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NYSE Euronext – Deutsche Börse Merger: Let the dance go on!

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The recent wave of consolidation among exchanges has shaken the global financial community. For the first time since the beginning of the financial crisis, the industry has been able to steal the limelight from regulators. The situation is heating up at global level, galvanising the entire sector. The market is stretching its muscles after a long rest, reshaping once again the global trading landscape with a list of new potential mergers (see Table 1 below). But something different seems to drive consolidation this time. Mergers among exchanges have been rather frequent since the demutualisation in the 1990s, but this time – at least for the biggest merger proposal between NYSE Euronext (NE) and Deutsche Börse (DB) – they seem to be designed to strengthen exchanges' market power outside equities. As a matter of fact, 'organised' trading platforms are day-by-day extending their boundaries to a more global scale and into more complex asset classes, for which the provision of execution and related services is already an important source of revenues.

Table 1. Merger talks in progress

Controlling company	Target company	Date
Singapore Exchange	Australian Exchange	25 October 2010
BATS Global Trading	Chi-X Europe	22 December 2010
London Stock Exchange Group	Toronto Stock Exchange	9 February 2011
Deutsche Börse	NYSE Euronext	9 February 2011
NASDAQ OMX	InterContinentalExchange	18 February 2011*
Tokyo Stock Exchange	Osaka Securities Exchange	9 March 2011

* Not officially confirmed by parties (see http://www.finextra.com/news/fullstory.aspx?newsitemid=22281).

Exchanges need now to redesign their business models in order to keep pace with changes in market structure. To grow and gain business at global level, exchanges are currently consolidating businesses to acquire relevant know-how and economies of scale in non-equity asset classes and to reinforce the vertical (silo) model. For instance, well before this latest wave of consolidation, Deutsche Börse (through Eurex) and NYSE Euronext (after the acquisition of the London International Financial Futures Exchange, 'LIFFE', in 2001) have been running very profitable businesses in well-defined derivatives markets niches.

Hence, the new process of consolidation ought to strengthen scale and expand business in non-equity financial instruments at global level, taking stock of two general developments: 1) the liberalisation process and 2) the financial crisis.

Firstly, the abolition of concentration rules following the implementation of the Markets in Financial Instruments Directive (MiFID), as well as the abolition of the order protection rule in the US (with RegNMS[1]), have liberalised the provision of execution services by allowing newcomers to compete with incumbents under roughly equal conditions. As a result, exchanges are striving to source enough revenues in order to keep their current cost structures. In equity markets, over ¼ of the entire trading turnover is currently done on pan-European trading platforms, and proposals such as a pan-European listing are gradually re-gaining ground. This situation calls for diversification and greater scale.

Secondly, in the aftermath of the financial crisis, a major regulatory overhaul is aiming to increase transparency and safety for non-equity financial instruments through greater use of organised trading platforms. Exchanges, therefore, want to be ahead of this process by investing in new infrastructures and human resources or using mergers to strengthen their role in new business areas, in which they can find strong complementarities (see Table 2 below).

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Table 2. Potential synergies

	Firms	Key business synergy
SGX/ASX	Singapore Exchange	International listings, equity futures, OTC derivatives clearing
	Australian Exchange	Listings, stock options, fixed income futures
BATS/Chi-X	BATS Global Trading	Access to US markets, listings, IT
	Chi-X Europe	Pan-European trading volumes
LSE Group/TMX	LSE Group	Blue chip listings, bond trading, IT
	Toronto Stock Exchange	SMEs listings, derivatives and commodities trading
DB/NYSE Euronext	Deutsche Börse	Long-term interest rate derivatives, equity indices derivatives, clearing and settlement, access to Asia
	NYSE Euronext	Short-term interest rate derivatives, listings, equity dark trading, access to the US
NASDAQ OMX/ICE	NASDAQ OMX	Equity trading, listings, access to the EU
	InterContinentalExchange	Clearing, derivatives trading
Tokyo SE/Osaka SE	Tokyo Stock Exchange	Equity trading, listings
	Osaka Securities Exchange	Options and futures trading

Source: Author.

