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Future objectives and mission

By René Karsenti, Executive President, ICMA

This is ICMA's second newsletter updating members and "friends" of ICMA on our activities. I joined ICMA as Executive President last May and would like to use this opportunity to share with you my vision for ICMA. May I also thank the many of you who have extended such a warm welcome to me in my new role.

Those of you who were with us at our AGM in Athens know that the AGM approved changes to our statutes intended to create an even more dynamic and efficient organisation. In an environment where members have significantly raised their standards of governance, ICMA as the representative association for the capital market needs to lead by example with best industry practices. Members' rights are unaffected and our Board will continue to focus on strategic advice and exercise operational oversight. My role as Executive President is to manage a small Executive Committee, part of whose task is to run our other committees and organise our member activities. I am determined to encourage member engagement and enhanced communication and I am confident that these changes, such as the introduction of this



newsletter, will strengthen our association and add value to all our members.

Both our Chairman Hans-Joerg Rudloff and I indicated in Athens that we believe the time is right to consider expanding our membership to include a wider range of participants in the major constituencies of the capital markets and in new regions. We already have some input from issuers, investors and law firms, for example, but there may be

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ways to increase their involvement without weakening the voice of our core dealer membership. We are also considering whether our revenues are aligned with our objectives and membership through a thorough review of cost efficiency, synergies and the overall value of membership. In particular we will consult members on our membership fee policy with the intention to move to a self-funded basis for our trade association, separate from revenues from our client services, notably TRAX.

I am delighted to announce that the new TRAX2 system went live on Monday, June 26. This is the culmination of several years of market analysis and development by ICMA and will provide market participants with a neutral platform for the confirmation, compliance and reporting of transactions (debt, equity, repo and derivatives) dealt in the OTC market space.

On the regulatory front, the policy team in London under Nick Collier continues to focus on a number of vital European issues. The most immediate, covered in the newsletter below, is the implementation of MiFID and the review of transparency for bonds and other instruments. We have begun a series of meetings across Europe on these issues (most recently a well attended meeting in Frankfurt) and will continue to engage members via our regional committees and policy committees over the next few months. We need your input on these issues if we are properly and effectively to represent you.

We are also increasing our contact with regulators across Europe. The reaction to the new merged ICMA from the authorities has been universally positive. I am convinced there is a role for ICMA as a body that shows both industry and regulators that the capital markets industry can respond constructively and

proactively to market developments and regulatory concerns by setting its own house in order and by promulgating high standards. We have a range of tools at our disposal: the best practice set out in the IPMA Handbook; the ICMA Rulebook (formerly known as the ISMA Rulebook); guidance on issues such as best execution under MiFID; and common operational standards such as TRAX.

As well as focusing on these immediate regulatory issues, we have continued to build cooperation with other Associations to deliver a more coordinated and influential voice for our industry. Global cooperation continues in the Global Capital Markets Board, where ICMA, TMBA and ISDA are cooperating for example on a response to the FSA Discussion Paper on best execution under MiFID. In Europe, a number of associations have agreed to join ICMA and the European Securities Forum in the recently created European Financial Markets Federation.

Let me close by mentioning one important area of ICMA's activities not covered in this newsletter. ICMA is investing heavily in education and training on your behalf. We are in the midst of an important further investment in the ICMA Centre at the University of Reading. The Centre is going to be at the heart of our training services, building on already well established ISMA and IPMA courses, and again I urge you to make your views and training demands known.

The diversity of our membership and its strong and broad regional structures is one of the greatest strengths of ICMA. The active participation of our members in all our activities is essential to ICMA's future growth and success.

René Karsenti
rene.karsenti@icma-group.org

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Bond market transparency: independent research reports

Under Article 65 of the Markets in Financial Instruments Directive (MiFID), the European Commission is required to report, by October next year, on the possible extension of the MiFID equity market transparency provisions to other financial instruments, including bonds.

