

1.3 LES INFRASTRUCTURES

1.3.1 Les systèmes de règlement des opérations sur titres

L'intérêt particulier des banques centrales dans la surveillance des systèmes de règlement des opérations sur titres repose d'abord sur les liens étroits qu'elles entretiennent avec ces derniers. Toutefois, les banques centrales ne sont pas seulement utilisatrices de ces systèmes qui, dans le cadre de leurs opérations de politique monétaire, traitent les livraisons de titres en garantie des opérations de crédit, mais elles sont également en charge du suivi de la stabilité du système financier. Par ailleurs, les infrastructures post-marché revêtent une importance systémique. Les évolutions en Europe, caractérisées par un processus de concentration de l'activité de conservation des titres, de consolidation des opérateurs et des plates-formes, mettent les autorités devant des défis renforcés en ce qui concerne la concentration des risques, le périmètre de la surveillance et l'organisation de la co-opération entre autorités.

Plusieurs initiatives internationales menées à bien au cours des dernières années ont visé à préserver la stabilité financière par un renforcement des infrastructures financières.

En octobre 2004, le Conseil des gouverneurs de la BCE et le Comité européen des régulateurs des marchés de valeurs mobilières (CESR) ont approuvé conjointement le rapport intitulé *Normes pour la compensation et le*

règlement de titres dans l'Union européenne préparé par le groupe de travail commun SEBC-CESR. Ce rapport, qui comprend 19 normes (voir box 1 ci-après) s'appuie sur les recommandations élaborées en 2001 par le Comité sur les systèmes de paiement et de règlement (CPSS) auprès de la BRI⁴ conjointement avec le Comité OICV⁵. Ces normes, qui visent à accroître la sécurité, la solidité et l'efficacité des systèmes, couvrent le cadre juridique, le risque de pré-règlement et le risque de règlement, le risque opérationnel, le risque de conservation ainsi que d'autres aspects comme la gouvernance, l'accès, les procédures et les normes de communication, la transparence, la régulation et la surveillance ainsi que les risques associés aux liens transfrontaliers.

Le groupe de travail SEBC-CESR suit à l'heure actuelle des travaux de mise en place d'une méthodologie globale permettant d'évaluer l'application des normes. Ces travaux s'exercent en collaboration étroite avec les participants du marché.

Les questions les plus difficiles à résoudre se réfèrent en particulier à l'approche fonctionnelle visant à rendre les normes applicables également aux «custodians», au traitement des crédits non garantis dans les livres des opérateurs, en ce compris les crédits non garantis accordés sur une base intra-journalière, ainsi qu'à l'organisation entre autorités d'une structure d'«oversight» coopératif, dont la définition du concept de «co-ordinating overseer» en relation avec un système actif dans plusieurs juridictions.

Box 1: Normes pour la compensation et le règlement de titres dans l'Union européenne

Standard 1: Legal framework

Securities clearing and settlement systems and links between them should have a well-founded, clear and transparent legal basis in the relevant jurisdictions.

Standard 2: Trade confirmation and settlement matching

Confirmation of trades between direct market participants should occur as soon as possible after trade execution, but no later than trade date (T+0). Where confirmation of trades by indirect market participants (such as institutional investors) is required, it should occur as soon as possible after trade execution, preferably on T+0, but no later than T+1.

Settlement instructions should be matched as soon as possible and, for settlement cycles that extend beyond T+0, this should occur no later than the day before the specified settlement date.

Standard 3: Settlement cycles and operating times

Rolling settlement should be adopted in all securities markets. Final settlement should occur no later than T+3. The benefits and costs of EU-wide settlement cycles shorter than T+3 should be evaluated.

CSDs and, where relevant, CCPs should harmonise their operating hours and days and be open at least during the TARGET operating times for transactions denominated in euro.

⁴ Banque des règlements internationaux

⁵ Organisation internationale des commissions de valeurs

Standard 4: Central counterparties (CCPs)

The benefits and costs of establishing a CCP should be evaluated. Where such a mechanism is introduced, the CCP should rigorously control the risks it assumes.

Standard 5: Securities lending

Securities lending and borrowing (or repurchase agreements and other economically equivalent transactions) should be encouraged as a method for avoiding settlement failures and expediting the settlement of securities. Barriers that inhibit the practice of lending securities for this purpose should be removed. The arrangements for securities lending should be sound, safe and efficient.

Standard 6: Central securities depositories (CSDs)

Securities should be immobilised or dematerialised and transferred by book entry in CSDs to the greatest possible extent. To safeguard the integrity of securities issues and the interests of investors, the CSD should ensure that the issue, holding and transfer of securities are conducted in an adequate and proper manner.

Standard 7: Delivery versus payment (DVP)

Principal risk should be eliminated by linking securities transfers to funds transfers in a way that achieves delivery versus payment.

Standard 8: Timing of settlement finality

Intraday settlement finality should be provided through real-time and/or multiple-batch processing in order to reduce risks and allow effective settlement across systems.

Standard 9: Credit and liquidity risk controls

For systemic stability reasons, it is important that CSDs operate without interruption. Therefore, when allowed by national legislation to grant credit, CSDs should limit their credit activities exclusively to what is necessary for the smooth functioning of securities settlement and asset servicing. CSDs that extend credit (including intraday and overnight credit) should fully collateralise their credit exposures whenever practicable. Uncollateralised credit should be restricted to a limited number of well-identified cases and subject to adequate risk control measures including limits on risk exposure, the quality of the counterparty and the duration of credit.

