

Via E-Mail (CPSS@bis.org and FMIRecovery@iosco.org)

October 11th 2013

The Committee on Payment and Settlement Systems (CPSS)
Board of the International Organization of Securities Commissions (IOSCO)

RE: CPSS-IOSCO Consultative Document: *Recovery of financial market infrastructures ("FMI")*

Dear Committee Members:

CME Group Inc. ("CME Group"), on behalf of Chicago Mercantile Exchange Inc.'s Clearing Division ("CME Clearing") and CME Clearing Europe Limited ("CME Clearing Europe"), would like to express our appreciation to the Committee Payment and Settlement Systems ("CPSS") and the Board of the International Organization of Securities Commissions ("IOSCO") for the opportunity to comment on its consultative report on Recovery of financial market infrastructures (the "Report") issued in August 2013. CME Group is the parent of five designated contract markets ("DCMs"): CME, the Board of Trade of the City of Chicago, Inc. ("CBOT"), New York Mercantile Exchange, Inc. ("NYMEX"), the Board of Trade of Kansas City Missouri, Inc. ("KCBT") and Commodity Exchange, Inc. ("COMEX"). These DCMs collectively offer the widest range of benchmark products available across all major asset classes, including futures and options based on interest rates, equity indexes, foreign exchange, energy, metals, agricultural commodities, and alternative investment products. CME's clearing house division ("CME Clearing") and CME Clearing Europe together offer clearing and settlement services for exchange-traded futures contracts, SEF traded swaps as well as over-the-counter ("OTC") derivatives transactions. CME is registered with the CFTC as a derivatives clearing organization ("DCO") and is one of the largest central counterparty ("CCP") clearing services in the world. CME Clearing Europe is regulated and supervised by the Bank of England as a recognized clearing house ("RCH") in the United Kingdom and is in the process of becoming reauthorized under the European Market Infrastructure Regulations ("EMIR").

CME Clearing, as part of CME Inc., has been designated a systemically important financial market utility ("SIFMU") by the Financial Stability Oversight Council and is expected to be required to maintain a Resolution and Recovery Plan ("RRP"). The RRP is designed to delineate the tools CME Clearing will use to continue provision of services in the event of extreme circumstances and to provide for orderly wind-down if the FMI cannot remain viable as a going concern. The consultative report distributed by CPSS IOSCO (or, together, "the Committees") describes a number of potential tools FMIs may consider while designing their RRP. CME appreciates the efforts by the Committees to aid in this matter and has only minimal comments based on its interpretation of the report and relevant regulations.

Balance in recovery tools

CME Clearing agrees with the Committees' underlying goal to ensure flexibility between automatic application of recovery tools and an FMI's discretion to determine the best course of action during a market stress event. CME also agrees with the Committee's statement that recovery tools should generally be agreed and established ex-ante. CME's rulebook currently contains many of the tools suggested by the Report. CME Clearing feels it is important to allow reasonable flexibility for risk managers with expertise in the markets affected and involved firms to decide the appropriate actions in order to control the risk and manage the FMI's exposure based on then existing market conditions within the framework of ex-ante rules.

CME Clearing is committed to working with regulators during these circumstances, and is committed to providing the necessary information and updates throughout any market event, particularly a resolution or recovery situation, as it has done throughout all market stress events during its history.

Position-based loss allocation: initial margin haircutting

CME Clearing appreciates the Committees' effort to consider a variety of potential tools for FMIs to utilize in their RRP-based rules. CME's rules currently contain several of these tools and we are contemplating some additional tools described in the Report for its RRP. CME is grateful to CPSS-IOSCO for providing its thoughts in advance of the RRP submission.

CME Clearing, in the interest of its members and the security of its financial safeguards, remains opposed to the haircutting of initial margin ("IM") as a technique to manage losses at the clearinghouse. Initial margin, by definition at CME and other major clearinghouses, is collected to protect against losses caused by the clearing member posting the funds. CME Clearing has designed its rules and financial safeguard structure to protect clearing member's initial margins against losses under any circumstances external to the clearing member. Only in the event of the clearing member's default will their initial margin be used by the clearinghouse to cure losses.

The principle that an entity's initial margin should be protected against the default of other clearing members has long been predominant in the U.S., and was the main premise behind the cleared swap customer protections recently promulgated by the CFTC. These rules, aimed at protecting customers from potential losses caused by the default of other customers, preclude the use of one customer's initial margin to cure losses caused by any situation other than that customer's default (i.e. LSOC). While CME appreciates the intention of initial margin haircutting and supports its ultimate goal to help the FMI realize appropriate loss absorbency under a stressed market, the clearinghouse does not believe that the absorbency achieved will justify the uncertainty caused by exposing clearing members to potential losses in their initial margin.

Clearinghouses are ultimately meant to provide security and stability to the markets they serve and this stability would be jeopardized if clearing members do not feel that the funds on deposit at the clearinghouse, not specifically collected to mutualize default losses, are protected from clearing member default. CME agrees with the point made by CPSS-IOSCO in 3.5.24 of the report, that IM haircutting may disincentivize clearing members from participating at FMIs where their IM is exposed to this risk and CME is opposed to any action that would create such a disincentive.

FMI insurance arrangements

Though CME Clearing understands that insurance arrangements may provide some level of security or financial assistance to an FMI in the event of a clearing member default or other market event, FMI insurance policies would need to be very carefully executed in order to provide assurance that they would be effective at the time they are needed.

The total losses that could potentially push a major FMI to the point of resolution or recovery would be, by most objective measures, catastrophic and would necessitate a sizable insurance policy to cover. Any insurance policy an FMI employs would need to be highly reliable, using insurers with strong claims payment capabilities. Further, the policy would need to be structured and tested with regular fire drills to ensure timeliness of payment, continued coverage and no claw-back provisions. All this is necessary to confirm a high degree of confidence in payment under the extreme conditions that would cause a resolution or recovery scenario.

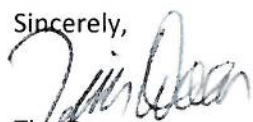
CME Clearing understands the interest in additional waterfall buffers to contain potential losses a clearinghouse may be exposed to under severely stressed markets and the default of clearing member(s). The clearinghouse supports the intention of the Committees to consider various tools to cure FMI losses in a default. In order for insurance to be a reliable, effective tool under these extreme circumstances, the structure and terms of the insurance vehicle, the quality of the insurers, and the commitment of the insurers towards maintaining any insurance coverage over time, all deserve rigorous thought as to design and implementation considerations.

Conclusion

CME reiterates its appreciation for the opportunity to comment on the significant efforts expended by the Committee to strengthen the banking industry and provide transparent means of comparison within the industry to the public.

CME Clearing supports the efforts of the Committees to evaluate the effectiveness of various tools an FMI may utilize in a resolution or recovery scenario and agrees that a variety of methods may be necessary under any given circumstances. CME Clearing further agrees with the Committees that a measure of subjectivity must be available to an FMI's risk management to handle the unique circumstances that would create a resolution or recovery scenario, and the clearinghouse appreciates that the Committees specified this necessity in the report.

CME would like to thank the Committee for the opportunity to provide these comments. We would be happy to further discuss and clarify any of the above issues with the Committee. If you have any comments or questions regarding this submission, please feel free to contact Tim Doar, Managing Director and Chief Risk Officer of CME Clearing at (312) 930-3162 and Tim.Doar@cmegroup.com.

Sincerely,


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