In anticipation of the Commission's call for evidence on transparency in non-equity markets (see below), ICMA and a group of sell-side and buy-side associations funded two independent research reports – one on the European government bond market and the other on the corporate bond market - by the Centre for Economic Policy Research (CEPR).

The CEPR reports were published on May 24 and can be accessed [here](#). Overall, their conclusions are encouraging from the perspective of an industry which does not wish to be faced with further statutory regulation of its business, particularly while coping with the implementation of MiFID.

The government bond market report concludes that:

- the differing levels of transparency seem appropriate for all major market participants;
- regulatory imposition of greater transparency could adversely affect liquidity in government bond markets;
- the better course might be to allow them to evolve further "under the influences of rapid technological change and changes in the market structures themselves".

The corporate bond market report concludes that:

- euro-denominated bonds have tighter spreads than US corporate bonds even after the imposition of TRACE;
- competition in Europe is the key driver of liquidity and that is where public policy should focus;
- to impose pre-trade transparency would be risky, as it would require significant (and unpredictable) changes to the market micro-structure;
- greater post-trade transparency would benefit some market participants (retail and small institutions), but it should be designed and implemented carefully and be market-led if possible.

The reports have been widely distributed. A number of meetings have already been held to discuss their conclusions, and more are planned:

- All ICMA member firms have been sent a copy, as have all key legislators and regulators in the EU, members of the Standing Committee on Market Regulation of the International Organisation of Securities Commissions (IOSCO) and other key decision-makers globally.
- A meeting of ICMA members was held on May 25 in London to discuss the reports with some of the researchers, and with one of the authors of a draft ECB paper, *Implications for liquidity from innovation*

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and transparency in the European corporate bond market. This contains an interesting discussion on the benefits to liquidity of greater transparency of the ownership of bonds and of concentrations of position.

- A meeting was held the next day with the UK's Financial Services Authority (FSA), which is expected shortly to publish a feedback statement to its 2005 Discussion Paper on secondary market transparency in UK corporate bonds, to which ICMA contributed data.
- A seminar was held in Brussels on June 22, which was well attended by senior regulators, legislators and Commission officials. Initial indications are that the Commission finds the reports a useful source of material for its MiFID Article 65 review.
- In the autumn, in collaboration with the other sponsoring associations, ICMA will hold regional conferences in Paris, Frankfurt and Rome.

The corporate bond market report's conclusion on post-trade transparency is clearly a potential challenge for ICMA and its reporting dealer community. ICMA has begun a process of consulting the reporting dealers on possible ways forward and will be extending that process in the coming months to involve all the various sectors of the membership.

ICMA believes that its role as the self-regulatory body for the European bond market and the unique blend of sell-side and buy-side firms among its membership will enable it to make an especially influential

contribution to the debate on bond market transparency.

Contact: Nick Collier

nick.collier@icma-group.co.uk

Commission call for evidence on transparency in non-equity markets

The Commission has published a [call for evidence](#) on transparency in non-equity markets. The Commission poses a series of questions seeking to identify problems in bond markets which greater transparency might solve and asking whether, if problems exist, mandatory transparency might be necessary, or whether other solutions are possible or preferable, including self-regulation. The deadline is September 15, 2006. We aim to respond, and would be grateful for comments and views from members, particularly if supported by specific examples, as soon as possible.

MiFID: Level 2 negotiations

The MiFID Level 2 implementing measures have been agreed and, subject to a final procedural vote by the European Parliament, can be considered final (see the [Commission's webpage](#)). This is the conclusion of four years' intense work in which ICMA has been involved from the outset. The industry committed substantial resources to assisting in its negotiation. Given the ambition of the legislators and the level of detail that political pressures required MiFID to incorporate, ICMA believes that this industry involvement has made a major positive contribution to an outcome which will provide the basis for a more closely integrated European capital market.

