European Banking Federation

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Launched in 1960, the European Banking Federation is the voice of the European banking sector from the European Union and European Free Trade Association countries. The EBF represents the interests of some 4,500 banks, large and small, wholesale and retail, local and cross-border financial institutions. Together, these banks account for over 80% of the total assets and deposits and some 80% of all bank loans in the EU alone.

EBF'S RESPONSE TO COMMISSION'S CONSULTATION ON A POSSIBLE RECOVERY AND RESOLUTION FRAMEWORK FOR FINANCIAL INSTITUTIONS OTHER THAN BANKS

Key Points

- **Although banks do not regard themselves to be the primary addressees of the consultation, they have a vital interest in safe and sound financial market infrastructures (FMIs) as they are participants, users and customers of FMIs.**
- **The EBF is therefore of the strong opinion that specific measures should be defined for the recovery and resolution of FMIs as they are central to the financial system and often non substitutable given their unique role. These measures should primarily aim to ensure the continuity of the essential services provided by FMIs in case of default or "likely to default" situation.**
- **The EBF believes that any recovery and resolution framework should be adapted to the specific characteristics of each type of FMI. In this respect, and depending on the final rules under the CSD Regulation, the recovery and resolution framework for CSDs should be different from the recovery and resolution framework for CCPs, given the substantial differences between these two types of institutions, notably in terms of risk profile. These frameworks should definitely differ from the one which is applied to banking institutions.**
- **With EMIR coming into force, the EBF calls on the European Commission to focus its work on the establishment of a recovery and resolution framework for CCPs first.**
- **As regards the management of a default situation, the EBF recommends a clear distinction between the different phases (ordinary procedures or normal operations in difficult situation, recovery, and resolution). Such a distinction is of the utmost importance in order to avoid any uncertainty over who has the full responsibility.**

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- **Before any recovery and resolution framework is implemented, the rules and regulations for establishing FMIs as well as the rules ensuring the protection of participants assets, portability of assets, and segregation need to be established. The EBF thus invites the co-legislators to swiftly adopt the proposal for a CSD Regulation and calls on the European Commission to adopt a proposal on the so-called Securities Law Legislation.**

- **The EBF urges the European Commission to consider the outcome of the CPSS-IOSCO consultative report on recovery and resolution of FMIs, to which the Federation responded, in order to ensure international consistency.**

- **Finally, the EBF points out that many of the solution models scrutinised in the consultation document are still being discussed thoroughly by the industry. The implications and consequences of all these models have not yet been fully investigated and, thus, a very careful approach should be adopted. The Federation stands ready to contribute to further discussions on this complex matter.**

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Related document: http://ec.europa.eu/internal_market/consultations/2012/nonbanks_en.htm

EBF Approach & Interest

The European Banking Federation (EBF) welcomes the opportunity to comment on a possible recovery and resolution framework for financial institutions other than banks.

The EBF has focused its attention on section 3 of the consultation which addresses financial market infrastructures (FMIs) and specifically covers CCPs and CSDs.

Although banks do not regard themselves to be the primary addressees of the consultation, the EBF would like to make some general comments on key aspects of the consultation paper and provide answers to specific questions from the perspective of banks in their capacity as participants, users and customers of FMIs.

The EBF also refers to the response of the TARGET Working Group (TWG) for more detailed comments concerning section 5.1 and answer to Q5.1 of the consultation which relates specifically to payment systems and payment institutions.

General comments on Section 3 of the consultation

The EBF believes that the different stakeholders active in the financial markets need own, tailor-made frameworks, i.e. we do not deem it appropriate to cover in the same legislative proposal FMIs, insurance and reinsurance firms, payment systems and other non-bank financial institutions as is the case in the consultation paper.

As regards FMIs in particular, the EBF fully supports the initiative of defining specific measures for their recovery and resolution as they are central to the financial system and often non substitutable given their unique role. Various regulations in most parts of the world, and in Europe in particular, are reinforcing the role and use of infrastructures in financial markets as a mean to reduce systemic risk globally. It is hence essential that these infrastructures are adequately regulated to limit their likelihood of default but also that recovery and resolution regimes are properly defined to ensure the continuity of their key services in case of default or "likely to default" situation.

The decision to strenghten the role of FMIs has also led to a situation where for instance CCPs are actually gathering most of the risks in the financial market. This in turn increases the effects of a default. As the source for these risks derives from regulation, the EBF considers that sufficient, concrete measures need to be taken also by the regulators and central banks in a possible default situation. These measures need to be adjusted to the systemic importance of the FMI and its services. Nevertheless, this does not diminish the responsibility of owners in case of a default.