Most custodians are subject to EU banking regulations. For those that manage significant arrangements for settling securities transactions, and in order to contain the systemic risks that are linked to their securities settlement activity, national securities regulators, banking supervisors and overseers should examine the risk management policies applied by those custodians to assess whether they are in line with the risks created for the financial system. In particular, the possibility of increasing the level of collateralisation of credit exposures, including intraday credit, should be investigated.

Operators of net settlement systems should institute risk controls that, as a minimum, ensure timely settlement in the event that the participant with the largest payment obligation is unable to settle. The most reliable set of controls is a combination of collateral requirements and lending limits.

Standard 10: Cash settlement assets

Assets used to settle payment obligations arising from securities transactions should carry little or no credit or liquidity risk. If central bank money is not used, steps must be taken to protect the participants in the system from potential losses and liquidity pressures arising from the failure of the cash settlement agent whose assets are used for that purpose.

Standard 11: Operational reliability

Sources of operational risk arising in the clearing and settlement process should be identified, monitored and regularly assessed. This risk should be minimised through the development of appropriate systems and effective controls and procedures. Systems and related functions should be (i) reliable and secure, (ii) based on sound technical solutions, (iii) developed and maintained in accordance with proven procedures, (iv) have adequate, scalable capacity, (v) have appropriate business continuity and disaster recovery arrangements, and (vi) frequent and independent audit of the procedures that allow for the timely recovery of operations and the completion of the settlement process.

Standard 12: Protection of customers' securities

Entities holding securities in custody should employ accounting practices and safekeeping procedures that fully protect customers' securities. It is essential that customers' securities be protected against the claims of the creditors of all entities involved in the custody chain.

Standard 13: Governance

Governance arrangements for CSDs and CCPs should be designed to fulfil public interest requirements and to promote the objectives of owners and market participants.

Standard 14: Access

CSDs and CCPs should have objective and publicly disclosed criteria for participation that permit fair and open access. Rules and requirements that restrict access should be aimed at controlling risk.

Standard 15: Efficiency

While maintaining safe and secure operations, securities clearing and settlement systems should be efficient.

Standard 16: Communication procedures, messaging standards and straight-through processing (STP)

Entities providing securities clearing and settlement services, and participants in their systems should use or accommodate the relevant international communication procedures and messaging and reference data standards in order to facilitate efficient clearing and settlement across systems. This will promote straight-through processing (STP) across the entire securities transaction flow.

Service providers should move towards straight-through processing (STP) in order to help achieve timely, safe and cost-effective securities processing, including confirmation, matching, netting, settlement and custody.

Standard 17: Transparency

CSDs and CCPs should provide market participants with sufficient information for them to identify and accurately evaluate the risks and costs associated with securities clearing and settlement services.

Significant custodians should provide sufficient information that allows their customers to identify and accurately evaluate the risks associated with securities clearing and settlement services.

Standard 18: Regulation, supervision and oversight

Entities providing securities clearing and settlement services should be subject to, as a minimum, transparent, consistent and effective regulation and supervision. Securities clearing and settlement systems/arrangements should be subject to, as a minimum, transparent, consistent and effective central bank oversight. Central banks, securities regulators and banking supervisors should cooperate with each other, both nationally and across borders (in particular within the European Union), in an effective and transparent manner.

Standard 19: Risks in cross-system links⁶

CSDs that establish links to settle cross-system trades should design and operate such links in order to effectively reduce the risks associated with cross-system settlements. Standard 1: Legal framework

Securities clearing and settlement systems and links between them should have a well-founded, clear and transparent legal basis in the relevant jurisdictions.

1.3.2 Les systèmes de transactions par cartes

En ce qui concerne les systèmes de transactions par cartes (cartes de crédit et cartes de débit), souvent très complexes d'un point de vue de technique, des réflexions sur la mise en place d'une structure de surveillance adéquate méritent d'être poursuivies. La sécurité des moyens de paiement en question, qui certes relèvent de la responsabilité primaire des intermédiaires financiers, et les risques spécifiques qui en découlent, sont à considérer comme objectifs primaires dans un schéma de surveillance. En particulier les risques de mauvais fonctionnement, les risques de fraude, le risques de gouvernance, ainsi que les risques juridiques et le risque réputationnel sont susceptibles d'altérer le bon fonctionnement et la sécurité des systèmes de transactions par cartes. Les systèmes de transactions par cartes représentent une partie intégrante et importante des paiements en détail également en

euros, et sont opérationnels dans une large mesure à un niveau transfrontalier. Le cas échéant, une structure de surveillance de co-opération avec d'autres autorités concernées serait de mise. De plus, le suivi des paiements électronique (e-payments) et des systèmes de paiements par téléphone (m-payments), dont l'usage reste certes réduit à l'heure actuelle, pourrait s'avérer comme structure utile dans le cadre de la mission de surveillance de la Banque centrale.

Au Luxembourg, le Centre de transferts électroniques (Cetrel), société coopérative fondée en 1985 par les banque de la place actives dans le retail banking et l'entreprise des P et T, agit comme agent technique pour les systèmes de paiement par cartes majeurs opérés à Luxembourg. Ainsi, cette activité est fournie aux sociétés de licence Europay Luxembourg et Visalux, à l'Entreprise des PetT, au groupement bancomat ainsi

⁶ This standard does not cover links established by CCPs. This issue will be covered by the future work of the ESCB-CE SR on CCPs.