



“Opportunities for post-trading in a sustainable and digital context” Eighth Securities Services conference

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Good morning, all.

It is a pleasure for me to be able to participate in the opening of this Securities Services conference and to do so in such good company. First of all, I would like to thank José María Méndez, General Manager of Cecabank, for his invitation, and Antonio Romero, Corporate Director of the bank, for his presentation; also, El Español and Invertia, represented here by its deputy director, Arturo Criado, for organising the event.

This conference has become a benchmark for the sector and offers a unique framework for reflecting on the changes that impact on the business of post-trading in the securities markets. The CNMV has traditionally participated in almost all previous editions, and I hope that we can continue to do so in the future.

This year's event also has a very interesting agenda, covering topics as diverse as sustainability and technology. The concept of post-trading encompasses a large number of activities that make it possible for the purchase and sale of financial assets to be executed, cleared, settled and held in custody until the change of ownership is formalised. They are therefore essential activities to complete transactions.

Today I would like to use these few minutes to share some thoughts on two trends that are changing the structure of the central counterparty clearing market or could change it in the near future.

The first relates to the effects of Brexit and the new balance between EU and UK clearing houses. The second refers to how new technologies, and in particular I shall refer to distributed ledger technology or DLT, can change the industry. And I do not want to end without a brief mention of the depository or custodian function and the dynamics we are observing in the sector.

I. New balance between UK-EU CCPs

On 8 February, the European Commission decided to extend the equivalence of the UK's central counterparty clearing houses until 30 June 2025. This means that European (and Spanish) companies will be able to continue to clear on an equivalent basis at UK clearing houses for a further three years.

The Commission's decision has a twofold objective: on the one hand, to avoid short-term disruption to services already being provided. On the other hand, and, in my opinion, the most important one, the aim is to give EU clearing houses time to become more attractive and thus reduce the current dependence of European companies on third-country CCPs, such as those in the UK.

To achieve this ultimate goal of promoting the use of European CCPs, the Commission is committed to proposing a set of measures to make European clearing houses more efficient, to promote their liquidity, to improve their risk management and to strengthen their supervision. In order to specify these measures, it has launched a public consultation and a call for evidence with which it hopes to gather data and opinions from the sector.

I would like to use this forum to encourage you to participate in this public consultation. The measures on which the Commission has requested opinions could have a major impact on the day-to-day operations of many European and Spanish market participants, as they will affect clearing houses, banks and investment firms, as well as clearing members, market liquidity providers and, ultimately, the clients of these entities.

Allow me to share with you some reflections on this.

At the CNMV, we consider the EU institutions' interest in reducing the dependence of our companies on British central counterparties to be justified. Following Brexit, cleared volumes and, in general, OTC derivatives trading in the EU have suffered significantly. And promoting a more liquid and efficient framework for these activities in the Union is certainly a good thing, as it would improve financial stability and reduce systemic risk.

We therefore agree with the final objective pursued. The question that seems to me to be most relevant is how best to achieve it. Above all, because some of the measures proposed by the Commission may create uncertainties.

Here, if you will allow me to simplify, the question is whether we use the carrot or the stick strategy to encourage this transfer of transactions. That is, whether we should focus on measures that penalise the use of UK clearing houses or on measures that improve the competitiveness of European clearing houses. I can tell you that the latter, those with inducements, are the ones we like the most.

The problem is that some of the measures proposed by the Commission may result in a significant increase in costs for the European institutions for using third-country clearing

houses, without this cost increase necessarily encouraging greater use of EU clearing houses.

I am referring to measures such as increasing regulatory capital or the incorporation of a macro-prudential buffer, among others. While these measures may be clearly justified in terms of financial stability or risk management, they must be properly calibrated, as they may have a significant impact on the costs of EU banks and IFs, insofar as they do not have alternatives for clearing in the EU that offer liquidity comparable to that of UK clearing houses.

However, there are other initiatives, those of inducements, which we consider to be more aligned with the objective of achieving greater clearing activity in the European Union. To name a few: extending the scope of central clearing obligations, making it easier for clearing houses to interoperate with each other more freely, or any other efficiency-enhancing measures.

Ultimately, the aim is to enable EU clearing houses to compete on a level playing field with those in the UK and the US, given that OTC derivatives markets and associated clearing services have a global dimension.

We therefore believe that we should reflect, together with the sector, on these measures proposed in the EC consultation and specify which measures may be most appropriate.