As regards the management of a default situation, the EBF and its Members insist on the necessity to establish a clear distinction between the different phases, i.e. ordinary procedures, recovery, and resolution. Such a distinction is of the utmost importance in order to avoid any uncertainty over who has the full responsibility. A framework for recovery and resolution should mainly aim to ensure the continuity of the essential services provided by FMIs. The Federation also believes that the users should be involved in the definition and implementation of such a framework.

The Federation stresses that any framework regarding the recovery and resolution of FMIs should consider the provisions in existing legislations (EMIR for instance) and in future legislations (CSD Regulation, close-out netting, etc.) and should ensure that there is no conflict or inconsistencies with these provisions.

The EBF also strongly questions the possibility to cover CCPs and CSDs under the same umbrella, given that they have different structures in respect of services, business models, assumed credit risks, participants, users, customers, ownership, jurisdictions and links to other FMIs, financial markets as well as market participants. The Federation therefore believes that different characteristics should call for different approaches, treatments and also possibly different results, which could be reflected in separate legislations, at a minimum different frameworks and different recovery and resolution plans. However, with EMIR coming into force, the EBF calls on the European Commission to focus its work on the establishment of a recovery and resolution framework for CCPs first.

In many parts of the consultation, the fact that FMIs are linked to one another via corporate structures, ownerships, etc. is mentioned. Such interconnectedness should not be broken with forcing to separate currently existing structures (as implied in some of the recent reports in the banking side as well) but instead, EU legislation, regardless of its target, should foster any arrangements leading to increased competition and thus balancing the market. A true single market needs to be created and is best to ensure limited risks and portability in case of a default.

In addition, the EBF is of the opinion that before any recovery and resolution framework can be implemented, the rules and regulations for establishing FMIs as well as rules ensuring the protection of participants' assets, portability of assets, and segregation need to be established. Thus, the EBF invites the co-legislators to swiftly adopt the proposal for a CSD Regulation, and calls on the European Commission to adopt a proposal on the so-called Securities Law Legislation.

Finally, the EBF urges the European Commission to take into account the outcome of the CPSS-IOSCO consultative report on recovery and resolution of financial market infrastructures, to which the EBF responded (click here for the EBF response), in order to ensure international consistency.

Last but not least, the EBF would like to point out to the fact that many of the solution models scrutinised in the consultation document (but also other options which have not been addressed in the consultation) are being discussed thoroughly by the industry. The implications and consequences of all these models have not yet been fully investigated and, thus, a very careful approach should be adopted. The EBF would, therefore, welcome and call for a deeper examination and discussion of all those options in order to avoid outcomes which are not desired and may be irreversible. In this respect, it is of the utmost importance that experts from all the parties concerned (FMIs, users, clearing and non-clearing members, authorities, insolvency practitioners and administrators, lawyers, etc.) are involved in this discussion, to which the EBF stands ready to contribute.

Answers to specific questions

FINANCIAL MARKET INFRASTRUCTURES: CENTRAL COUNTERPARTIES AND CENTRAL SECURITIES DEPOSITORIES

Introduction – How can the failure of financial market infrastructures threaten financial stability?

Possible recovery and resolution tools

General

1. *Do you think that a framework of measures and powers for authorities to resolve CCPs and CSDs is needed at EU level or do you consider that ordinary insolvency law is sufficient?*

Given the important role of CCPs and CSDs in the stability of financial markets, the EBF is of the opinion that ordinary insolvency law is not sufficient and that a framework of measures and powers for authorities to resolve these market infrastructures should be developed. Ordinary insolvency law would, in most Member States, require terminating the contracts and therefore also the services which banks, in their capacity as users of FMIs, deem critical. There is a need for recovery and resolution planning for FMIs as the post-crisis financial system requires a greater degree of infrastructure resilience, as well as credible resolution regimes for these institutions.

The EBF therefore supports a recovery and resolution framework at EU level, which would facilitate the establishment of a harmonised and coherent regime, especially for entities which operate cross border. In a cross border situation, it must indeed be clear where the responsibility lies and who takes the final decision. In this respect, the Federation stresses the importance of coordination and sharing of information between national regulatory authorities and drawing a clear line between the many different rules under the respective national insolvency laws and the resolution framework.

