5 January 2016

Basel Committee on Banking Supervision
Bank for International Settlements
CH-4002 Basel
Switzerland

Dear Sir/Madam,

Consultative Document: Haircut floors for non-centrally cleared securities financing transactions ("Consultative Document')

1 DBS welcomes the opportunity to provide comments on the Consultative Document and support the BCBS' effort in strengthening the oversight and regulation of shadow banking activities. DBS will provide BCBS with our general views on the consultation document.

Scope of application – transaction types

2 We note that the Consultative Document stands at the end of a significant demarche stemming from the FSB's recommendations published in 2011, *Shadow Banking: Strengthening Oversight and Regulation*, in particular to address risks arising from securities lending and repo transactions between the regulated sector and the shadow banking sector.

3 Given the specific scope of the policy concerns involved, we are concerned that this scope should be consistently transposed into the capital adequacy framework. There is a risk in grafting the FSB's regulatory framework for SFT haircuts on the BCBS capital adequacy framework without carefully defining in-scope SFTs (i.e., those related to the shadow banking sector from those that do not would result in an unwarranted extension of scope).

4 On the one hand, the focus of the FSB Workstream on Securities Lending and Repos[1] within the context of the FSB's recommendations on shadow banking, was to assess the financial stability risk and develop policy recommendations, where necessary, to strengthen regulation of securities lending and repos. On the other hand, *International Convergence of Capital Measurement and Capital Standards: A Revised Framework: Comprehensive Version* (June 2006) defines SFTs in footnote 15 as: "Securities Financing Transactions (SFT) are transactions such as repurchase agreements, reverse repurchase agreements, security lending and borrowing, and margin lending transactions, where the value of the transactions depends on the market valuations and the transactions are often subject to margin agreements."

[1] FSB Workstream on Securities Lending and Repos (WS5) was part of the recommendation in the Oct 2011 FSB Policy Document

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5 As they stand, the proposed rules in the Consultative Document would apply to all securities financing transactions without distinction, subject to the stated exclusions. This is problematic. For example, Lombard lending in the context of private banking, falls within the definition of existing SFTs under the capital adequacy framework qua margin lending but would appear to be clearly outside the scope of the FSB's policy considerations.

6 Given that the stated intent of the haircut floors is to create incentives for banks to set higher collateral haircuts, i.e., to change business practices, it is all the more critical to delimit the scope of SFTs subject to the proposed haircut floors. A clear definition will avoid ambiguity and unintended consequences. In particular, margin lending transactions should be excluded from in-scope transactions for the purpose of the haircut floors.

Scope of application – counterparty types

7 We also note that the FSB intended the scope of the haircut floors to be limited to non-banks. We note that in the proposed paragraph 143(i), this has been transposed as "counterparties who are not supervised by a regulator that imposes prudential requirements consistent with international norms". This means that the definition of in-scope transactions does not attempt to narrow the current definition of SFT in the capital adequacy framework (beyond certain exclusions), so much as to define the counterparty types that are relevant.

8 Our view is that the proposed definition of relevant counterparties for in-scope transactions is too broad. It fails to exclude counterparties that are natural persons (or juridical persons that associated with the wealth management of individuals, e.g., relating to trust property and privately-held investment holding companies). It should also exclude entities that do not pose systemic risk. Therefore, we propose that the relevant counterparties for in-scope transactions should be narrowed, particularly since none of the FSB's publications in this area appear to have considered lending to natural persons (or their associated juridical persons) to be within scope.

Interaction with existing capital adequacy framework and disclosure requirements

9 The interaction between the haircut floors and the existing credit risk mitigation framework in *International Convergence of Capital Measurement and Capital Standards: A Revised Framework: Comprehensive Version* (2006) needs to be better considered. Clearly there are transactions today that are considered as secured under paragraph 119 and 120 which would be considered unsecured under the proposed paragraph 143(vii) by failing to meet the haircut floor. Conversely, there are transactions today that are considered as unsecured under paragraphs 119 and 120 (e.g., where the financial collateral is not among the specified eligible financial collateral under paragraph 151), which could, on meeting the haircut floor, be considered as secured under paragraph 143(vii), though without practical significance. This is an unintuitive outcome. In addition, the haircut floors differ substantially from those in paragraph 151.

10 We note the disclosure requirements listed in Appendix 1 of the consultation document. While we support the intention to improve the transparency on a bank's securities lending and repo activity, we would like to propose that in addition to being able to set the frequency of the disclosure, national regulators should also be allowed to determine the applicability of these disclosure requirements based on a consideration of factors such as size of these transactions relative to the size of the bank or the size of the market. This will ensure that the benefit of disclosures can be appropriately balanced against the cost of making them.

Implementation

11 Lastly, we note that no implementation dates has been proposed in the Consultative Document. On the other hand Recommendation 14 of the FSB's 2014 Regulatory Framework for Haircuts on Non-Centrally Cleared Securities Financing Transactions stated implementation by end-2017. We suggest that the BCBS clarify the intended implementation date in order to give banks sufficient time to prepare for reporting and adjust business practices, if needed.

12 We trust that our comments will be useful for the BCBS's further analytical work.

Yours faithfully,

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