

## **Comments from Santander Central Hispano (SCH) about the consultative report on Standards for de Securities Clearing and Settlement Systems in the EU, by CESR-ESCB.**

As a Custodian Bank, the most controversial and unacceptable issue of the report is the creation of the new concept of “Systematically Important Systems” (SIS), especially its use in the standard number nine. It remains to be defined how these systems would be measured, but the idea that the concept of “SIS” encloses in the same way institutions as different as Custodian Banks, Central Securities Depositories (CSDs) and International Central Securities Depositories (ICSDs) is clearly refutable.

It is not appropriate to handle banks under the same criteria and regulations as those that have been applied to ICSD or CSDs. Forcing Custodians Banks to collateralise is a new imposition that until now was being applied to ICSDs. Also, credit risk in Custodians Banks is already covered in Basel Capital Accords. For Custodians Banks collateralisation would imply a heavy financial burden. Custodian banks that could be under the category of “SIS” are financial entities that are already seriously supervised by Central Banks, and by Securities Regulators with regard to securities in their own markets. Therefore additional regulation should be avoided. Present regulation is already stringent enough.

In contrast to ICSDs, custodians banks that could obtain the qualification of “SIS” are entities that:

1. do not constitute a monopoly or a duopoly in contrast to CSDs and ICSDs. Investors have the possibility to choose a custodian according to their own evaluation.
2. have the appropriate financial strength to assure the settlement volumes that they are currently supporting and, as banks, are entities professionally dedicated to risk operations.

If the “SIS” concept was accepted, and some global custodians were submitted to the standard number nine, a commercial conflict could arise. There could be some entities that would like to be officially classified as “SIS” due to status and ranking reasons and some others would try to be just on the limit to avoid the collateralisation proposed.

ICSDs have been traditionally obliged to collateralise operations because they are Central Depositories for certain bonds, and from the functional approach as global custodians occurs the same, because they do not have the capacity to evaluate credit risk and they have a modest amount of capital in relation to the important business volume they are managing.

As a conclusion, most standards proposed in the consultative research, and especially the number nine, should not apply to Custodians but to those clearing and settlement infrastructures.