2. *In your view, which scenarios/events might lead to the need to resolve respectively a CCP and a CSD? Which types of scenarios CCPs/CSDs and authorities need to be prepared for which may imply the need for recovery actions if not yet resolution?*

As a general matter, the EBF believes that a public interest condition, which would require a test of systemic importance, could be a trigger for recovery and resolution actions. However, such trigger should be as predictable as possible, seeking clarity for investors.

The EBF agrees on a public-interest test for the exercise of stabilisation powers to prevent cessation of critical clearing services. However, there is a need for transparency and clarity about what could be these stabilisation powers and in what circumstances they would be applied.

Indeed, CCPs have their own procedures to deal with the default of a clearing member that should be sufficient in most circumstances. The *normal operation* of a CCP's procedures for dealing with a default from a participant should be distinguished from the *recovery* process that might need to be triggered when such procedures do not work as anticipated, because of the failure of multiple participants for instance, or other extraordinary circumstances. Where the default procedures work as they are supposed to, the FMI is in a *normal operating mode* and, while supervisors certainly need to be made aware of developments in such situations, this should not be understood as triggering recovery or even resolution actions (see also our response to Q11).

In this respect, the EBF believes that FMIs should have explicit *ex ante* rules for allocating operating/financial losses, as well as tailored contingency plans. It is important that the potential intervention of authorities does not override the process and application of financial resources as provided by the FMI's rules.

Specific indicators regarding operational risks assumed by CSDs should also be developed.

3. *Do you think that existing rules which may impact CCPs/CSDs resolution (such as provisions on collateral or settlement finality) should be amended to facilitate the implementation of a resolution regime for CCPs/CSDs?*

The EBF believes that the Settlement Finality Directive should not be amended in connection with the proposed framework. These rules serve the purpose of clarity regarding legal position and point of time of effectiveness also for third parties. This is the reason why these rules deal with the insolvency of the participants and not with the insolvency of the "platform" which would be an issue of the respective national insolvency law and could result in a breakdown of the "platform" and of its services. As a resolution under the new framework would not lead to an insolvency of the entity operating the "platform", European banks would welcome the continuity of those existing rules. This would also ensure legal certainty and clarity.

As regards the Financial Collateral Directive, some clarification would however be helpful in connection with the proposed framework.

4. *Do you consider that a common resolution framework applicable to CCPs and CSDs is desirable or do you favour specific regimes by type of FMIs?*

CCPs and CSDs do not have the same characteristics. They are different in terms of services offered, risks taken, participants' base, business models, governance and ownership structures. It is therefore essential that specific regimes be developed for each type of FMIs. These regimes shall definitely differ from the one which is applied to banking institutions.

5. *Do you consider that it should only apply to those FMIs which attain specific thresholds in terms of size, level of interconnectedness and/or degree of substitutability, or to those FMIs that incur particular risks, such as credit and liquidity risks, or that it should apply to all? If the former, what are suitable thresholds in one or more of these respects beyond which FMIs are relevant from a resolution point of view? What would be an appropriate treatment of CSDs that do not incur credit and liquidity risks and those that incur such risks?*

By construction, all FMIs are systemically important, but their impact on the financial system varies depending on different factors such as the size, the interconnectivity, the type of assets concerned, etc. Therefore, in principle, resolution regimes should apply to all FMIs and should not be subject to the crossing of size thresholds. European banks are of the opinion that CSDs shall not incur credit and liquidity risks. The only risk they face should be operational risk. Therefore, and depending on the final rules under the CSD Regulation, the recovery and resolution regime for CSDs should differ from the recovery and resolution regime for CCPs.

6. *Regarding FMIs (some CSDs and some CCPs) that are also credit institutions, is the proposed bank recovery and resolution framework sufficient or should something in addition be considered? If so, what should the FMI-specific framework add to the bank recovery and resolution framework? How do you see the interaction between the resolution regime for banks and a specific regime for CCPs/CSDs?*

The EBF believes that there is a risk in looking at the recovery and resolution of FMIs through the prism of the bank resolution regime only. As mentioned above (see Q4), a specific (and not additional) recovery and resolution framework should apply to FMIs. Such framework should be adapted to the specific characteristics of each type of FMI. Only in respect of the potential banking services could the bank recovery and resolution framework apply alternatively (i.e. if the FMI-specific framework does not provide for solutions).