As a consequence of these multiple aspects, exchanges will gradually become trading platforms, offering execution and related services across asset classes. Stocks, in fact, are becoming a small part of their core business activity. For instance, the London Stock Exchange has recently revealed details of its plan to extend its business to derivatives through the creation of a pan-European platform (Turquoise derivatives) for single name and index futures and options. This announcement comes after the merger proposal with TMX, which owns the EDX derivatives platform based in Montreal. This platform will most probably emerge, together with Chi-X's new platform[2] as one of the main competitors of NYSE LIFFE and Eurex in listed derivatives instruments. Finally, Deutsche Börse has recently acquired control of the European Energy Exchange in Germany, which marks a further step towards diversification.

The merger case

The merger proposal between NYSE Euronext and Deutsche Börse will create the world's biggest exchange by revenues and total value (see Table 3 below). The result will be a group with more than €5 billion as total revenues, operating in several countries and with a total value higher than €17 billion. DB will spend €7.37 billion ($10.2 billion) to complete the takeover and merge both firms into a new holding company headquartered in the Netherlands.

Both companies expect cost synergies of €300 million through the integration of their equity and derivatives businesses for execution and post-trading services. More specifically, NE will bring its experience in short-term interest rate listed derivatives, listings (NE represents over 50% of US-EU15 domestic market capitalisation), dark equity trading (with Smartpool) and access to US markets,[3] while DB will bring in its long-term interest rate listed derivatives business, its securitised products through Eurex's platform, and its strong value added services in clearing and settlement services (silo model). As indicated by the joint press release,[4] roughly 37% of total combined revenues will come from derivatives trading and clearing, while 29% from cash (bond and equity) listings, trading and clearing, 20% from settlement and custody, and 14% from market data, index and IT services.

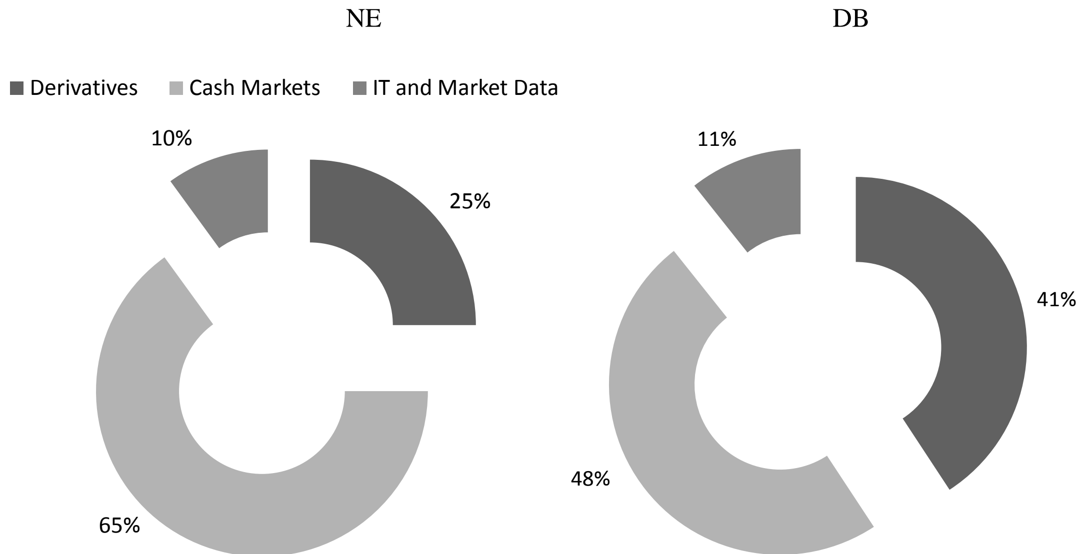
Table 3. Key figures (€million)

	DB	NYSE – Euronext	Combined result
2010 Total revenue	2,106	3,306	5,412
2010 Net income	417.8	431	848.8
2010 Net revenue	-	-	4,100
2010 EBITDA*	-	-	2,100
Group value	10,945	6,224	-
Cost synergies	-	-	300

* EBITDA = Earnings before interest, taxes, depreciation and amortisation.

Sources: Companies' joint press release (for 2010 data) and 2010 annual reports. Exchange rate on 31 December 2010.

