

EU meets with CFTC to contest Gensler cross-border derivatives measures

Jurisdiction : USA

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IN BRIEF

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The planned Washington meeting with CFTC staff followed higher-level discussions in Brussels last week between Acting CFTC Chairman Mark Wetjen and Jonathan Faull, the European Commission's top civil servant for financial services policy.

"Our dealings with the CFTC have been good over the last few weeks, better than before," a European official told MLex on Wednesday. "But we're still very worried."

The EC is trying to exploit Gensler's departure earlier this month to win reversals of some of his policies, which they view as US-centric. Wetjen has been more sympathetic to international concerns.

The EC group headed by Nadia Calvino, who reports to Faull, planned to express concerns Thursday about November guidance for international banks and trading platforms that they said would worsen market fragmentation, the official said.

One CFTC measure required overseas trading platforms that provide trading for banking units in the United States to register as swap execution facilities (see [here](#)).

"This raises concerns we have about the significant potential for extra-territorial application of US rules," the European official said.

The CFTC guidance gives London trading venues that want to avoid SEF requirements an incentive to shun trades from large international banks,

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industry participants have said.

Mid-sized overseas banks that don't want to be subject to the Dodd-Frank Act also have more incentive to avoid trading with US banks.

- Bank trading on SEFs -

The EC delegation also planned to express displeasure with a November advisory that required banks to trade on SEFs if they book deals overseas but negotiate, arrange, or execute them in the United States (see [here](#)).

“What can be the impact on the United States?” the European official said. “What can be the fallout for the US? That’s what we don’t understand. The risk falls overseas.”

Gensler’s last act as CFTC chairman this month was to seek public comment on the advisory.

Enforcement of the measure also was postponed for nine months – allowing banks to temporarily avoid trading on SEFs and instead place trades by phone through less regulated wholesale brokers, many in London.

Banking groups have sued the CFTC over this advisory, alleging it breached procedural requirements.

Colvino’s group is to meet Thursday and Friday with several US agencies in an attempt to resolve a number of trans-Atlantic differences.

But derivatives, she said in a question-and-answer session after her speech Wednesday, * “is the most spectacular hiccup.”

**“Sound and resilient financial markets: achieving global consistency,”
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