Objectives

7. *Do you agree that the general objective for the resolution of CCPs/CSDs should be continuity of critical services?*

In principle, the EBF agrees. However, we disagree that the continuity of services of a CCP shall be ensured under all circumstances as part of an orderly CCP resolution regime. Decisions regarding the recapitalisation of a CCP after the successful conclusion of a resolution event should be left to the private stakeholders who have an interest in the CCP's continuation.

As regards CSDs, the definition of critical services may differ between markets. Whilst integrity of the issue, safekeeping of securities on CSD accounts and settlement of securities transactions in the CSD system are obviously critical services, other services like those related to issuance of new or additional securities and other types of corporate actions may also be critical in a financial crisis where issuers may need to raise capital quickly.

However, there might be situations where interested stakeholders are themselves in default or do not have the capability to recapitalise while the functioning of the FMI is crucial to a country. In such cases, it could be argued that recapitalisation is mandatory and that the national central bank may need to step in. It must however be clear, in any case, that all other services of the FMI which are not considered critical can be separated and terminated in an orderly liquidation process.

8. *Do you agree with the above objectives for the resolution of CCPs/CSDs?*

Yes, although we do not consider that this list of objectives is exhaustive.

9. *Which ones are, according to you, the ones that should be prioritized?*

As already stated in our answer to Q7, the first priority shall be to ensure the continuity of the essential services provided by the FMI with as little disruption as possible, in order to keep the market functioning, by ensuring that, where needed, the technical engine/platform continues to work even under stress conditions.

European banks also attach a particular importance to the need to provide legal certainty and predictability about the triggering of resolution and to develop coordination mechanisms among different jurisdictions and authorities. In this respect, the EBF understands that legal certainty should also be provided by the future Securities Law Legislation.

10. *What other objectives are important for CCP/CSD resolution?*

The EBF sees the following objectives as being important:

- The legal certainty and predictability of the consequences of the tools which are used;
- The consideration of the causes for losses which are allocated (in respect of user and owner-structure);
- The consideration of the interests of the affected parties;
- The question of substitutability (data portability, etc.), given the current monopolistic situation on many core services provided and performed by FMIs;
- The functioning of the markets in general.

Recovery and Resolution plans

11. *What should be the respective roles of FMIs and authorities in the development and execution of recovery plans and resolution plans? Should resolution authorities have the power to request changes in the operation of FMIs in order to ensure resolvability?*

The EBF and its Members insist on the necessity to clearly distinguish between the different phases leading to the resolution of the FMI in a default situation. Such a distinction is of the utmost importance in order to avoid any uncertainty over who has the full responsibility.

In a first phase, the FMI would take special measures to address the potential default of its participants or its own default. These special measures are covered by European Regulations like EMIR in the case of CCPs and foresee that CCPs maintain initial and variation margins, a default fund, additional collateral for interoperable CCP, etc. This is part of the ordinary business and should be considered as the **normal operation** of a CCP in difficult situation.

A recovery and resolution framework should only come into force when the ordinary planned emergency procedures of the FMI are not sufficient anymore to address a potential default of the FMI and an extraordinary support is necessary to ensure the continuity of the key services of the defaulting FMI. The second phase is therefore the **recovery** phase. The development and execution of recovery plans should be left to the responsibility of the FMI, though subject to monitoring and supervision by the relevant competent authority. As already mentioned, recovery measures should clearly aim at pursuing the operations of the FMI. The FMI should involve its users when developing a recovery plan.

Resolution is the situation where an FMI defaults and the restructuring of the FMI by the resolution authorities is introduced in order to ensure the continuity of its essential functions, preserve financial stability and restore the viability of all or part of the infrastructure, or its orderly liquidation is the final step. The implementation of resolution plans should be executed by the relevant competent authorities who should take responsibility over the FMI. The FMI should assist the competent authority when the latter is developing a resolution plan. The relevant authority should, to the possible extent, seek the view of the users of the concerned FMI.

Based on the clear distinction between the different phases, the EBF would suggest defining the point of resolution intervention as the point at which (a) the FMI's recovery plans have failed, or have not otherwise been implemented in a timely manner; or (b) the relevant authority determines that recovery plans will not work, nor further remedial action is feasible and the FMI needs to be placed into resolution immediately. According to this scenario, the EBF believes that during the implementation of a resolution plan, authorities should have the power to request changes (with no retrospective effect however) in the operation of the FMI in order to ensure resolvability.

It could also be envisaged that authorities, acting according to the proportionality principle, have the power to request changes during the recovery phase already, especially if the management of an FMI does not act or acts insufficiently according to the recovery plan it has put in place. This may be subject to thresholds, milestones, urgency situations, etc.

