

CESR  
11-13 av. de Friedland  
75008 Paris  
France

17 April 2009  
NL/NH

**Re: CESR/ESCB Consultation on the draft Recommendations for Central Counterparties & OTC Derivatives**

Dear Sir/Madam,

We are writing to you regarding your consultation paper on draft recommendations for central counterparties and over-the-counter (OTC) derivatives exposures.

While we understand that the intent of these draft recommendations is to prevent systemic risk or contagion in traditional financial markets (i.e. to reduce the impact which over-exposure to credit derivatives has on the wider financial market), we have some concerns over the possible scope of these rules, namely that these rules could inadvertently apply to financial energy OTC markets.

Given that energy companies trading in financial energy markets pose no systemic risk to any part of the financial system, we believe that financial energy OTC derivatives should be excluded from the scope of the above recommendations. This position is based on the fact that energy firms' engagement, including electricity producers and suppliers, in financial energy OTC derivatives markets is based, for the most part, on their need to manage exposure to underlying physical energy spot markets. This need is a direct consequence of the inherent volatility of electricity spot prices due to the non-storability of electricity. As such, trading in financial energy OTC derivatives actually increases stability in the energy market.

We would very much appreciate that our comments are taken into consideration in this process. In case of any queries, please do not hesitate to contact Mr. Niall Lawlor at [nlawlor@eurelectric.org](mailto:nlawlor@eurelectric.org) (00 32 2 5151027).

Yours sincerely,



Bernhard Walter  
Chairman, SG Financial Regulation



Juan Jose Alba Rios  
Chairman, WG Wholesale Markets & Trading

*Cc: Mattias Levin, DG Market, European Commission*