

To: European Central Bank
Secretariat Division
Kaiserstrasse 29
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Frankfurt am Main

Object: Response to the ESCB/CESR Consultation Paper “Draft Recommendations for CCPs 1-2, 4-8, 14 and 15 revised for CCPs Clearing OTC Derivatives”.

Dear Sirs,

We are pleased to have the opportunity to provide our feedback on the Consultation paper on the Draft Recommendations for Central Counterparties as amended for OTC derivatives.

Capco, through its exposure to both the market infrastructure providers and banking/brokerage community is very much supportive towards the initiative but sees some potentially undesirable consequences to the draft as it currently stands.

This specifically relates to

- i) The legal framework that should support the introduction of a CCP for OTC derivatives as well as
- ii) The Risk Management standards
- iii) Eligibility of credit derivatives for CCP processing.

More specifically,

In reference to Recommendation 1, section C point 11.

We are entirely in agreement that the introduction of additional legal complexity by CCPs operating under multiple legal frameworks should be avoided. Our suggestion would be to set the standard by establishing which legal system all prospective participants should be adhering to.

Existing preferences at both the CCPs and potential users of the service for governing legal frameworks could lead to the introduction of an incoherent and/or fragmented offering of central counterparties. This could end up favoring specific incumbents which could be seen as conflicting with the notion of a level competitive playing field for market infrastructure providers.

In reference to Recommendations 4 to 8 in general

On the specific terrain of risk management we believe the recommendations are by nature necessarily generic at the current stage but due to this reason those do not commit to specific solutions but rather indicate which “would” or “should” be the steps to follow. It is felt that the recommendations should possibly be made more explicit.

Also in terms of risk mitigation measures, in respect of the eligibility of credit derivatives for CCP processing, Capco recommends, for prudential reasons, to proceed gradually and at least in an initial phase, to limit CCP eligible transactions to index based transactions and standardized single name transactions to ensure an orderly and controlled transition.

In reference to Recommendation 5, section C point 3 and following.

Even where margin levels are set comparatively low in the overall system of the CCP, stress testing specifies that the CCP should test to withstand a default under extreme market conditions that reflect at least the greatest

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historical volatility for the markets covered. This would mean that if margining were to be low, the default fund would have to be bigger to cover the same scenarios (all other things equal). We are not convinced the CCP should pursue commercial strategies through its margining policy.

In reference to Recommendation 8, section C point 3 and following.

Capco welcomes the orientation of some CCPs that have addressed regulatory concerns for minimizing operational risk associated to transaction handling by developing real time feeds allowing efficient communication with the market community.

This initiative,

- i) On one hand contributes at addressing some specific weaknesses of the OTC environment by increasing transparency of processing and minimizing the risk associated to communication errors and consequences associated with delays;
- ii) On the other hand contributes at narrowing the gap between methodologies used in the environment of listed and OTC derivatives, demonstrating the existence of room for progressive standardization of processes while guaranteeing investor's performance.

In conclusion, the Consultation Paper remains necessarily generic but possibly does not sufficiently recognize the different nature of the OTC derivatives business model compared to the Stock Exchange environment. We recommend overcoming this weakness in the next version of the Recommendations.

We hope the ESCB/CESR will find Capco contribution to the review of the Recommendations valuable for the purpose of assessing an operational framework for the operating of a CCP for OTC derivatives and remain at the full disposal for any further information sharing it might require.

Sincerely yours,

Capco Benelux Capital Markets

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