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From ICMA's perspective, there were improvements in the final negotiations, though no outright victories, in delayed reporting of large equity trades and limitations to the inclusion of a firm's own commissions in best execution. However, the position regarding the interaction of the best execution obligation, own account dealing and the execution of client orders, of vital importance to bond markets, remains ambiguous, despite helpful comments from the Commission to the European Parliament.

Although the high level of detail in MiFID (eg in relation to firms' internal control systems, relationships with clients and market structures) is controversial among some parts of the ICMA membership, it is welcomed in others. As attention now moves to transposition and implementation by Member States, ICMA will continue to reflect these differing views in its submissions to individual Member States and to regulators collectively via CESR.

Contact: Richard Britton
richard.britton@icma-group.co.uk

MiFID: implementation

ICMA's regulatory policy team is aware of public initiatives concerning implementation in two Member States: France and the UK. In France, the Autorité des Marchés Financiers (AMF) has published a [report on MiFID, Issues and consequences for French regulation](#), which sets out an overview of the challenges ahead, with more specific consultations expected later.

In the UK, the FSA has published a [Consultation Paper](#) on *Organisational systems and controls*. This contains its proposal for resolving the overlap and timing mismatch between MiFID (implementation: No-

vember 1, 2007) and the Capital Requirements Directive (implementation: January 1, 2007). Initial comment from UK members on this paper is that the FSA's proposals appear proportionate and practical, though a number of detailed issues will need clarifying and resolving.

The same cannot be said of a [Discussion Paper](#) (DP) published by the FSA on *Implementing MiFID's best execution requirements*. Although not a formal consultation (which will not take place until October), the DP has caused significant disquiet amongst ICMA's membership in the UK, most notably for its proposals which would require best execution in dealer markets to be benchmarked in a mechanistic way against reference prices with a mark-up to be disclosed to clients.

ICMA believes that this is far in excess of what MiFID requires. The proposal was prepared without consultation with the industry. Although the FSA sought to validate the proposal by employing an external consultant (IBM), the conclusions in the consultant's report – that benchmarking is both practical and low cost – and the underlying assumptions have been rejected by the UK dealer community. Given this industry reaction, it should be of particular concern to our European membership that the FSA believes that its proposal will be a useful resource for implementation discussions in CESR.

ICMA, TBMA and ISDA have set up a Working Party in collaboration with LIBA to prepare a comprehensive response to the FSA's proposal before the August 17 deadline. The joint response will be published on the ICMA website.

Contact: Richard Britton
richard.britton@icma-group.co.uk

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New Global Note

The New Global Note (NGN) structure was introduced on June 30 for the issuance, processing and safekeeping of Eurobonds and Euro Medium-Term Notes issued through Euroclear and Clearstream Luxembourg ("the ICSDs"), following a recommendation by the Eurosystem. There will be a transitional period until December 31 during which new issues in global bearer form using either the NGN or the Classical Global Note (CGN) will potentially be eligible as Eurosystem collateral, but from January 1, 2007, only issues using the NGN and deposited with the ICSDs will be eligible. The Eurosystem's other criteria for eligible collateral also need to be met.

There are several differences between the NGN and the CGN:

- The NGN only applies to debt securities in bearer form issued through the ICSDs.
- The outstanding amount of the issue is evidenced by entries in the records of both ICSDs, rather than by physical annotations on the global note itself.
- The NGN is safekept by a Common Safekeeper, who signs it physically on the authorisation of the issuer. If a NGN is to be recognised as eligible collateral, the Common Safekeeper must be one of the two ICSDs. Asset servicing is undertaken by a Common Service Provider.

As a result, issuers using the NGN will need to make changes to the documentation for stand-alone as well as programme documentation. Issuers will also need to sign an Is-

suer-ICSDs Agreement, which sets out the obligations of the parties in relation to the maintenance of the issue outstanding amount by the ICSDs. Documentation updates take time and, for issuers who consider that Eurosystem eligibility is important, time is limited to incorporate the changes required.

