



The Secretariat,
European Banking Authority
DP-2012-01@eba.europa.eu

Dear Sir/Madam,

Comments on EBA's discussion paper 'Draft Regulatory Technical Standards on the capital requirements for CCP' , 6 March 2012

CME Group is pleased to offer stakeholder input to assist in the development of the technical standards. CME Clearing Europe (CMECE) will be directly affected by the standards as a central counterparty incorporated in the UK and regulated by the FSA. CME Clearing in the US will be affected insofar as the technical standards have a bearing on the assessment of the equivalence of third country CCPs. CME Group will be affected as the owner of the two clearing houses.

CME is aware that EBA is carrying out its duties and has no direct control over the timetable it is obliged to follow. We nonetheless feel that it is unusual to say the least that the consultative process on technical standards should have begun when the final text of EMIR, which has a bearing on those standards, is not yet available. That situation underlines our concerns that the delays in agreeing EMIR have unreasonably squeezed the time available for proper development of technical standards and consultation on those standards. That need not be such a concern if the intention was to adopt the final CPSS-IOSCO principles at EU level. But the intention is clearly to define standards which are more detailed than the CPSS-IOSCO principles. That more ambitious goal makes the consultative process more critical, not least so that respondents can provide the EBA with the information on costs and benefits necessary for it to meet its obligations to provide a proper cost-benefit assessment (CBA).

In this regard, we believe it is particularly pertinent to note that the provision of input to the CBA and indeed to the reasonableness of EBA's perhaps unsurprising advocacy of the use of current banking requirements is rather easier for the *minority* of European clearing houses that have direct experience of those banking requirements. The majority without that first-hand familiarity have a greater task to fit alongside commenting on the wide-ranging ESMA consultation.

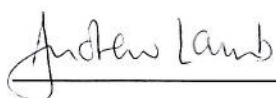
We would not dispute that clearing houses *do* need to identify and manage what the discussion paper refers to as "operational risk and for credit, counterparty and market risks stemming from 'non-clearing activities'". (And we particularly appreciate the very correct use of inverted commas around non-clearing activities, because those activities are undertaken as an integral part of the business of a central counterparty rather than being un-related activities undertaken on an optional basis). But we are not convinced that either the basic indicator or standardised approach of the CRD would be appropriate for central counterparty clearing houses in determining how much capital they should maintain to cover those risks. A *form of* advanced measurement approach (AMA), taking CCP particularities into account, seems most appropriate to us.

We are aware that a fully-fledged AMA approach requires considerable work on data, internal and external, and clearly CMECE as a new clearing house does not have a significant set of its own internal


data that could be used. But the point we would make in relation to the need for a *form of* advanced measurement in the case of clearing houses relates to the actual track record of clearing houses with longer histories than CMECE, both in Europe and we can say from direct experience in the US also, in managing their operational and other risks without recourse to their capital base. Their observed operational risk in relation to compensation claims, for example, is not to be compared with that of CDSs. The track record in relation to the legal risk component of operational risk is also, to our knowledge, an impressive one. Nor have their credit losses in relation to client failure (clearing members in the case of CCPs) of course been in any way comparable to that of banks.

At this very early stage in the consultative process, we are not able to advance more detailed comments on how a suitable form of advanced measurement approach might be developed. But having signalled our reservations concerning the unadjusted application of a bank-style approach, we will continue to consider the subject and look forward to sharing our further views with the EBA at a later stage.

Yours faithfully,



Andrew Lamb
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CME Clearing Europe



Kim Taylor
President
CME Clearing