*Figure 1. NYSE Euronext and Deutsche Börse revenues (split by businesses)**



* For NE 2010 data and for DB estimation from 2010 data.
Sources: Companies' public accounts.

As shown above, both groups currently generate important revenue from derivatives markets. This business area has constantly grown in the last few years. Even though it earns less revenue, DB Group has a higher value than NE due to the high profitability of its derivatives and post-trading businesses.

Table 4. Eurex and Clearstream (€million)

	Eurex	Clearstream
2010 Total revenues	858.7	760.7
2010 EBIT*	448.7	299.3
Profitability ratio^	52.3%	39.4%

* EBIT = Earnings before interest and taxes.
^ Total Revenues over EBIT
Source: DB's 2010 annual report.

More specifically, DB brings to the deal Eurex and Clearstream, which are the Group's 'cash cows' with high profitability ratios and total revenues that represent almost 78% of the Group's revenues. Eurex is also extending its CCP business to OTC derivatives since new regulations are pushing for greater use of central clearing services. Clearstream, instead, has over €10 trillion in assets under custody and represents one of the biggest European central security depositary (CSD) and custodian banks.

Competition issues

Since the merger overcomes at least one of the two thresholds set in Arts 1.2 and 1.3 Reg. N. 139/2004 (or EC Merger Regulation – ECMR), the concentration will probably be considered of 'Community dimension'. The merger, therefore, would need to be notified *ex ante* to the European Commission. Notification would have to occur before DB begins the public exchange offer, or the initial public offer for NE shareholders to acquire the majority control of the whole group. As soon as the notification is received, the Commission will need to decide (Art. 6, ECMR) whether:

- the concentration falls under the scope of the ECMR,
- the concentration is compatible with the common market and
- the concentration creates no Significant Impediment to Effective Competition (SIEC or SIC test).

Once the merger is notified, the Commission will have 25 working days (Art. 10, ECMR) to reply, but the investigation period may be extended if needed, in particular if (in line with Art. 8) the Commission imposes specific conditions on the implementation of the merger. The length of the process rarely goes over 105 days, even if there are conditions to be applied to the merger.

In line with the EU *acquis*,[5] the Commission will perform the so-called Significant Impediment to Effective Competition test (SIEC or SIC test), i.e. an evaluation test based on dominance and potential anticompetitive effects of the concentration. This test, on the one hand, looks at the combined market share and dominance effect (static view),[6] but on the other hand it also assesses if the competition effects will be transitory or permanent (dynamic view).[7] As a result of this double-edged test, concentrations that would create a temporary dominant position may not necessarily create a significant impediment to competition and thus be approved. It will be also important to define the relevant market in order to assess potential competition effects. In practice, however, the Commission has frequently assessed mergers with a static approach, giving a limited role to the 'efficiency defence', and by reversing the burden of proof (making it expensive) where dominance arises from conglomerate effects (or portfolio effects),[8] as in the NE-DB deal.

