgique has assumed primary responsibility for oversight.

Another infrastructure is TARGET2-Securities (T2S), a Eurosystem infrastructure initiative that aims at providing a single, borderless core securities settlement process, by offering cross-border services to euro area and non-euro area CSDs and central banks. In view of the intended scope of its activities, T2S is expected to be a critical service provider to CSDs and central banks. The Eurosystem will oversee T2S services and will cooperate with competent supervisors and overseers of CSDs, as well as central banks of issue for eligible currencies other than the euro having an interest in receiving comprehensive T2S related information to exercise their statutory duties under their respective legal framework.

NON-BANKS

Non-banks perform functions at all stages of the payments process – for all forms of payment and for all points on the payments chain. A non-bank payment service provider can be defined

as any enterprise that is not a bank and that provides payment services to its customers (for example, “payment institutions” as defined in the EU Payment Services Directive). As non-banks have recently gained some prominence in the euro area, the Eurosystem takes a keen interest in non-banks in view of the impact their payment services have on the efficiency and safety of payment systems. In some Member States, NCBs undertake oversight of non-banks.

However, a separate oversight approach has not been defined. The activities of non-banks can, in part, be subsumed under the oversight for payment instruments or they can be treated as third-party services. The Eurosystem is of the opinion that cooperation with banking supervisors may be helpful in order to ensure a level playing field with respect to the prudential requirements for banks and non-banks and an effective risk management for banks that rely on non-banks as service providers.

5 OVERSIGHT ACTIVITIES

METHODS

The Eurosystem performs oversight in a three-step process: it *collects relevant information*, *assesses the information* against its oversight objectives and *induces change* where necessary. The Eurosystem uses a wide range of information sources, including bilateral contacts with system operators, regular or ad hoc reporting on system activity and system documentation. For the collection of information, the Eurosystem benefits from national laws establishing the respective NCB’s powers to obtain information or relies on moral suasion whereby information is provided on a voluntary basis. In some Member States, specific oversight activities for clearing and settlement systems are shared with the relevant public authorities.

The Eurosystem assesses the information on the basis of the standards and recommendations it has developed either itself or in cooperation with other central banks and authorities. The reliance

on standards and recommendations allows a harmonised and systematic oversight of payment and settlement systems, is straightforward and clear in its practical application and helps to compare the assessment results of different systems. In addition, the Eurosystem conducts regular monitoring, examination and research relating, in particular, to new developments in the euro area infrastructure. When planning its oversight activities, the Eurosystem follows a risk-based approach that facilitates prioritisation with respect to not only the various systems and/or instruments overseen, but also different sources of risks.

On the basis of the assessment results, the Eurosystem takes action and induces change when it finds that a particular system within the overall payment, clearing and settlement infrastructure does not have a sufficient degree of safety and efficiency. To this end, the Eurosystem has a range of tools at its disposal, which range from moral suasion, public statements, influence stemming from its participation in systems and cooperation with other authorities to directly binding regulations within the euro area Member States (a power that the ECB has not used thus far).

Throughout the entire oversight process and regardless of the specific method that it applies for the conduct of oversight, the Eurosystem attaches utmost importance to good cooperation with the entities it oversees. Such constructive cooperation helps the Eurosystem to ensure effective oversight and to minimise any burden for the overseen entities. However, the responsibility for ensuring safety and efficiency remains vested in the overseen entities.

ALLOCATION OF ROLES WITHIN THE EUROSYSTEM

The Treaty assigns oversight responsibilities to the Eurosystem which comprises the ECB and the NCBs of the euro area. For the purpose of effective and efficient oversight, the Eurosystem shares these responsibilities in a way that allows it to benefit from its decentralised structure,

while ensuring the coordination of its oversight activities and a consistent application of its policy stance throughout the euro area.

The common oversight policy framework set out in this document is determined at the Eurosystem level and may be complemented by national policies, where necessary.

