

22nd September 2008

FBF's response to the CESR's call for evidence on a formal request for technical advice on identification of regulatory arrangements for post-trading infrastructures and to advise on possible solutions in terms of bridging any potential differences in these arrangements

1. The French Banking Federation (FBF) is the professional body representing over 500 commercial, cooperative and mutual banks operating in France. It includes both French and foreign-based organizations.

As universal banks, the FBF members are highly interested in the CESRs call for evidence on a formal request for technical advice on identification of regulatory arrangements for post-trading infrastructures and to advise on possible solutions in terms of bridging any potential differences in these arrangements.

2. FBF appreciates the fact that the CESR is working on the matter above mentioned but FBF wishes to highlight the fact that while we always welcome being consulted on proposed financial regulation, we are surprised by the short schedule of this call for evidence. Therefore, FBF insists on the necessity for the CESR to keep the dialogue open with all the actors from the Industry that are involved in the matter, even after CESR conclusions are made public.

3. FBF believes that key differences in the regulatory or supervisory arrangements of infrastructures are one element that prevents an efficient implementation of the Code of conduct links. These differences can most likely be bridged :

- on the short term, through the application of existing tools and techniques;

- on the longer term, through proposals for structural developments (i.e.: through harmonisation at EU level of infrastructures regulation and whether to implement a new regime or any other solution).

4. FBF did not take part, due to the short timeframe, on the general mapping exercise. FBF, however, calls for a procedural mechanism to address the deficiencies in order to bridge the differences between regulatory regimes of link-requesting and link-receiving infrastructure providers.

5. FBF notices that, while differences in regulation and supervision are highlighted in the call of evidence as a major issue regarding access and interoperability, technical differences that could be progressively bridged are not mentioned. In addition, resolving regulatory and supervision differences do not guarantee an effective implementation of links as the UK example demonstrates (X clear can still not clear LSE trades although no regulatory impediment exists).

6. Central Counterparties' key function is to protect the market from counterparty risks. FBF's members are users of all CCPs in Europe including the most recent ones (EMCF and EuroCCP) and the level of protection that each CCP is providing to its members and to the market as a whole is significantly different. This is due to differences of risk profile and risk management Policy that CCPs are implementing. In some case, regulations have allowed flexibility while in other cases, regulations were more stringent. As a consequence, FBF supports the principle that competition between CCPs should not be done by lessening the level of protection offered to the users. FBF opposes spreading risk across the markets and hence any potential increased systemic risk. That is the reason why the harmonisation of the level of protection offered by CCPs should be a priority.

7. Any solution privileged to bridge the differences should not be at the expenses on safety and soundness of the users operations. Users input and their actual demand (based on a business case) should determine the prioritisation levels and the actions needed for inter CCPs interoperability. Costs and procedures involved by interoperability mechanisms should respond effectively to the request of the users of the CCPs.

8. FBF considers that banking license status brings very efficient merits as it ensures strict risk management environment. Although CCPs do not offer the full range of banking services, their key function is to manage counterparty risk which is one of the key banking risk. FBF would also like to highlight the fact that it is not clear whether a CCP with a banking status would be allowed to clear a market where a CCP is under a special purpose regime.

9. Users look forward to working with CESR and the wider community in the public and private sector to be a part of the solution to this important issue. The next concrete step towards making progress would be for CESR to disclose its mapping exercise. FBF therefore look forward to having the opportunity to analyse and comment the outcome of CESR as soon as it is made public.