12. To what extent do you think that CCPs/CSDs in cooperation with their users would be able to define efficient recovery and resolution plans on the basis of amendments to their contractual laws?

The EBF is of the opinion that the cooperation between CCPs/CSDs and their users is of the utmost importance. Being the parties who are affected immediately, the users of an FMI have a vital interest in effective and well functioning recovery and resolution planning.

In order to achieve acceptance of amendments to their contractual laws, the tools and actions to be taken in case of recovery or resolution should be discussed in depth and agreed upon with the users. Any provision which deals with the possible replenishment, haircutting, waiving of claims or bail-in needs to be transparent, clearly formulated and predictable. Any liability or obligation to make payments must be limited. All amendments of this kind require the individual express consent of the respective user.

Resolution triggers

13. *Should resolution be triggered when an FMI has reached a point of distress such that there are no realistic prospects of recovery over an appropriate timeframe, when all other intervention measures have been exhausted, and when winding up the institution under normal insolvency proceedings would risk causing financial instability?*

In principle, the EBF believes that a clearly defined trigger is to be welcomed (please see also our answer to Q2).

14. *Should these conditions be refined for FMIs? For example, what would be suitable indicators that could be used for triggering resolution of different FMIs? How would these differ between FMIs?*

The EBF believes that this question deserves further discussion and analysis. In the ongoing discussion at the level of the EBF, one member has for instance mentioned that one indicator could be that an FMI could not, or reasonably believes it would not, be able to fulfill its payment obligations, and further do not have the collateral to do so.

15. *Should there be a framework for authorities to intervene before an FMI meets the conditions for resolution when they could for example amend contractual arrangements and impose additional steps, for example require unactivated parts of recovery plans or contractual loss sharing arrangements to be put into action?*

The EBF is of the opinion that it should be possible, under certain conditions, for the authorities to intervene before the conditions are met, for instance if the management of an FMI is clearly failing its responsibilities with regard to recovery plans. An FMI could also be requested to notify its recovery plan to the authorities in all the markets the FMI provides services. On the contrary, a change in the contractual relationships should not be considered by the competent authority. In all cases, there is a need for clarity and transparency regarding resolution regime and more details about the criteria/circumstances which would justify an intervention by the authorities. A legal basis for any concrete action is also necessary.

Resolution powers

16. *Should resolution authorities of FMIs have the above powers? Should they have further powers to successfully carry out resolution in relation to FMIs? Which ones?*

As a general matter, the EBF agrees that resolution authorities of FMIs should have these powers. European banks would like to highlight that any transfer of FMI should be done under circumstances in which participants' rights and obligations, and the legal status of transactions or information held within the FMI, are not altered. The EBF believes that this requires effective rules on the certainty of securities holdings under the Securities Law Legislation.

17. Should they be further adapted or specified to the needs of FMI resolution?

Yes, the EBF believes that these resolution powers should be adapted to the specific needs of each type of FMI. Resolution powers should be adapted according to services offered, risks taken (in particular if there is credit risk) and to the systemic degree of the FMI considered. For example, an FMI whose biggest risk relates to operational issues should be treated differently than an FMI which could fail because of financial problems.

18. Do you consider that temporary stay on the exercise of early termination rights could be a relevant tool for FMIs? Under what conditions? How should it apply between interoperated FMIs? How should it be articulated with similar powers to impose temporary stays in the bank resolution framework?

The EBF has strong doubts as regards the option of a temporary stay. On the one hand, a stay may be a mean to stabilise or to support a smooth transfer of services and transactions into another entity. On the other hand, it is crucial to find the right point in time to put a stay into effect and make sure that no bypassing occurs at the same time. Otherwise, this may lead to the massive exercise of early termination rights that would exacerbate a crisis.

In any case, the EBF believes that the following guidelines should apply:

- Application within clear and narrow confines;
- Timely limitation (e.g. max. 48 hours), clear provisions regarding beginning and end;
- Adequate safeguards;
- Revitalisation of termination rights after suspension of stay.

19. Do you consider that moratorium on payments could be a relevant tool for all FMIs or only some of them? If so, under what conditions?

In principle, moratorium on payments should not be used for the critical operations of the FMI. In all cases, the EBF believes that the analysis should be done on a case-by-case basis.

Resolution tools

20. Which reorganisation tools could be appropriate for resolving different types and CSDs and CCPs? What would be their advantages and disadvantages?