For purposes of conducting oversight of individual systems, including the collection of information, the assessment of the information and possible measures aimed at inducing change, the Eurosystem assigns a leading role to the central bank that is best placed to do so either because of its proximity to the overseen entity (for example, where the system is legally incorporated in its jurisdiction) or because of national laws that attribute specific oversight responsibilities to the central banks concerned, subject to any Treaty-based requirements. This is typically the case for systems with a clear national anchor. For systems that have no domestic anchor, the body entrusted with oversight responsibility is the NCB of the country where the system is legally incorporated, unless the Governing Council of the ECB decides otherwise and assigns the primary oversight responsibilities to the ECB. The latter is the case for the euro systems of the EBA Clearing Company (EURO1, STEP1 and STEP2), as well as for TARGET2 where the ECB also draws on the NCBs' oversight of the local features. In the case of the Continuous Linked Settlement (CLS) system, the Federal Reserve System has accepted primary responsibility for oversight under a cooperative oversight framework, in which the ECB participates, together with the G10 NCBs. Within the Eurosystem, the ECB has primary responsibility for the settlement of the euro by CLS in close cooperation with all NCBs. For payment instruments, a similar approach is applied: the main focus for assigning the role of the primary overseer (for the Eurosystem) will be the national anchor of the scheme and the legal incorporation of its governance authority whereas for the SEPA CT and DD schemes, the primary oversight role has been attributed to the ECB.

The central bank entrusted with (primary) oversight responsibility within the Eurosystem takes care of the Eurosystem's interests in the prudent design and management of the systems or instruments it oversees. It will take into account the oversight interests and expertise of other NCBs and the ECB. Each central bank reports on its oversight policies, assessments and results to the Governing Council of the ECB via the ECB's committee structure.

In the case of clearing and settlement systems, the Eurosystem benefits from the oversight competencies that have been legally entrusted to some NCBs by national laws. With due consideration of such national legal frameworks, each NCB reports on its assessments and results of activities conducted in cooperation with the securities regulators within the Eurosystem with the aim of facilitating transparency and a consistent implementation of oversight recommendations in the different countries. Given the increasing importance of interdependencies, such reporting may take the form of an overview report to the Governing Council in which a horizontal view with a euro area/EU dimension is presented. In addition, the lead overseer(s) of individual systems with systemic importance for the Eurosystem as a whole may take the initiative to share further information on the assessment with other relevant Eurosystem central banks.

The Eurosystem ensures that the decentralised oversight activities are coordinated effectively. Effective coordination is of particular importance in times of crisis when the sharing of appropriate information and close cooperation among central banks will determine the Eurosystem's ability to quickly and effectively identify and address the sources and the impact of a crisis.

The Eurosystem applies the same policy requirements and standards to its own systems as it does to private sector systems in order both to achieve the necessary degree of safety and efficiency and to ensure a level playing field between these systems. Moreover, all Eurosystem central banks have separated the work of their

oversight staff from that of the operational teams in terms of organisational units and direct line management. The oversight of central banks' own systems is carried out by the oversight function rather than by the respective operations function itself. This separation minimises possible conflicts of interest in the assessment of the Eurosystem's own systems and helps to protect the confidentiality of information that is received from private systems.

6 COOPERATIVE OVERSIGHT

INTERDEPENDENCIES AND LOCATION OF PAYMENT, CLEARING AND SETTLEMENT SYSTEMS

While providing numerous benefits for the financial sector and the economy as a whole, globalisation also poses a challenge to central banks when seeking to maintain the control over their currency: globalisation increases the extent to which the territory of a currency's use goes beyond the territory of issue. Financial and economic activities in a currency may take place outside the jurisdiction in which the central bank can exercise its statutory powers. More generally, globalisation creates interdependencies between activities around the globe. Thus, regulatory measures and policy actions for one jurisdiction tend to gain relevance that extends over and beyond the respective jurisdictional borders.

