



European Multilateral Clearing Facility N.V.

CPSS secretariat
IOSCO secretariat

Amsterdam, 29 July 2011

Comments EMCF on "Principles for financial market infrastructures – consultative report"

Dear Mrs , Dear Mr. ,

We would like to thank you for the opportunity to give feedback on the proposed new, harmonised CPSS-IOSCO Principles for Financial Market Infrastructures.

We support the detailed comments made in a separate submission prepared by the European Association of Clearing Houses (EACH) on this subject. We have actively participated in this process. In addition we would like to emphasize our points of view relating to the matters covered below.

Credit and liquidity risk (Principles 4 and 7)

EMCF is of the opinion that there should be a level playing field with regard to the requirements for Central Counterparties (CCPs) on credit and liquidity risk. The draft European legislation EMIR imposes for credit risk (in article 40, 2a) on CCPs the requirement to be able to withstand the default of the largest participant or the second and third largest participants combined. For liquidity risk the requirement in EMIR is based on withstanding the default of the two largest participants (article 41a). It would seem consistent to set the requirements in Principle 4 Credit Risk and Principle 7 Liquidity Risk on "cover two".

We have noted with appreciation that the recommendations consider it appropriate that a CCP is placed in a position in which it has access to a commensurate part of the collateral holdings to support central bank credit (3.7.11). We believe this to be important since central bank liquidity is an important precondition for direct access to CSD settlements in most markets.



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Segregation and portability (Principle 14)

EMCF is supportive of the concept but wonders whether this is achievable in practice, especially for the clearing of equities. A derivatives CCP is functionally more comparable to a CSD; segregation and portability appear to be of more relevance for derivatives CCPs for this reason. For cash equities, the CCP has undertakings to deliver and receive instruments against payment, and does not hold the instruments save for long positions resulting from non-settlements. Although such positions can be seen as "earmarked" for delivery to one or more clearing participants of the CCP, these positions are held by the CCP in principal capacity. Furthermore, the positions are often locked in for settlement in the CSD as pending trades, and can in most cases not be withdrawn from the system (unilaterally).

Tiered participation arrangements (Principle 19)

EMCF employs the principal-to-principal model. Under this model EMCF has no legal relationship with the clients of its clearing members. As such it will be difficult, if not impossible for EMCF to enforce any risk mitigating actions which might be required under this principle. The clearing member of the client is responsible for management of the risks that the client poses to the clearing member. EMCF sees no role whatsoever in monitoring the clients of our clients.

Placing this responsibility also with the FMI may also give rise to shared responsibilities. In practice this might lead to confusing situations where the question ownership of responsibility may not always be clear.

On the practical side, EMCF (or any CCP in general) sees in most cases only a small portion of the portfolio of the clients of its clearing members. As such EMCF (or any CCP in general) lacks the ability to monitor and assess concentration risks. Given the (legal) issues surrounding this we suggest to reconsider this Principle.

With kind regards,

Arnoud Siegmann
EMCF