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CESR/ESCB Draft Recommendations for Securities Settlement Systems and Draft Recommendations for Central Counterparties

We thank CESR and the ESCB for the possibility to submit our comments on the draft recommendations for securities settlement systems and for Central Counterparties published for consultation in October 2008. We would very much appreciate CESR and the ESCB taking our remarks into account.

We would like to make, above all, some general comments.

In general, the EAPB very much welcomes that CESR/ESCB have, as a result of the continued work in the last months on these recommendations, more clearly identified the addressees and the scope of application of the recommendations.

We appreciate that the original draft standards addressed to the providers of post trading services have been changed to recommendations addressed to public authorities. As a consequence, complicated interpretation issues such as whether the recommendations are legally binding to post trading service providers are avoided.

We in particular welcome the clarification that custodians are not encompassed by the scope of application of the recommendations. The systemic risks involved in the provision of post trading services by CSDs and CCPs can not be compared with risks arising out of services provided by custodians. As CESR/ESCB set out in their draft recommendations, custodians are already subject to specific EU rules, including the Markets in Financial Instruments Directive (MiFID) and the Capital Requirement Directive (CRD).

Although our member institutions, of which some act as custodian banks, are therefore not directly concerned by the present draft recommendations any more, the recommendations

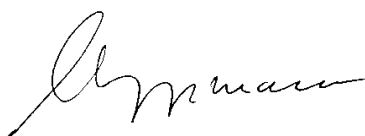
will affect them indirectly through their relationships with CSDs and CCPs. Therefore, we would like to draw your attention to two aspects:

The present draft recommendations once implemented will probably alter market structures. Against this background we do not support Recommendation No. 3 for securities settlement systems (Settlement Cycles and Operating Times, pg. 25–27) recommending a harmonisation of settlement cycles for financial instruments. We approve the general goal of harmonisation of settlement cycles and acknowledge the need for harmonisation on the EU securities market as a whole. However, we take the view that harmonisation on the level of individual securities is not an alternative, not even for a transition period. For OTC transactions markets should be allowed to negotiate freely their settlement cycles.

As to the draft recommendations for central counterparties we would like to draw your attention to the following aspect concerning Recommendation No. 3 (Measurement and Management of credit exposures, pg. 88–89): If a CCP clears multiple trading venues, members who are using the CCP only for one market should not be exposed to losses of trading members of the other venue (e.g. segregated margin calls, default funds).

We would be more than happy to discuss any implications of the above mentioned Recommendations on market structures / market participants with you. Should you have any questions, please do not hesitate to contact us. We are also ready to provide our input on any possible further work undertaken by CESR/ESCB on this issue.

Kind regards,

A handwritten signature in black ink, appearing to read 'Schoppmann', written in a cursive style.

Henning Schoppmann
EAPB

A handwritten signature in black ink, appearing to read 'Hemetsberger', written in a cursive style.

Walburga Hemetsberger
EAPB

The European Association of Public Banks (EAPB) represents the interests of 32 public banks, funding agencies and associations of public banks throughout Europe, which together represent some 100 public financial institutions. The latter have a combined balance sheet total of about EUR 3,500 billion and represent about 190,000 employees, i.e. covering a European market share of approximately 15%.