

Response

CESR / ESCB consultation

Draft recommendations for securities settlement systems

January 23, 2009

Response to consultation	Page: 2 / 3
CESR / ESCB draft recommendations for SSSs	Date: January 23, 2009

A. Introduction

Clearstream Banking AG, Frankfurt and Clearstream Banking S.A., Luxembourg (Clearstream) appreciate the opportunity to comment on the draft recommendations for securities settlement systems (SSSs), which were published for a 3-month consultation along with draft recommendations for central counterparties by the Committee of European Securities Regulators (CESR) and the European System of Central Banks (ESCB) on October 23, 2008. As one of the world's leading suppliers of post-trading services including settlement, safekeeping, and administration of securities, Clearstream welcomes the objective of the recommendations to promote a safe, sound, and efficient European post-trading arrangement. In particular, Clearstream agrees that the recommendations should serve to increase confidence in European Union markets through ensuring application of measures aimed to limit and manage risk.

B. Comments

Clearstream welcomes that the recommendations have been developed based closely on existing recommendations, namely the CPSS-IOSCO Recommendations for Securities Settlement Systems. The CPSS-IOSCO Recommendations have since their publication in 2001 proven a robust and useful tool for national regulators to evaluate the SSSs within their jurisdictions.

Clearstream also recognizes the inter-linkages of the recommendations with other global and European regulatory and policy initiatives in which Clearstream has also been directly involved and from which it is directly affected. Clearstream appreciates the efforts of the ESCB and CESR in ensuring that the recommendations will be consistent with those initiatives to the greatest extent possible, as well as the clarifications offered concerning in what ways the various initiatives differ from the draft recommendations. For Clearstream, for example, there will be overlap to varying degrees with the Capital Requirements Directive, Basel II, ECB User Standards, and multiple other existing laws, regulations, and standards. Furthermore, Clearstream welcomes the clarification provided by the ESCB and CESR that the recommendations would have to be reviewed and possibly revised as a result of future initiatives.

In this regard, Clearstream sees opportunities for and would welcome the streamlining of future assessments and reporting associated with the finalized recommendations with assessments and reporting arising from other current and future initiatives. In particular, Clearstream would like to draw attention to the ongoing work of the European Central Securities Depositories Association in coordinating with the Americas' Central Securities Depositories Association and the Association of Global Custodians in developing a unique Central Securities Depository disclosure framework. To this end, initial discussions with the CPSS Secretariat have already been held. In order to avoid duplicative measures, it will also be important, as suggested in the text of the draft recommendations, that public authorities integrate the recommendations into existing assessment practices.

Furthermore, Clearstream recognizes that although the recommendations do not seek to establish harmonized standards across the European Union given the different national legal

Response to consultation	Page: 3 / 3
CESR / ESCB draft recommendations for SSSs	Date: January 23, 2009

contexts, they importantly assist in the assurance of a minimum degree of risk management and control.

In addition to the above general observations, Clearstream also has specific comments.

Recommendation 5: 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.

Clearstream agrees that in order to preserve its financial integrity, the principal to centralized securities lending arrangements, whether a CSD or another entity, should apply adequate risk management and mitigation measures in line with the requirements set out in Recommendation 9.

Recommendation 19: Risks in cross-system links or interoperable systems
CSDs that establish links to settle cross-system trades should design and operate such links so that they effectively reduce the risks associated with cross-system settlements. They should evaluate and mitigate the potential sources of risks that can arise from the linked CSDs and from the link itself

We share and support the view that exposures arising from the operation of cross-border links between security settlement systems should, in the normal course of business, be collateralised. We nonetheless feel it important to stress that national regulators should be free to permit exposures in exceptional circumstances; for example, during conditions of acute market stress such as those which arose following 9/11 so that the market is not unduly deprived of essential settlement liquidity.

C. Conclusion

Clearstream welcomes the draft recommendations from CESR and the ESCB for securities settlement systems and looks forward to reviewing performance against the recommendations on an ongoing basis and communicating the outcome of findings in regular dialogue with national regulators.

.....

For questions regarding this consultation response, please contact:

Mark Gem, Executive Vice President and Member of Executive Board, Clearstream International

Andreas Wolf, Chief Executive Officer, Clearstream Banking Frankfurt