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CPSS-IOSCO

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**Equens reaction on the CPSS-IOSCO consultative report**

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Dear Sirs,

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The CPSS and IOSCO request comments on the proposed principles in the consultative report by 29 July 2011. In response to your request herewith the reaction of Equens SE on the consultative report.

**Level Playing Field**

The core principles should be followed by all FMIs. As the FMIs are under different supervision and oversight frameworks, an equal treatment could be difficult.

What are the measures that relevant authorities will implement to ensure this? Where will these measures be publicly published? From the intermediate consultation discussions during the seminar, the proposal of independent internationale certification, or international certification body, might be relevant.

**Business Continuity Management**

In retail payments systems most systems have one or two settlement cycles a day. This indicates that the urgency of the payments processed in these systems, is of another order than the payments processed in large value systems (e.g. Target 2). Based upon the risks associated with the different kinds of payments (low – high value) different RTOs should apply. The CPSS/IOSCO should publish a list with the RTOs for each system.

**Definitions**

The definition of 'Payment System' in 1.10 needs to be defined more clearly. The scope of the current existing BIS 10 Core Principles is the Clearing and Settlement Process of funds between financial institutions. The term 'Payment System' in 1.10 can be read as *all* systems and processes *before* an actual payment funds transfer is initiated. Examples, but not limited, are card transactions at a shop, issuing mandates by debtors to creditors such that a creditor is able to do a direct debit collection, internal payments within a bank, internal back office processing etc.

If processes belonging to payment schemes are included, which do not deal directly and only with the actual funds transfer, but also with all the information-transfer before funds are transferred, this regulation has a far

broader scope than the above mentioned BIS 10 Core Principles. This is contrary to the statement in the Introduction that this regulation is a combination of the existing regulations for payment and securities transfers. Therefore we strongly recommend / request that the terms used in the industry such as Clearing and settlement mechanism is used in this regulation instead of 'payment system'.

In the definition of "Retail payment system" is mentioned 'large volume': please make transparent "large volume". A large volume in one - small - country could be a low volume in large countries. This is very important to create a level playing field.

Are individual payments systems of commercial banks to be considered a "retail payments system" as well?

How far is cards (unbundled by brand, scheme or processing - EPC) addressed as payment system in the report and will this be under the scope of the core principles (as debit card transactions are mentioned in the report)? Are the card brands under the umbrella of the principles of financial market infrastructures? More specific for principle 8: what is the definition of cards settlement finality, does this include the online authorisation?

#### **Principle 15: General business risk**

To hold sufficient liquid net assets funded by equity capital to cover potential losses associated with its general business risk, so that it can continue providing services as a going concern should be based on the risk profile and the specific market of the FMI. In an open and transparent market as the CSMs SEPA processing market the potential market impact of problems at a CSM will be relatively easy to manage for its participants. Indeed the participants of a SEPA CSM can re-route their payments within a very short time interval (within days) to another CSM. Based upon the risk profile and these market characteristics the right period, and most likely significantly less than six to twelve months, rather days, of assets has to be appointed.

#### **Principle 19: Tiered participation arrangements**

Principle 19 would imply that a CSM has to know all relevant capital positions of all the participants, direct and indirect, of all financial institutions. This would imply for Equens SE, providing reach throughout Europe for SEPA-payments, that it has to know and update on daily basis the capital positions of its (indirect) participants.

Then, this measure would not mitigate any risk for payments transfer. For a CSM providing payment services there is no liquidity or credit risk involved. A payment transfer shall only be cleared and settled if the direct participants of the CSM being the financial institutions have sufficient liquidity at the Central Bank where they have their payments settled. The direct participant i.e. the financial institution is the only party able to manage liquidity and credit risks of its clients i.e. the indirect participants of the CSM.

A general comment regarding Principle 19, irrespective of the type of FMI, is that the approach to mitigate risk in the chain is via a central party instead of via the distributed parties in the chain. The obvious risk here is that if the governance and/or operation of the central party fails in any way, the other organisations in the FMI are not able to mitigate the risk or in any case in effective and efficient manner. In a distributed model the risk and the

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capabilities to mitigate risks are distributed between the parties in the chain. If one party fails it should be easier for the other parties in the chain to take measures than in a central model. This approach is therefore contrary to the principle of efficiency.

With respect to Principle 20 the first two considerations as explained in annex D are the same in effect as Principle 1 and especially consideration 3. If there is any difference, please make this explicit.

**General**

As these new principles demand more investments of the industry, the costs of payments for the end user will increase. This should be taken into account when drafting the end report. What is the mutual path that authorities foresee in the scope of these principles?

Yours sincerely,  
Equens SE

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Enclosure(s)