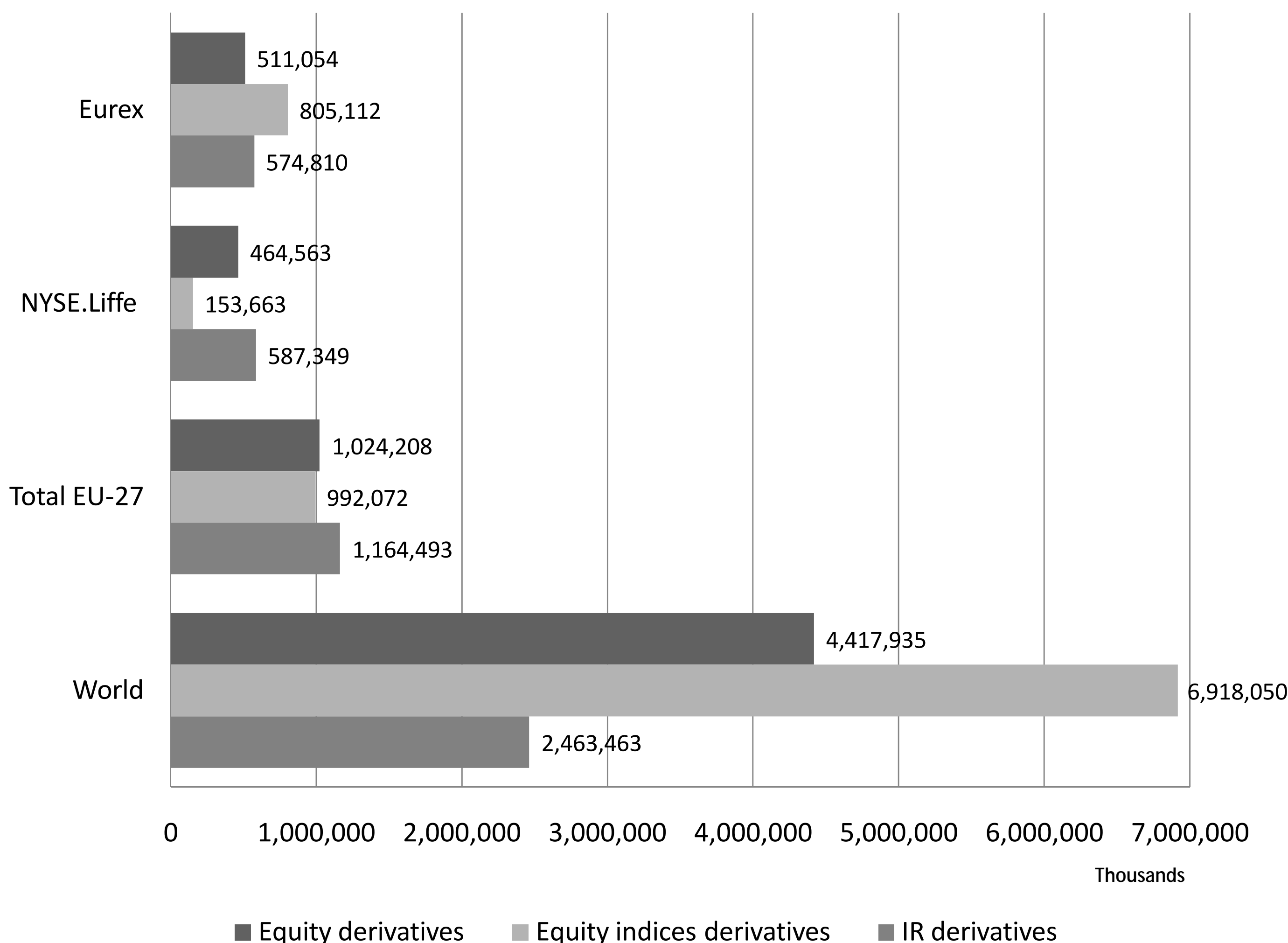
However, the CFI's (Court of First Instance) repeal of the Commission's prohibition against GE/Honeywell and the 2008 guidelines on Art. 82 of the Treaty on abuses of dominant position (now Art. 102)[9] have given a clear signal that more prominence will be given to the efficiency gains brought about by mergers.

In the merger between NE-DB, there are two main aspects the Commission will need to take into account: 1) the joint dominant position in listing services and derivatives trading and 2) the risk of creating bottlenecks in the post-trading business.

For listing services, after the merger NE-DB will eventually hold 63% of domestic market capitalisation of the US and EU-15 markets combined. Even though this position is clearly dominant, this situation does not represent a significant impediment to effective competition since listing services do not compete across these markets, even though they may compete in the future. Given the high entry barriers and the absence of a pan-European listing, listing services are still national markets and the merger does not concentrate market power and create an impediment for newcomers to enter.

For the derivatives trading business, the situation is more complicated. The Commission will need to look into the two main asset classes traded on the LIFFE and Eurex trading platforms: interest rate derivatives, and equity derivatives (single names and indices). Table 5 shows that over 98% of listed derivatives on LIFFE and Eurex are equity and interest rate derivatives.

Figure 2. Main listed derivatives instruments traded, 2010 (number of contracts)*



*Including more than 98.5% of total contracts traded on both platforms.
Sources: WFE, LIFFE, Eurex.

