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Comments on the ESCB/CESR Standards for Securities Clearing and Settlement systems in the EU

General

DnB NOR welcomes the work done by the joint ESCB/CESR group in order to achieve harmonized rules across Europe in the Securities Clearing and Settlement area. Risk reduction through common regulation is a crucial element to succeed in the creation of a well functioning European Securities market.

A few comments are still to be made on the proposed standards, even though we are prepared to adopt the majority of the standards in its current wording.

We would first of all address the **risks of an uneven playing field throughout Europe** following interpretations and decisions made at national level. National regulators may at a local level define a bank to be a systemically important custodian while at EU level, the bank may be of minor importance.

The **risk of double regulation** is also of major concern, if the Standards are applied to banks in the same way as infrastructure entities like CSD's and ICSD's. Thus there might be good reasons for drawing a clear line between custodians (banks) and infrastructures.

Managing risk is a profession mainly set out by banks. It is with deep concern we notice that the standards recommend that **CSD's are also allowed to manage risks**. The nature of a CSD as part of the infrastructure and preferably not for profit is crucial to every market. CSD's do not have the capital nor the liquidity to support credit activity. We assume that if such an entity is allowed to provide credit to its participants, it would create a greater degree of risk than if such credit was provided by a commercial bank.

The role of **principal in Securities Lending transactions should not be performed by CSD's**. Lending activities normally distinguish between the purpose of fails coverage and supporting a short selling strategy. The need for fails coverage arises from the settlement process in a CSD and the most effective solution is to generate a loan from a pool that can be accessed by the CSD. This does not necessarily lead to the CSD taking the role of a principal in the transaction and thus assuming risk. If the CSD is allowed to engage in loans for short selling, it would certainly put the CSD in a position more advantageous than other lenders due to their knowledge of holdings of specific securities.