II. Advances in new technologies: DLT pilot regime

The second issue I would like to comment on today concerns the advances in new technologies. In particular, I would like to focus on the potential impact of distributed ledger technology in the post-trading field. There are many technologies that affect post-trading, but I believe that distributed ledger technology, or DLT, is one that deserves special attention, given the implications it has, or may have, in terms of market structure.

DLT can bring great benefits. To put it simply, this innovation can, in practice, allow the purchase and sale of a financial instrument issued under this technology and its settlement to be carried out simultaneously. That is, DLT eliminates the need for clearing, insofar as this clearing is embedded in the very technology by which transactions are validated.

This strengthens innovation and competitiveness in the sector but, if well implemented, it can also reduce risks and costs. However, it may also entail new risks that need to be analysed with caution. As you know, this technology is already playing a key role in the development of crypto-assets and is widely used in digital currencies and other digital assets.

In this context it is important to differentiate between crypto-assets which are not financial instruments and are not regulated and will be regulated in the future in accordance with the European MiCA Regulation, and those crypto-assets or digital assets, security tokens, which do have the nature of financial instruments because they share similar characteristics to those of a debt or equity instrument.

The issue is that the current regulation of market infrastructures in Europe and Spain acts as a regulatory barrier that effectively restricts the use of DLT for digital assets. Thus, the current framework follows the cycle of a transaction on the basis of trading, clearing and settlement, and requires the presence of market intermediaries and infrastructures that control these processes. All this does not fit well with the inherent characteristics of DLT technology and significantly hampers the possibility of trading DLT-based financial instruments on regulated secondary markets in the EU.

These limitations translate, in practice, into the non-existence of such infrastructures that trade financial assets issued using this technology. Therefore, while the potential benefits of this technology can be perceived, it is difficult to assess them properly.

To address this problem, the European Commission has proposed a pilot scheme on DLT-based market infrastructures. To this end, a system of regulatory exemptions is envisaged to allow it to operate for an initial period and, depending on the benefits observed, to establish a definitive regulatory framework.

These exemptions include, among others, some very important ones, such as the possibility of operating directly with investors, without the intervention of financial intermediaries; or the possibility of not registering securities through a book-entry system.

This pilot regime will see the trading, clearing, settlement and registry functions, which have traditionally been separate, being performed by the same infrastructure in a cohesive manner (so-called DLT Trading and Settlement Systems).

The results of these tests take time. The functioning of this regime will be evaluated after three years of its implementation, and it will not be until the sixth year of its operation that the appropriate regulatory decisions will be made.

But it is undoubtedly an important step forward. The CNMV takes a very positive view of this initiative, which could place Europe in a relevant position in this field. A month ago, ESMA published a consultation on how to implement this pilot regime in practice. And we are actively working with the sector through our FinTech portal for those who are interested.

We are confident that in Spain we will be able to have relevant infrastructures authorised under this pilot regime, which will in all likelihood become a reality early next year.

III. Depository/custodian function, its importance and relevant market dynamics.

Finally, I cannot participate in this conference without highlighting the depository and custodian activity in Spain. This is an essential part of market operations, sometimes less visible, but no less important to ensure investor protection. At the end of 2021, the fund and investment company custodian industry held assets worth 367 billion euros, owned by more than 16 million investors.

It is also an industry that has historically performed well. In fact, in the CNMV's supervisory work, no relevant incidents have ever been detected in the custody of securities. What we do observe in the sector is two clear trends.

Firstly, an increasing specialisation of the function. Currently, almost 75% of the assets are deposited with entities outside the asset management group (compared with 15% in 2007).

Secondly, we also observe an increasing concentration of activity in a few entities. There are currently only 21 active depositories, down from 76 fifteen years ago. In addition, the three largest depositories together account for a 75% share.

There is no doubt that investments in technology and the exploitation of economies of scale are factors that have driven this increasing specialisation of the depository function.

From the supervisor's point of view, specialisation of activity also has its advantages, in that it can lead to more effective controls and reduce conflict of interest situations. To this end, the CNMV has published two Q&A documents on the depository appointment process.

This concentration, however, also entails some potential risks that need to be managed, insofar as any impact on participants could have a greater systemic risk. This is particularly relevant, for example, in view of the risk of cybersecurity.

IV. Final reflections

I shall finish by saying that the Spanish post-trading sector is in good health and together we must continue to work to ensure that it is able to adapt to new challenges.

The advances in new technologies together with the regulatory initiatives being undertaken at European level that I have mentioned, as well as others such as the DORA Regulation for digital operational resilience, will shape a different sector in the coming years.

I am convinced that the Spanish sector will be able to adapt efficiently and will continue to contribute to the development of our markets and ensure investor confidence in their functioning.

Thank you once again for your attention.