Table 5. EU and US market shares (listed markets; number of contracts and %)

		LIFFE	% EU markets	Eurex	% EU markets
EU market	IR Options	190,915,098	78.48%	51,564,171	21.20%
	IR Futures	326,744,287	43.03%	414,119,160	54.54%
		LIFFE + Eurex	**% EU markets**	**CME Group**	**% US markets**
EU and US markets	IR Options	242,479,269	99.68%	223,813,168	99.84%
	IR Futures	414,119,161	97.57%	849,280,491	93.00%
EU+US markets	IR Options	51.87%		47.88%	
	IR Futures	44.30%		50.78%	
Global markets	IR Options	45.96%		42.43%	
	IR Futures	21.39%		43.87%	

Sources: WFE and companies' websites.

For interest rate (IR) derivatives, the merger will create a quasi-monopoly in the provision of execution services for listed IR derivatives in the EU. As suggested by the table below, the two platforms will hold over 97% of theEU market and around 50% of the US and EU markets altogether. In practice, two big players will hold the entire business of IR listed derivatives on both sides of the Atlantic.

However, beyond these bold numbers, there are potential defences that may clear this part of the business also from a competition policy perspective. Firstly, taking into account over-the-counter (OTC) dealers, OTC inter-dealer platforms, or other B2B OTC platforms, the 'relevant market' may be considered big enough to deem the concentration harmful. However, this defence would lose strength so far as regulatory changes push OTC products towards more organised trading platforms.

As shown by Table 6, another relevant defence would be the fact that LIFFE and Eurex offer execution services in IR derivatives products that are not substitutes. In particular, LIFFE mainly offers trading for short-term IR derivatives, while Eurex for long-term IR derivatives.

Table 6. Listed IR derivatives by maturity

		LIFFE	% EU markets	Eurex	% EU markets
Short-term IR	Futures	301,886,363	99.87%	403,243	-
	Options	190,137,814	100.00%	n/a	-
Long-term IR	Futures	24,857,924	-	413,715,917	94.33%
	Options	818,236	-	51,564,171	98.44%

Source: WFE and companies' websites.

Therefore, these products do not have any immediate substitutability and can be considered as complementary products in two separate markets. The concentration would not thus reduce competition or impede newcomers to offer execution services for similar or new IR derivatives products. As a result, the potential effects on competition would not be harmful

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The situation is slightly different, however, concerning equity derivatives and equity indices derivatives. Eurex and LIFFE are direct competitors and together hold a high market share in the provision of trading and related services. They trade similar instruments and also benefit from the close link with underlying stock markets. In addition, OTC trading of equity derivatives is a tiny part of the OTC derivatives markets. Table 7 below thus shows the joint market share that the two platforms would enjoy and compare it with the EU and global markets.

Table 7. Listed equity and equity index derivatives, 2010

	Stock options		Single stock futures		Stock index options		Stock index futures	
	Number of contracts traded	% of total EU	Number of contracts traded	% of total EU	Number of contracts traded	% of total EU	Number of contracts traded	% of total EU
Eurex	283,339,061	51.29%	150,748,431	31.96%	342,919,472	81.79%	407,772,104	71.19%
NYSE.Liffe	194,714,042	35.24%	291,272,890	61.74%	57,433,095	13.70%	94,268,808	16.46%
Total EU	552,460,906		471,747,531		419,283,113		572,788,416	
World	3,631,919,969		786,014,934		5,036,327,425		1,881,722,248	

Sources: WFE, LIFFE and Eurex.

As a result, the merger would increase concentration and reduce competition for listed equity derivatives in the EU. The dilemma is how the Commission will define the relevant market and whether any restrictive conditions for the provision of post-trading services will be imposed on the merging companies to soften potentially anticompetitive effects. If the Commission applies a more dynamic approach and considers that the relevant market is global, the anticompetitive effects of such a merger may be considered negligible, outside stock futures. For stock futures, in effect, any efficiency defence may not be well-grounded as both platforms compete on similar products and complementarity is therefore limited. The deal would certainly provide strong economies of scale, but if no competitors will challenge these volumes, the burden of a quasi-monopolistic market share may worsen market conditions and increase costs of trading in the longer term.