Global financial integration has led to a growing importance of financial market infrastructures that settle in euro or clear euro-denominated transactions outside the currency's area of issue (off-shore infrastructures). These developments have a bearing on how the Eurosystem conducts its oversight activities.

A financial market infrastructure can affect the stability of the financial system largely through its design characteristics, but also through its location. Relevant aspects in this context include the settlement asset the infrastructure uses, the legal regime under which it operates, its governance and the roles of overseers and other stakeholders in crisis situations. While the Eurosystem has the legal obligation to influence

these aspects in the context of domestic clearing, payment and settlement infrastructures, its ability to influence off-shore infrastructures is, in practical terms, restricted.

This may have serious consequences for the smooth functioning of market infrastructures operating in euro and, more generally, for financial stability in the euro area. In particular, the inappropriate design or malfunctioning of off-shore infrastructures has the potential to affect the smooth functioning of domestic systems. For example, participants in a domestic system might become dependent on the funds they are to receive in an off-shore system in order to fund their debit positions in the domestic system. In extreme cases, the development of off-shore infrastructures may even lead to a situation in which a substantial part of the domestic traffic is ultimately settled offshore in commercial bank money and in which key domestic financial market infrastructures would be used merely for the settlement of end-of-day positions.

Cooperative oversight arrangements at the international level can mitigate the loss of direct influence to some extent, but not entirely. In particular, in the event of a crisis situation affecting an offshore and multi-currency system, the dependence of issuing central banks on the central bank with primary oversight responsibility to manage the crisis makes a real difference in comparison with a situation where payments are settled in a domestic infrastructure. Access to comprehensive and timely information from the infrastructure might not be possible, and the central bank with primary oversight responsibility might – in its policy actions – focus more on addressing the consequences for its own currency and financial system.

Given its mandate to promote the “smooth operation of payment systems”, the Eurosystem has major concerns with regard to the development of major euro financial market infrastructures that are located outside of the euro area, since this could potentially place in question the Eurosystem's control over the euro.

As a matter of principle, infrastructures that settle euro-denominated payment transactions should settle these transactions in central bank money and be legally incorporated in the euro area with full managerial and operational control and responsibility over all core functions for processing euro denominated transactions, exercised from within the euro area. This is reflected in the policy fundamentals issued by the Eurosystem on the location and operation of infrastructures that settle euro-denominated payment transactions.

The Eurosystem accepts exceptions to this rule only in very specific circumstances and only on a case-by-case basis. One important exemption relates to multi-currency systems that settle payment transactions related to foreign exchange trades on a payment-versus-payment (PvP) basis, which are, by definition, offshore with respect to one or several currency areas. For example, the Eurosystem has never tried to implement its location policy to the PvP part of CLS, but has instead insisted that it be closely associated to the oversight activities of the central bank with primary oversight responsibility, the Federal Reserve System of the United States. However, the exemption does not apply to non-PvP transactions for which the payment infrastructure could be legally incorporated in the euro area with full managerial and operational control and responsibility over all core functions. Another exemption concerns off-shore payment systems that are relatively small in size and that are therefore not likely to affect financial stability and monetary policy in the euro area. In particular, the Eurosystem does not insist on the location requirement for off-shore payment systems that settle less than €5 billion per day, or that account for less than 0.2% of the total daily average value of payment transactions processed by euro area interbank funds transfer systems which provide for final settlement in central bank money (whichever of the two amounts is higher).

The Eurosystem has also issued a statement on the location of central counterparties which underlined the Eurosystem's interest in having the core infrastructure that is used for

the euro located in the euro area. In applying this statement to the case of over-the-counter credit derivatives, the Eurosystem has stressed not only that there is "a need for at least one European CCP for credit derivatives", but also that, "given the potential systemic importance of securities clearing and settlement systems, this infrastructure should be located within the euro area".