The documentation for the NGN is now ready to be used by issuers, lead managers and their agents and can be viewed [here](#). And the ICSDs have prepared the operational and systems infrastructure needed to use the NGN.

ICMA has been working on the NGN project with the Eurosystem, the EIB, the ICSDs, the paying agent banks and also investment banks represented on ICMA's Legal & Documentation Committee. The ICSDs made a short presentation at ICMA's AGM in Athens on June 2.

Contact: Paul Richards

paul.richards@icma-group.co.uk

Clearing and settlement

As background to the Commission's forthcoming announcement on European clearing and settlement, both DG MARKT and DG COMP published in May staff working papers laying out the Commission's observations and including an impact assessment analysing the effect of lower securities trading costs on the cost of capital and economic growth. Neither paper (see the respective [DG MARKT webpage](#) and [DG COMP link](#)) indicates the intended path of action.

The starting point for the debate on clearing and settlement was the high cost of cross-border equity trading, notably in retail volumes. It is widely acknowledged that inter-

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national wholesale bond markets function well, including post-trade, and also across borders. This is not to say, of course, that there are no inter-operability issues to be addressed – but market-led working structures are in place to address them.

In these circumstances, the risk is that regulatory intervention may damage the European wholesale bond market. At the FESE Convention in Zurich at the beginning of June, René Karsenti, Executive President of ICMA, said:

“The true danger that we see is that by interfering with post-trade structures in Europe – and be it with the best of all intentions towards a reduction in cost – the successful and well-functioning set-up for wholesale bond trading could be jeopardised. Unless carefully measured and skilfully targeted, the collateral damage of sweeping regulatory intervention in clearing and settlement structures could be vast and seriously damage the global competitiveness of European bond markets.”

ICMA is involved in several ways in the ongoing market-led work on the removal of existing barriers to efficient cross-border clearing and settlement. The Chairman of the ICMA European Repo Committee, Godfried de Vidts, is a personal member of the Commission's [CESAME Group](#). At the last meeting of the group, he presented a survey, jointly undertaken with TBMA, on Giovannini barriers 4 and 7 (ie intraday settlement finality, operating hours and settlement deadlines).

Finally, a fact-finding study by the Commission's FISCO Group on fiscal compliance procedures relating to clearing and settlement has recently been published on the [Commission's website](#). The group will issue a

further report proposing solutions by early 2007. In the context of ICMA's cooperation with the European Securities Forum (www.eurosf.com) in the European Financial Markets Federation, ICMA is an observer in the European Securities Forum's Tax Group, which considers these issues and prepares input for FISCO.

Contact: Gregor Pozniak
gregor.pozniak@icma-group.co.uk

Common investor identifiers

The IPMA/ICMA Match Project originally set out to reduce the costs and increase the efficiency of syndicating capital market transactions through full cross-market book-building. Over the past few years, the increasing use of the “pot” system of syndication, requiring “name give-up” for the first time, has presented banks active in the primary market with a new challenge – the lack of a common system of client identification. ICMA Match therefore developed a unique Investor ID database as one of the pillars of the service.

Investor IDs have a similar function to ISIN numbers or CUSIPS with securities. The IDs were created through a process of bulk submission of investor lists from subscriber firms who in return received a mapped list of IPMA investor IDs and investor names (and types). Investor lists remain confidential to each bank. The collective investor ID list in ICMA Match amounts to approximately 8,000 names. ICMA owns this collective database on behalf of member banks.

After the discontinuation of the core book-building functionality in ICMA Match earlier this year, ICMA agreed with the external operator of the system to maintain the ID management service until this autumn.

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Many ICMA members – including some opposed to the continuation of core book-building functionality – considered that there would be great value in introducing a market-wide system of unique investor IDs.

ICMA is therefore keen to maintain and in time take over the ID management service, if member firms continue to take the view that it has real value. ICMA considers that there is an opportunity for ICMA IDs to become a key standard for the market as a whole, and plans to enlist the support of other trade associations, and possibly also standards organisations, in collaborating on the project.

