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Dear Mr Kazarian & Mr Moeliker,

Comments on Consultative Report – Standards for Securities Clearing and Settlement Systems in the European Union

EACH is pleased to offer general comments on the approach and process proposed in the *Consultative Report*, to make a very few specific points, and to inform CESR and the ESCB of its complementary work.

To begin with our future work, we are pleased to see that our Risk Management Standards¹ are referred to in the *Consultative Report*, and can note that we have started work both on a complementary set of standards covering central counterparty activities in general, and on a paper defining central counterparty functions in the wider context of clearing and settlement. Our hope is to have finished that work by early next year and trust that it will be useful both to the CPSS-IOSCO group, which we note is the international vanguard of further consideration of central counterparties, and to CESR-ESCB.

In relation to the general approach proposed in the *Consultative Report*, we see it as a welcome effort to introduce mutual recognition on the basis of : the formulation of CESR-ESCB Standards; 'national' evaluation of whether those Standards are met; and a 'supra-national' evaluation exercise to reinforce mutual confidence. We believe that such an approach *should* work for central counterparty arrangements because the core policies and practices of central counterparty clearing houses in Europe, and the regulatory standards that have largely been 'retro-fitted' around those policies and practices, are very similar.

With that said, we note that the CESR-ESCB 'model' needs to be filled in and completed - for example, the evaluation methodology and the proposed peer group evaluation - and that the

¹ The latest version of our Standards was published in November 2001 (although April 2001 is cited in the *Consultative Report*) and the later version is attached to this letter.

crucial factor is whether national regulators and central banks are prepared to adopt a 'non-national' mind-set.

In respect of the specific standards applicable to central counterparties, we find the cost-benefit reference, and its expansion, symptomatic of what may be a problem of 'over-ambition'. The reference is in its own right unobjectionable – we recognise its CPSS-IOSCO origins. But it can be criticised on two grounds : first, it refers to a process that always occurs, and which surely belongs to the market-place(s) in question ; second, it adds further to the breadth of the standards and the related 'guidance' contained in the explanatory memorandum sections. That breadth contains the full range of governance, prudential-capital, legal risk, investor protection-segregation and 'market efficiency' topics, and the cost-benefit inference in effect covers 'should there be a central counterparty in the first place ?'. It seems to us that if the Standards are in fact intended as the basis of mutual recognition they could and should be more focused on the core prudential-capital and risk related issues. That would imply that there should be a narrowing of focus in the next stage of the work.

We have made the point in other submissions to EU institutions that the introduction of central counterparty arrangements may be seen as an alternative to the further shortening of settlement cycles. In that context, we would question the explanatory text linked to standard 3 on the settlement cycle insofar as it states that "... the shortening of the settlement cycle is also a goal".

We look forward to involvement in the further work on central counterparty standards, beginning with the meeting at the ECB on 7 November.

Daniel Gisler
Chairman

Attachment : EACH Standards, November 2001