



FEDERATION
BANCAIRE
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26th July 2013

Response to ECB consultation on the draft regulation on
oversight requirements for Systemically Important
Payment Systems

The French Banking Federation (FBF) is the professional organisation that represents all banks doing business in France. It has 430 member banks of all types (commercial, cooperative or mutual), French and foreign alike.

One of its mission is to promote banking and finance on the French, European and international markets, and to define the positions and proposals of the profession with regard to governments and authorities in the economic and financial field, at the national, European (the FBF has a location in Brussels) and international levels. FBF must also inform member banks of any issue relative to their business.

In addition, the FBF issues professional recommendations and agreements, and shares its experience with members.

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The comments provided below can be published.	

1. PRELIMINARY KEY COMMENTS

The French Banking Federation welcomes the opportunity to respond to the “Consultation on the draft of regulation on oversight requirement for systemically important payment systems”.

As a general remark, FBF would like to underline its agreement on most of the issues developed in this document.

2. A SAME LEGAL PLAYING FIELD

As a global comment, FBF would like to emphasize its position in favour of a strict intra-European same “level playing field” application through the implementation of the SIPS related CPSS-IOSCO principles. In our view, it is of the utmost importance that the new ECB regulation provides for the same rights and the same obligations to all systemically important payment systems, be they run by private operators or by Central Banks, because the existence of competition between the different systems cannot be ignored.

FBF therefore recommends that recital 7 and any further exceptions relative to the exclusion of Eurosystem SIPS be consequently amended.

FBF stresses the necessity to reconsider Eurosystem SIPS exclusion in article 4, since, from its point of view, it is in contradiction with the essence of CPSS IOSCO principle 2 on governance, which considers an operator and oversight functions separation between different organisational units within the Central Bank, with the aim to avoid any potential or perceived conflict of interest.

FBF also regrets that the proposed regulation only applies to SIPS and does not encompass other typologies of payment systems and of payment transactions. We fear that, in the end, the noticeable difference of regulation that will be applied to SIPS will incentive payment actors to migrate their payment volumes towards much less secured channels, such as non-SIPS or bilateral agreements. To this extent, important banking players could be advantaged since they are in a position to benefit much more from systems discrepancies than smaller banks.

Eventually, with the aim to guarantee a same level playing field, it is important that all Central Banks accept to apply in a harmonised way the same supervision rules and the same sanction rules to the systems they are overseeing.

3. FINAL PROVISIONS

As a second comment, FBF also would like to express its concerns about Article 24 “Final provisions” which laid down in this Regulation the delay for SIPS operators and consequently for participants to these SIPS to comply with the requirements.

FBF strongly suggests that the delay before the Regulation enter into force to be thoroughly reassessed and postponed. A mere one year delay to abide by the new Regulation requirements does not seem to be consistent with the period that payment systems and their participants will materially need in order to become fully compliant without taking some serious operational risks.

FBF would like to remind the ECB authorities that European payment systems’ as well as their participants’ resources will be heavily drained between 2014 and 2016 in order to

ensure a smooth SEPA migration for all economic actors as well as to support the necessary preparatory works for June 2015 T2S go-live. An overlap of substantial systems developments in such a short period of time would inevitably entail operational risks for payment systems operators as well as for their participants. Moreover, if not amended, a so short delay left to SIPS operators to comply with the Regulation requirements could lead to an unequal treatment between the new and “already-designated” SIPSs.