If you would like more information on ID management or would like to participate in a possible working group, please contact:

Chris O'Malley
chris.omalley@icma-group.co.uk

Other regulatory policy news

Prospectus Directive: complex financial history

ICMA has responded to the [Commission's consultation](#) on the amendment to the Prospectus Regulation on issuers with "complex financial histories". The proposed changes are intended to give the authorities approving a prospectus the flexibility to require additional historical financial information if the issuer has made (or is about to make) significant acquisitions or disposals. While generally supportive of the proposals, in [ICMA's response](#), ICMA suggested a number of improvements which would ensure that the authorities always take full account of relevant circumstances.

Accounting equivalence: revised Commission proposals

The Commission has published revised [proposals](#) for the postponement of the accounting equivalence decision under both the Prospectus and Transparency Directive. The proposals would allow non-EU issuers to continue to use non-IFRS financial statements in their prospectuses and annual and half-yearly consolidated financial statements for another two years: ie until the end of 2008. This exemption from the general regime would apply only if the notes to the financial statements contained a statement of compliance with IFRS; or if the financial statements were prepared using US, Canadian or Japanese GAAP; or if the financial statements were prepared using GAAP of a third country publicly committed to convergence with IFRS. Uncertainty about the postponement has been a serious concern among non-EU issuers of international securities and may have contributed to a switch in issuance outside the EU. ICMA strongly supports speedy adoption of the revised proposals.

Transparency Directive: UK implementation

ICMA has responded to the [FSA's consultation](#) on the implementation of the Transparency Directive (TD) in the UK. Both the consultation and [ICMA's response](#) may also be of interest to non-UK firms and regulators as they constitute one of the first comprehensive analyses of the TD of this kind and discuss a number of difficult implementation issues which other Member States will shortly have to address as well. These include: "super-equivalency" in financial reporting and major shareholding disclosures; responsibility and liability for reports; phase-in of TD-compliant financial reporting or

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interim arrangements with respect to dissemination and storage of regulated information. ICMA's response also identifies a number of issues requiring clarification by the Commission or CESR.

Market Abuse Directive

CESR has published a [call for evidence](#) inviting views on CESR's future work programme on the Market Abuse Directive (MAD): where further guidance is needed; where obstacles to the efficient functioning of the markets exist; and how they could be tackled. The consultation is open until October 31, and a public hearing is planned for the autumn.

Settlement Finality Directive

In May and June, the Commission consulted industry and other stakeholders on its evaluation of the Settlement Finality Directive, which can be viewed on the [Commission's webpage](#). The evaluation report in December 2005 had found that the Directive worked fairly well, but had highlighted several issues concerning the application and transposition of the Directive that merited further analysis.

Short-Term European Paper project

The Short-Term European Paper (STEP) Market Convention was signed in early June by the FBE and ACI. [STEP](#) is designed to help promote the integration of short-term European paper markets. The STEP Secretariat is willing to grant a STEP label for short-term paper issues, provided that: the information memorandum is presented in a common format for publication on the STEP website; and that the issuer agrees that statistics can be collected to meet requirements set by the ECB.

ICMA review of standard form documents

ICMA standard form UK and EEA debt selling restrictions and standard form final terms, which can be found in the IPMA Handbook, are currently under review and ICMA expects revised versions to be published later in the summer. The purpose of the review is to take account of the experience with the application of the current standard forms and the Prospectus Directive in general. Any comments and suggestions from members based on their own experience would be welcome.

Availability of prospectus: new ICMA recommendations

ICMA has published two new recommendations dealing with the timely availability of draft and final offering documentation to institutional investors. The recommendations, which can be found under No. 1.27 and 1.28 in Section One of the IPMA Handbook, reflect ICMA's commitment to the conclusions of the recent Bondholders' [Dialogue Paper](#), *Improving the functioning of European bond markets: towards a consensus*, sponsored by the Association of British Insurers (ABI) and Bundesverband Investment und Asset Management (BVI).

