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Subject Consultation on Variation of the Financial Stability Standard for Central Counterparties: Oversight of Overseas Facilities

European Multilateral  
Clearing Facility N.V.

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Dear Sirs,

European Central Market Infrastructure is currently undertaking fundamental reform. The catalyst for much of this change has been the liberalisation of markets following the implementation of the Market in Financial Instruments Directive. The European Multilateral Clearing Facility N.V. (EMCF) has a role to play in the current reforms as a new Central CounterParty clearinghouse (CCP) providing services to new price discovery platforms such as BATS Europe, Chi-X Europe and NASDAQ OMX Europe.

In the Netherlands, EMCF is supervised on a voluntary basis by De Nederlandsche Bank ("DNB") and the Autoriteit Financiële Markten ("AFM"). In the absence of a direct legal regulatory framework regarding CCPs in the Netherlands, an agreement has been signed by and between EMCF, AFM and DNB which places EMCF under the voluntary supervision of the Dutch regulators (the "Private Law Agreement").

Until the implementation of the relevant provisions of the Act on Financial Supervision in the Netherlands, the Private Law Agreement provides AFM and DNB sufficient comfort to adequately fulfil their responsibilities as conduct of business and prudential regulators. Under the terms of the Private Law Agreement, EMCF has agreed to fully observe and comply with the CPSS/IOSCO Recommendations for Central Counterparties prepared by the Task Force on Securities Settlement Systems (jointly established by the Committee on Payment and Settlement Systems (CPSS) of the central banks of the Group of Ten countries and the technical Committee of the International Organisation of Securities Commissions) (the "IOSCO Recommendations") and the AFM and DNB have agreed to supervise and oversee the conduct of EMCF's business to ensure that it at all times observes and complies with the IOSCO Recommendations during the term of the agreement.

In March 2007, EMCF commenced the provision of CCP services in Dutch and German securities. In December 2007, EMCF became a member of the European Association of

Clearing Houses. Today, EMCF provides CCP services to 3 liquidity platforms operating across 12 markets in Europe with further investigations underway for 3 other markets. One of these platforms, Chi-X Europe, is currently the fourth largest exchange by turnover in Europe.

General Approach to regulation of overseas facilities.

In establishing this pan-European footprint EMCF has fostered and developed relationships with all the National Regulators and National Central Banks (NCBs). Mutual recognition between regulators and NCBs has been critical in unlocking the capital flows of Europe. Such co-operation is entirely consistent with the current co-operation between the Australian Securities and Investments Commission and the US Securities and Exchanges Commission. EMCF, already assessed against the CPSS/IOSCO recommendations for CCPs would suggest these standards are becoming the international de-facto benchmark. EMCF has applied for Recognised Overseas Clearing House status in the UK through the Financial Services Authority. Rather than provide duplicate information, information sharing agreements have been put in place. Mapping of respective requirements allows information to be shared whilst also allowing more direct reporting to accommodate specific domestic market practices or concerns. This approach by the RBA is welcomed.

Proposed wording of the Standard.

The proposed wording of the Standard is agreed.

Form of Annual Statement of Compliance.

Assessment of an overseas clearing house, against such standards as the CPSS/IOSCO recommendations, can be performed by either the national regulator or NCB. (see note 1). EMCF supports the full findings of the appropriate authority being shared with the RBA under a suitable Memorandum of Understanding. Those elements that are made public should also respect the public findings that have been disclosed in the home jurisdiction. Allowance, as is proposed under the revised guidance for additional information, should be flexible enough to respect transparency on any domestic market practice that may warrant further disclosure over and above the home state requirements. Such further disclosure would be identified under the mapping of the home jurisdiction requirements to the RBA standards.

Proposed wording of Guidance.

The proposed wording of the guidance is agreed.

The nature of the proposed information sharing with the RBA and home jurisdiction.

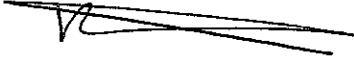
The proposed scope of information sharing is agreed.

# EMCF

EMCF thanks the RBA for its foresight in looking at the implications for the Australian capital markets in the context of the global market infrastructure reforms that are taking place. Certainly greater efficiency and competition in post trade services leads to a more effective capital market, yielding benefits to all Australians and market users alike.

We hope you find these remarks helpful.

Best regards,



Jan Booij  
Managing Director



Erik Westerling  
Sales & Relationship Manager

(Note 1: DNB assesses CCPs in the Netherlands:

[http://www.dnb.nl/dnb/home/file/ar07\\_tcm47-176707.pdf](http://www.dnb.nl/dnb/home/file/ar07_tcm47-176707.pdf) whilst in the UK assessment against the same standards is undertaken by the FSA  
<http://www.fsa.gov.uk/pubs/other/lhclearnet.pdf> )

CC:

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