However, the potential anti-competitive effects in the post-trading market architecture may overcome any efficiency defence in this area. Extending the vertical business model currently adopted by Deutsche Börse in Germany to markets where NYSE Euronext is currently offering its services and to all derivatives trading in the EU can raise material concerns in terms of competition. Both LIFFE and Eurex offer clearing services for derivatives trading. Yet a fully vertical (including settlement services) and closed (denying access to third parties) business model may raise serious difficulties for newcomers because it may create a 'bottleneck' situation, which may ultimately foreclose new entries in both trading and post-trading. The dominant position in the trading business, combined with a vertical silo model, generate long-term harmful effects. In more practical terms, on the one hand, investors (investment firms) would have limited choice of post-trading service providers, in line with the principle introduced by Art. 34, MiFID.[10] On the other hand, potential newcomers in derivatives trading will encounter higher barriers to entry because incumbents can raise rivals' costs by limiting the access to their post-trading services. Incumbents may also indirectly force new competitors to set up their own post-trading infrastructure since the closed business model does not allow new post-trading services providers to develop their business relying on investors' choice (Art. 34, MiFID).

It is also true, however, that other exchanges (such as LSE with Turquoise derivatives) will most likely set up their own derivatives trading platforms, but entering a new business area is typically much more costly than taking over a monopolistic position in the market.

As a consequence, the Commission may require – as a necessary condition to approve the deal – the opening-up of the entire post-trading business run by Deutsche Börse, which still today denies access to newcomers in clearing and settlement in Germany. This condition does not necessarily mean divesting the crown's jewels -Eurex CCP and Clearstream – but rather forcing incumbent post-trading infrastructures to give access to newcomers both to data feeds and interoperability agreement, which will be scrutinised by national authorities (as defined by EMIR). Once assured that the vertical closed model will not affect the dynamics of competition in the derivatives trading, it will be difficult to find long-term anticompetitive effects of the NE-DB merger. Beneficial portfolio effects will most likely outweigh any harmful effects. This condition would not even come as a surprise since Deutsche Börse is already facing the threat of action on this front from the European Commission through the European Market Infrastructure Regulation and the need to provide interoperability to third parties.

In conclusion, an additional issue that the Commission will have to look at is the break-off fee[11] of €250 million ($346 million) attached to the merger proposal. Even though the fee may appear low in comparison to the value of the two companies, this penalty seems high from a competition policy standpoint since it may impede competing bids to acquire NYSE-Euronext's control. For instance, the fee that should be paid by NYSE Euronext if the deal does not go through represents more or less the total net income of NASDAQ OMX in 2010 ($395 million), which is one of the firms (with InterContinentalExchange) that has recently launched a competing bid over NYSE-Euronext shares. Therefore, the fee may seriously raise rivals' costs of a competing bid, creating 'anticompetitive' effects. However, it is unlikely that the US authorities will challenge this clause under the Delaware State laws, and the Commission will need to decide on this matter too.

The competing deal proposal

On March 31st, NASDAQ OMX (NO) and ICE offered $11.3 billion for NYSE Euronext, proposing to pay $42.5 per share, a 19% premium over DB's offer both in cash ($14.24) and shares (0.4069 NO shares and 0.1436 ICE shares).[12] This offer does not yet discount the impact of the $346 million break-off fee agreed by NYSE Euronext with DB.

This competing bid is not proposing so much a real merger, but rather an acquisition since it will allow the offering companies to split NE's business into two parts (derivatives and cash markets), and separately incorporate those businesses into their own. This situation may have implications both in terms of competition and market structure. On the one hand, NASDAQ OMX will own almost 100% of listing services in the US, even though more competition is still to come (BATS) and the provision of execution services for equity trading will remain strongly competitive in the US. This monopolistic position in the listing services is not necessarily a concern for competition, however, since the market for listing services is open to potential newcomers and does not represent a bottleneck as long as US regulators do not keep the barriers too high to obtain authorisation as listing venue and the trading pool has enough liquidity to attract new listings. In addition, the relevant market for listing services is gradually becoming a cross-border market as long as trading platforms become global players. However, in the short-term, the concentration may represent a concern that US authorities need to carefully assess.