European Securities Markets Expert Group

The Commission has appointed the 20 members of the European Securities Markets Expert Group (ESME). ESME will assist the Commission in its analysis of the legal coherence of the EU securities framework, provide the Commission with input for the reports on the application of various provisions of the FSAP Directives and will analyse their economic impact. ESME will also provide techni-

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cal advice on issues relevant to the EU securities markets. To find out more information, visit the relevant [Commission webpage](#).

European Capital Markets Institute

ICMA is one of the founding members of the European Capital Markets Institute (ECMI) and has recently renewed its commitment to the Institute. Following the move of the ECMI Secretariat and the shift of responsibility for the management of the Institute to the Centre for European Policy Studies (CEPS) in Brussels, the Institute has restructured its research output with a view to contributing to debates on European capital market issues. Visit the [ECMI website](#) for further details. Regular e-mail updates can be requested by contacting info@eurocapitalmarkets.org

IOSCO consultation on exchanges

The International Council of Securities Associations (ICSA), of which ICMA is a member, has responded to a [consultation document by IOSCO](#) on *Regulatory issues arising from exchange evolution*. ICSA emphasised its support for IOSCO's recommendation that "regulatory authorities should consider competition issues that may arise in connection with the evolution of exchanges ... where such evolution impacts market integrity, efficiency, or investor protection". For ICSA's response, click [here](#).

Contacts: Gregor Pozniak and Ondrej Petr
gregor.pozniak@icma-group.co.uk
ondrej.petr@icma-group.co.uk

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Other ICMA news

ICMA Annual General Meeting

Over 400 members and other market participants attended the AGM and conference in Athens at the end of May. The 2007 ICMA Annual General Meeting and Conference will be held in Berlin from May 31-June 2.

TRAX2

Building on the success of its original TRAX system which has been available since 1989 for trade matching and regulatory reporting, ICMA has just successfully completed the implementation and technical release of TRAX2. Over the course of the next year, TRAX2 will be rolled out to the system's 200 subscribers, providing them with enhanced matching for managing operational risk in the repo market and the flexibility required to fulfil the varied reporting requirements of different regulatory authorities in a wide variety of instruments. Full details are available at: www.trax2.org

Prospectus Directive in Italy

In June, ICMA brought together in London a panel of Italian market practitioners,

lawyers and representatives of trade associations, including Assonime (the Association for Italian limited liability companies) and the Italian Banking Association, to discuss legal and practical aspects of the offering of securities in Italy.

MiFID seminar in Frankfurt

ICMA's German regional committee provided a free breakfast seminar on MiFID on June 29 in Frankfurt. The event was run in conjunction with the Federal Association of Securities Trading Firms of the German Stock Markets and the Association of German Pfandbrief Banks featured speakers from the ECB, FSA and ICMA. The event focused on: MiFID, wholesale bond market issues, best execution and bond market transparency.

This is the first in a new series of seminars on regulatory initiatives that ICMA is hosting throughout the EU and the EEA.

Repo market professional seminars

ICMA, through its European Repo Council, is organising two repo market seminars. The first, in conjunction with TBMA's Asian Funding Committee and in close coopera-

tion with The China Government Securities Depository Trust & Clearing Corporation Ltd. (CDC), will run in Shanghai on July 12 and 13.

The seminar, part of a joint educational initiative in Asia by ICMA and TBMA, is aimed at promoting the orderly growth and development of regional and local repo markets.

A further two day repo seminar will be run by ICMA with ACI in Madrid in November. Details will be published on the ICMA website shortly.

For further information on ICMA events, please contact ICMA Corporate Communications

Published by:

Corporate Communications

International Capital
Market Association Ltd

7 Limeharbour
GB-London E14 9NQ

Phone:
+44 20 7538 5656

Fax:
+44 20 7538 4902

E-mail:
info@icma-group.co.uk