The absolute and relative size of an offshore CCP's euro-denominated business provides a useful proxy for the potential implications of this CCP for the euro area. The Eurosystem applies thresholds for application of the location policy to CCPs similar to those for payment systems. However, taking into account the specific nature of the CCP business, the threshold of €5 billion applies to offshore CCPs that on average have a daily net credit exposure of more than €5 billion in one of the main euro-denominated product categories.¹ The location policy is applied to all CCPs that hold on average more than 5% of the aggregated daily net credit exposure of all CCPs for one of the main euro-denominated product categories.

This means that CCPs that exceed these thresholds should be legally incorporated in the euro area with full managerial and operational control and responsibility over all core functions, exercised from within the euro area.

COOPERATION AMONG CENTRAL BANKS AT AN INTERNATIONAL LEVEL

Cooperation with overseers and other authorities at the international level complements the Eurosystem's location policy and is an instrument to address the rising importance of interdependencies. Notwithstanding the clear preference for euro market payment and settlement systems to be located in the euro area, the Eurosystem recognises that offshore systems and interdependencies with systems and third-

¹ This can be approximated, for example, in the case of derivatives CCPs with their open interest, whereas for cash and repo CCPs their aggregate open position underlying the CCPs' margining is applied.

party providers create the need for efficient and effective cooperation between the central banks responsible for the oversight of such systems.

The mutual adoption of the same internationally recognised oversight standards and recommendations plays an important role in reducing the risk of inconsistent oversight policies. But it remains an only incomplete response to this risk and does nothing to reduce the risk of duplication or gaps.

Based on the principles for cooperative international oversight, as reiterated by the CPSS oversight report of 2005, central banks of the Eurosystem have participated successfully in cooperative arrangements in a number of cases, as shown, for example, in the context of the oversight arrangements for SWIFT and CLS. Without prejudice to the role of the primary overseer, coordination within the Eurosystem in preparing and conducting work within these international cooperative oversight arrangements has proven to be very useful. Moreover, the Eurosystem seeks to ensure that the results of the cooperative oversight at the international level are shared within the Eurosystem.

COOPERATION WITH OTHER AUTHORITIES

Cooperation with other authorities is also an important tool to ensure effective and efficient oversight, as the oversight responsibilities of central banks are closely related to the responsibilities of other prudential and securities regulators. The principles for cooperative oversight between central banks also provide a useful framework for cooperation between central banks and other authorities at both the international and the domestic level. In particular, it is recognised that each regulator needs to fulfil its own regulatory responsibilities and that cooperation takes place without prejudice to these responsibilities. In addition to arrangements that NCBs have in place for the cooperation with other national authorities, the Eurosystem has also adopted Memoranda of Understanding with prudential supervisors and regulators that lay down procedures and principles for regulatory cooperation.



ANNEX

Main reference documents for Eurosystem oversight

Payment systems	Payment instruments	Clearing and settlement systems	Correspondent banks and custodians	Third-party services providers	Non-banks
Core Principles for Systemically Important Payment Systems, Bank for International Settlements (adopted by the Governing Council of the ECB in January 2001)	Harmonised oversight approach and oversight standards for payment instruments, ECB, February 2009	Recommendations for securities clearing and settlement systems in the European Union, ESCB/CESR, June 2009			
Terms of references for the oversight assessment of systemically and prominently important payment systems against the Core Principles, ECB, November 2007					
Oversight standards for euro retail payment systems, ECB, June 2003	Report on electronic money, ECB, August 1998				
	Electronic money systems security objectives, ECB, May 2003				
Business continuity oversight expectations for systemically important payment systems (SIPS), ECB, June 2006	Oversight framework for card payment schemes – Standards, ECB, January 2008				
Guide for the assessment against the business continuity oversight expectations for systemically important payment systems (SIPS), ECB, November 2007					
Policy statement on euro payment and settlement systems located outside the euro area, ECB, November 1998	Oversight frameworks for direct debit schemes, October 2010	The Eurosystem's policy line with regard to consolidation in central counterparty clearing, ECB, September 2001			
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