The EBF agrees that the transfer of all or part of operations to a healthy market player could be an effective resolution tool. However, it is correct to mention that operational constraints such as system incompatibility may be an obstacle to accomplish such transfer, even if a substitute provider is available. In addition, such a transfer may require a long time as the receiving FMI would most likely ensure that it does not default itself due to the transfer.

The establishment of a bridge institution could also be useful for failed FMIs. In case there is a necessity of continuity of critical services because of the systemic importance of the FMI, the Federation believes that the resolution authorities should take all the necessary measures to preserve financial stability, whatever the impact on the FMI in terms of corporate structure, governance and ownership is.

Equally, the EBF is of the opinion that the termination of services, disposal of assets and closure of business units which are not considered to be critical, must be possible.

21. *Which loss allocation and recapitalisation tools could be appropriate for resolving different types of CSDs and CCPs? Would this vary according to different types of possible failures (e.g. those caused by defaulting members, or those caused by operational risks)? What would be their advantages and disadvantages?*

The issue of loss allocation is a highly controversial one which deserves further discussion as its implications have not yet been fully assessed by the Members of the EBF. As a general remark however, the EBF is of the opinion that there is a need to differentiate losses related to the normal development of the business model and operations of the FMI, and losses coming from financial or operational issues (or fraud, fines, etc.). In the latter case, Members of the EBF believe that the losses should be first assumed by the shareholders or creditors of the FMI.

In addition, European banks also see the need that any liabilities and payment obligations must be limited. Finally, the Federation is of the opinion that the risk exposure management, including waterfall management in the case of CCPs, should be left intact in order not to jeopardise the whole system.

22. *What other tools would be effective in a CCP/CSD resolution?*

No comment.

23. *Can resolution tools based on contractual arrangements be effective and compatible with existing national insolvency laws?*

Resolution tools based on contractual arrangements should look to be effective and compatible with existing national insolvency laws. However, in the opinion of the EBF, this should not be a mandatory condition as these resolution tools are also implemented because of the insufficiency of certain insolvency laws when dealing with systemically important FMIs. As mentioned in our response to Q1, a harmonisation is therefore very welcome.

Group resolution

24. Do you consider that a resolution regime for FMIs should be applicable to the whole group the FMI is a part of? What specific tools or powers for the resolution authorities should be designed?

Here again, this question deserves further question and analysis. In principle, the EBF does not consider that a resolution regime for FMIs should be applicable to the whole group the FMI is a part of, in order not to disrupt healthy parts of the group and the market. A case-by-case approach may however be needed. A crucial point is that the risk that stems from the FMI could be segregated so that the group will not be affected as a whole.

FMIs that combine different services are more complex to resolve and could therefore require additional safeguards to allow resolution by activity and not necessarily for the entire legal entity.

In addition, if the default of the CCP is due to an insufficient waterfall procedure, the loss sharing arrangement should only apply to participants in the relevant activities and not necessarily to all members of the CCP.

Cross border resolution

25. In your view, what are the key elements and main challenges to take into account for the smooth resolution of an FMI operating cross-border? What aspects and effects of any divergent insolvency and resolution laws applicable to FMIs and their members are relevant here? Are particular measures needed in the case of interoperable CCPs or CSDs?

The interaction between any divergent insolvency and resolution laws applicable to FMIs and their members should be as clear as possible. There should be a harmonisation of provisions and a smooth coordination between authorities, as well as a supervised management, if not a quick discontinuity, of interoperability to mitigate contagion.

26. Do you agree that, within the EU, resolution colleges should be involved in resolution issues of cross border FMIs?

Yes.

27. How should the decision-making process be organized to make sure that swift decisions can be taken? Alternatively, do you think that responsibility for resolving FMIs should be centralised at EU-level?

The EBF relies here on the responsibility of authorities. The resolution of a specific FMI should be at least discussed, if not centralised, at EU-level.

28. Do you agree that a recognition regime should be defined to enable mutual enforceability of resolution measures?

Yes. The EBF agrees that there is a need for coordination between regulators on this subject because of the international (i.e. cross-border) activity of many FMIs. A harmonised and coherent regime for cross-border entities should be established in order to avoid any inconsistency between local and European legislations.

29. Do you agree that bilateral cooperation agreements should be signed with third countries?

Yes.

Safeguards

30. Do you agree that the resolution of FMIs should observe the hierarchy of claims in insolvency to the extent possible and respect the principle that creditors should not be worse off than in insolvency?

Yes.

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