On the other hand, the deal has an impact on market structure and in particular on the way this acquisition fits into the consolidation/diversification process still in progress among exchanges. The deal in fact may look 'uglier' than the NE-DB from the side of business: this is an old-fashioned attempt to strengthen well-defined and long-standing business positions and does not necessarily open new opportunities for the market as a whole. NO will expand listing services both in Europe and the US and will try to create what it has not been able to achieve with NASDAQ OMX Europe, namely a pan-European MTF platform.

However, the core business will remain in equities and most of the $700 million total synergies will primarily come from cutting personnel and divesting small business units. NE will suffer a painful and costly process of integration as a result of lower margins due to more competition and the need for NO to reduce its high debt exposure in the years to come ($2.2 billion, one and a half times its total revenues for 2010). ICE, furthermore, will expand its derivatives business even more in the interest rates options and futures by entering the European market (through NYSE LIFFE) and competing with Eurex and new entries, such as LSE and Chi-X. However, this could be a good opportunity for LIFFE to avoid being swallowed by Eurex and to expand business into commodities derivatives (leveraging ICE's strong competencies).

More interestingly, if this deal goes through, DB will need to look around for other targets to build scale at global level in its core derivatives business. But DB will hardly give up on this crucial deal and – if DB finds resources to launch a second offer – it will then be really hard for NO in particular to raise the stakes due to its currently distressed financial position. For the German group, potential alternative targets would certainly be BME Group (to extend business to bond trading and strengthen the data repository and clearing activities for derivatives) or an Asian exchange, which will allow DB to build up scale in the Asian market, which Eurex has already entered.

Conclusions

Whether 'trading is like dancing' or not, exchanges started to dance two decades ago with their demutualization and consolidation. They now keep on dancing following the need to diversify and cope with the results of a challenging liberalization process started by MiFID. The recent wave of mergers comes after two years of an intense financial and economic crisis, resulting from cross-border competition, escalating first at European level and then at global level, especially for non-equity financial instruments such as derivatives. The fight to control the global market for listed derivatives has begun and, as long as states continue to lower economic and fiscal barriers, cross-border competition for the provision of execution services will get stronger across asset classes. The market will continue its consolidation process until it reaches equilibrium, most probably with fewer global trading platforms, at least for most liquid products. The implications of such a process need to be assessed in a broader context, which also sees stronger consolidation in post-trading services. Surveillance and management of operational risks will be a crucial aspect.

The NE-DB deal will probably be a less painful process than the NYSE-Euronext merger in terms of combining businesses and realising synergies. Even though the merger comes as a defensive measure against growing competitive pressures, there is space for important cost synergies (but probably less than expected). However, besides the need to obtain political support and shareholders' approval (51% for NE and 75% for DB), there are a few competition issues to be addressed. As suggested, these concerns may be solved by tying clear-cut conditions to the approval of the merger by the Commission. An unconditional prohibition of this deal would fail to recognize that markets are undergoing revolutionary changes and it will just be matter of time before we will see another important merger looming over financial markets. Even worse would be the decision to elevate 'national political interest' to 'national market interest', which would precipitate markets into an ancient '*dirigisme*' approach whose economic and political validity we would like to be left to the historians of 'Colbertisme'.[13]

Endnotes

[1] 'Regulation National Market System', Release No. 34-51808, File No. S7-10-04.

[2] Chi-X has recently agreed with Russell Investment to create a trading platform for stock indices and stock indices derivatives, which will compete with the most profitable business of Eurex (see http://www.ft.com/cms/s/0/2955383c-5945-11e0-b9f6-00144feab49a.html#axzz1IerUhTnl),

[3] Eurex has already tried to enter the US market for futures, but in 2005 it filed an antitrust lawsuit against CME and CBOT alleging that the exchanges were impeding its entry in the US futures market.

[4] See http://www.euronext.com/news/press_release/press_release-1731-FR.html?docid=960708.

[5] The term *acquis* refers to the whole body of EU legislation, jurisprudence and general principles of law.

[6] As in the Tetra Laval case (sentence was annulled in appeal), Case T-5/02 *Tetra Laval v Commission* [2002] ECR II-4381; or in the case of Airtours, Case T-342/99 *Airtours v Commission* [2002] ECR II-2585.

