The Pension Exemption from Central Clearing

The EU institutions are making progress towards extending the exemption from clearing for pension funds under EMIR, but the schedule towards August 2018 – when the current exemption expires – remains tight. It is necessary to extend the exemption because a stakeholder group of market participants (pension funds, CCPs and banks) is still working on a technical solution to address pension funds' challenge with central clearing, namely that pension funds do not want to hold cash buffers needed for collateral requirements.

In December the Council decided to carry the proposal and supported a further temporary exemption of three years, potentially to be extended with another two years. The European Parliament is currently also working on its position and Rapporteur Werner Langen MEP has put forward his amendments. He is generally supportive of extending the exemption but wants to put more pressure on the market participants to work towards a solution. The Commission should consider imposing a regulatory solution if the stakeholders involved cannot find one themselves. Although this stops short of the open-ended exemption favoured by PensionsEurope, we welcome that policy-makers are thinking about creating the right incentives for all parties involved. Other MEPs will table their amendments this week. The Economic and Monetary Affairs Committee is expected to vote on their position in April, after which Parliament and Council will need to thrash out a compromise, hopefully already in May or June.

Meanwhile, we also continue to lobby policy-makers on the review of the Capital Requirements Regulation. The capital rules for banks, if calibrated inadequately, could provide strong incentives for banks to only accept cash collateral in non-cleared transactions. They may also drain liquidity in the repo markets that currently serve to transform bonds into cash to meet collateral calls. While favourable amendments have been tabled in the Economic and Monetary Affairs Committee of the European Parliament, the capital framework may still spur the trend towards central clearing. We therefore remain strongly supportive of the work of the stakeholder group looking at solutions for pension funds to access central clearing on the basis of non-cash collateral.