

Regulatory Impact on the Securities Services Chain – Evolution or Revolution?

The 16th ISSA Symposium began with a keynote speech on the Regulatory Impact on the Securities Services Chain by Sandrine Leclercq, Head of Business Development Fund & Banking at Baker & McKenzie, Luxembourg. Sandrine Leclercq characterized the current legal environment as a: Turning point in the history of finance and unprecedented.

She covered:

- 9 pieces of legislation, and more to come
- Political challenges
- Technical challenges
- Concluding that many scenarios are plausible and there is a high level of concern.



Unprecedented period

- The legislative process has revealed unexpected complexity
- Challenge amplified by the subsequent waves of the debt crisis
- Political agendas interfering with regulatory process
- Some reforms are lagging behind
 - Are institutions worth the ambitions ?
 - How much will it take from the industry ?
 - What are the remaining challenges that need to be overcome ?
 - Evolution or Revolution ?



The scale of the reform

Nine pieces of legislation and many others to come...

<p>MIFID II Enhanced burden on Trading Venues considered as Systematically Important. Extension of the definition of OTFs to include any facility or system operated by an investment firm not already regulated as a RM, an MTF or a SI . Imposes that all derivative contracts eligible for clearing and that are sufficiently liquid are traded through such venues.</p>	<p>EMIR Response to the lack of visibility on the use of OTC derivatives, resulting in operational, legal and systemic risks. Provides for transparency on positions and exposure through the reporting to regulatory authorities and the use of third party Repositories. Encourages the standardisation of OTC derivatives in order to increase the volume of instruments tradeable through CCP's and encouraging the use of collateral. Level playing field among CCPs throughout the EU.</p>	<p>CSD Regulation Reduces risks and costs of cross border settlement. Harmonised prudential rules for CSDs. Settlement discipline. Ringfencing from banking activities.</p>
<p>T2S Creates a pan-European technical platform for CSDs'. Will reduce settlement costs for CSDs.</p>	<p>Securities Law Directive Will add safety for investors in holding securities cross-border and exercising their related rights. Provides rules to resolve conflict of laws and defines substantive harmonised rules to supplement lack or incompatibilities between local laws.</p>	<p>AIFM Directive Sets a EU harmonised framework for management companies of alternative funds. Enhances the depositary regime Will be replicated for UCITS V.</p>
<p>Regulation on short selling and Credit Default Swaps Harmonised transparency rules. Tackling specific risks of naked short selling.</p>	<p>Dodd Frank Act One single corpus of regulation to achieve the G20 objectives. Might overlap with EU regulations.</p>	<p>FATCA Not part of the G20 objectives Strongly impacts non US financial institutions.</p>



The Political Challenges

1. Conciliate the need for growth and the implementation of austerity programmes
2. Conflicting or interfering individual country interests
3. Internal dissensions
4. Fragmented Legal Frameworks
5. Limited scope of the reforms
6. Limited resources
7. Unilateral Fatca initiative as an unexpected factor of convergence and reciprocity ?

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The Technical Challenges

1. Will we achieve appropriateness ?
 - Identifying the sick organs
 - Proposing the right treatment
 - Applying it properly
 - With due consideration of possible side effects
2. The need to adapt and survive
 - Adapt business models to be able to absorb the costs
 - Reducing costs
 - Reducing risks
 - Play the card of competition in a redefined industry landscape
 - Geographic reallocations
 - Redistribution of roles among the functional chain
 - Redefining commercial strategies
 - New service opportunities

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Conclusion