[7] For instance, it may happen that a merger gives to one market player a dominant position, but this position does not impede newcomers from entering the market under equal market conditions. In this case, there is a chance that the harmful effects of concentrating market power on one player will be just temporary, while the benefits of the deal (e.g. economies of scale and scope) will generate gains for final users.

[8] The merging firm has to demonstrate that efficiency effects offset potential anticompetitive effects. See, *Guinness/Grand Metropolitan,* Case N. IV/M.938 OJ [1998] L 288/24; and *General Electric/ Honeywell,* Case N. COMP/M. 2220.

[9] See European Commission, Guidance on the Commission's enforcement priorities in applying Article 82 of the EC Treaty to abusive exclusionary conduct by dominant undertakings, EU COM 2009/C 45/02.

[10] Markets in Financial Instruments Directive, Directive 2004/39/EC.

[11] A break-off fee is a penalty that is frequently added to merger deals to discourage competing bids on the offeree company (in this case, NE). In effect, the offeree company (NE) will have to pay to the merging company (DB) this penalty if it decides to accept the offer of the competing bidder. In any case, the cost is in the end passed on the offeror.

[12] See, for more information, http://ir.nasdaq.com/releasedetail.cfm?ReleaseID=561286.

[13] As alleged by the Australian Treasurer, to judge on the approval/rejection of SGX/ASX merger proposal. The Government's preliminary view seems to be against the deal on the basis of unclear 'national interests' (see http://www.ft.com/cms/s/0/a7df6db4-5f51-11e0-bd1b-00144feab49a.html#axzz1IerUhTnl.).

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ECMI Commentary 26, September 2010: Mirzha de Manuel and Diego Valiante report on the latest state of play in the negotiations over the Alternative Investment Fund Managers Directive (AIFMD), an important body of EU legislation aimed at ensuring financial stability and greater transparency in areas that have so far remained mostly unregulated.

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ECMI has the pleasure to launch the 50 Yearbook of the World Federation of Exchanges edited by Larry Harris with the support of ECMI. Since the inception of the World Federation of Exchanges in the 1960s, the operational and competitive landscape for organized exchanges has changed radically. Technology and globalization have allowed financial flows to move freely across borders, and burgeoning competition and lower regulatory barriers have spurred far-reaching transformations in the way securities are traded.

The MiFID Metamorphosis

ECMI Policy Brief 16, April 2010: In their assessment of the Markets in Financial Instruments Directive (MiFID), adopted by the EU in April 2004 and implemented at Member State level by the end of 2007, Karel Lannoo and Diego Valiante find that the legislation has been remarkably successful in terms of improving market structure and efficiency. In their view, the upcoming MiFID review should therefore take a 'light touch', clarifying some definitions and extending price transparency to related segments of securities markets.

Regulatory Challenges for the EU Asset Management Industry

ECMI Policy Brief 15, April 2010: The European asset management industry is feeling squeezed from all sides, as a result of growing prudential, product and conduct regulation. A new Directive, UCITS IV, has only just been enacted, and already new challenges are emerging in the regulation of hedge and venture capital funds, the review of the regulatory regime for depositaries (or financial custodians) and amendments to the MiFID Directive. In addition, a new European supervisory framework is in the making, which implies much stricter controls on enforcement.

Comparing EU and US Responses to the Financial Crisis

ECMI Policy Brief 14, January 2010: Since 2003, the EU and the US have conducted a vibrant regulatory dialogue on financial regulation, but domestic priorities seem to have taken precedence in response to the financial crisis. This ECMI Policy Brief compares the institutional and regulatory changes occurring on both sides of the Atlantic. On the institutional side, it compares macro- and micro-prudential reforms.

Shaping Reforms and Business Models for the OTC Derivatives Market: Quo vadis?

ECMI Research Report 5, April 2010: Now that the worst of the financial storm is over, regulators are setting new strategies to deal with the systemic importance of the €427 trillion ($604 trillion) over-the-counter (OTC) derivatives market. This paper explores the three major sources of disruptive effects in OTC derivatives: liquidity, counterparty risk and legal uncertainty. These risks affect the value chain of a typical derivative transaction and weaken the economic and legal rationale behind their widespread use.

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