

For the attention of Elias Kazarian and Wim Moeliker

The SEB Group is a North European financial banking group that is focused on large companies, institutions and private individuals.

- SEB has 672 branch offices around Sweden, Germany and the Baltic States.
- The Group has more than 4 million customers, of whom 1.3 million are e-banking customers.
- The SEB Group is represented in some 20 countries

SEB is a prime supplier of Custody&Clearing Services in Sweden, Norway, Finland, Denmark, Lithuania, Latvia and Estonia in addition to performing Custody and Clearing Services in Luxembourg and Germany.

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Introduction

SEB recognise and welcome the objectives set by the joint ECB/CESR group to reduce risks and increase harmonisation in the area of clearing and settlement in the European Union. Further, we support the Lamfalussy process and appreciate the concrete progress made by ECB/CESR in relation to the revised draft Standards. However, we feel though that some implications will to our opinion not benefit the European markets. SEB's concerns with relation to the process SEB would like to express its concerns with relation to the process on ESCB/CESR Standards on Clearing and Settlement. SEB has been active in previous Consultation processes and its responses to the Draft Standards are posted at the WEB-site of CESR.

Clearing and settlement is of significant importance to the overall functionality of securities markets, the processes are complex from a multitude of angles and the issuance of the final standards will be very important for the re-shaping of a whole industry. The draft standards attracted an almost unified disagreement from the banking community in extending the standards to endorse also banks. The polarisation of the opinions in the responses was obvious, dividing the post-trade community in two, banks, trade associations, broker dealers and investors on one side and regulators, central banks and infrastructure providers on the other. The common denominator is that all involved stakeholders want the introduction of a clear framework for post-trade Europe and a revised document and guidelines for a new consultation period has been awaited since the autumn of 2003.

We have received the revised document on May 06, 2004, among with a confirmation that a public hearing is planned for the 25th of May. Furthermore, we understand that the joint working group is meeting the day after the hearing in order to prepare a revised document for the governing bodies of CESR and ESCB. It is our understanding that the final Standards are planned to be set already in the course of June, 2004.

Our previous experiences of working with CESR have been very positive and we have applauded the transparency and openness of participating in the processes. Such transparency contributes to well founded and high quality end results. We are therefore surprised that the schedule is set in a way that forces us to make the following comments, very much in line with comments already posted by industry associations like the FBE, AGC and LIBA:

* Sufficient time must be allowed to analyse the revised document and a second round of Consultation must be planned: The joint working group has worked with the revision of the Draft Standards since October, 2003. During that time, many changes have been made to wording as well as content of the

document. Substantial problems were identified and highlighted in the last hearing round. In order for stakeholders to be able to evaluate changes, give intelligent and productive input to the working groups proposal for changes in a public hearing and contribute with detailed feedback in front of implementation decision, the currently allowed 13 days leadtime is simply not acceptable.

* The standards will be binding by all practical means as we predict national regulators to endorse them: We interpret CESR/ESCB to look upon the Standards as level 3 legislation and although we have not had sufficient time to finalise the opinion on this, we do not think that CESR/ESCB has the mandate to propose binding Standards as level 1 and 2 legislation do not exist. This will be addressed in the forthcoming framework directive by the European Commission and until then, CESR/ESCB's proposal should stay as recommendations.

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SEB's Comments to the Standards

We applaud the fact that CESR/ESCB has revised a number of the Standards based on the unified comments from a whole industry following the first consultation. Our preliminary findings evidence that we are now prepared to endorse the following Standards: 2, 3, 4, 12, 13, 14, 15, 16 while Standard 1 and possibly 18 can be endorsed as soon as the relation between the forthcoming Framework Directive and the Standards is clarified and the role of the local regulators set.

A number of remaining Standards can be subject to compromise solutions as long as some basic facts are addressed and corrected:

* Inconsistency between the Standards and other Banking Regulation:

A) CESR/ESCB advocates use of Central Bank Money but does not make it mandatory. In addition to blur the risk picture, this view is not consistent with what is said in Target II specifications.

B) There are a number of inconsistencies between the definitions and glossary terms in a comparison between the Standards and the EU Commissions Communication on Clearing and settlement. In a round table discussion in Brussels earlier this week, representatives of the Commission recognised that the definitions will be Key to Success for the future Europe going forward. CESR/ESCB definitions need to be brought in line with the definitions and terminology used by the Commission.

C) Systemically important banks are still in the scope. This surprises us tremendously. The feedback from a totally unified banking, investor and broker dealer community in the first consultation was to leave banks out of scope. The reasons for that was explained with firmness and clarity. No clear background and rationale to the inclusion was given upon introduction to the scope or in the public hearing in 2003. Neither has there been a clear definition published as to what such systemically important banks really are. This judgement is up to the discretion of the national regulator (!). This makes it very difficult for us to assess whether, or how, we are included in the scope, what is required of us in order to stay out of scope etc. It is also quite obvious that such local judgement will produce different results across Europe and as one of the main drivers was to foster an integrated European regulatory framework, it seems counterproductive to have a definite driver for fragmentation as one of the bearing pillars. Far reaching anti-competitive effects will be the result once a local regulator deems one local

bank to be systemically important and a (smaller) competitor in the same local market not to be.

D) CESR/ESCB has not taken the criticism on permitting CSD's to engage in Securities Lending activities into account in this revision. It is our opinion that CSD's shall be allowed to take part in such activity to correct settlement failures but allowing CSD's to act as principal seems to be a very daring proposal from the point of view that CSD's will have a full overview of the complete market situation. Such a situation is unthinkable the way the highly competitive securities lending market is organised today and the proposal is definitely not fostering a level playfield.

E) CSD's will, according to the wording, be allowed to take on credit and liquidity risks although most local European CSD's as of now can be defined as risk free. This is crossing a line in the risk perspective as these institutions are of utmost importance not only to the intermediaries operating the CSD systems but to the general public as a whole. These institutions are normally fairly thinly capitalised and until a thorough risk assessment on European level has been conducted, we are very negative to such an extension of risk.

F) We feel that the current status of the Standards will impose further constraints on banks in terms of risk assessment, capital requirements and measures to deal with dual regulations. The possibilities of a different treatment and thereby competitive issues emanating between European banks and US competitors have not yet been assessed but it is highly likely that such elements are there.

In order to address the concerns and to come to a resolution acceptable to all parties affected by the introduction of the Standards, it is very important that a true second consultation period is introduced and that such a consultation period preferably is set at a date sufficiently after the publication of the outlining of the framework directive. As a minimum requirement, the Consultation period should at least be aligned with the initial parts of the Commissions work so that it ends earliest after the publication of the comprehensive document that the Commission will publish based on the results of the consultation on the Communication.

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