

15 July 09

The European Association of Central Counterparty Clearing Houses

Comments

Communication from the Commission “European financial supervision” May 2009

The European Association of Central Counterparty Clearing Houses (EACH) welcomes the opportunity to provide comments on the May 2009 European Commission Communication “European financial supervision.”

EACH is aligned with the background of the consultation to ensure the stability, safety, and efficiency of financial markets. To this end, we agree with the Communication that the experience of the recent financial crisis has highlighted that improvements can be made in the structure of micro- and macro-prudential supervision in Europe.

In the context of the recent financial crisis, market infrastructures have proven their important stabilizing function in the economy. Central counterparty clearinghouses (CCPs) continued to provide essential risk management capabilities eliminating counterparty risks for contractual partners in executed trades—a strength demonstrated by CCPs’ successful handling of the near-collapse of Bear Stearns and the default of Lehman Brothers and the Icelandic banks.

It is important to ensure that any future revised supervisory framework that may apply will continue to allow CCPs to be able to continue to develop new and innovative solutions to reduce risks and costs for customers. The structure of the future supervisory framework for the European Union needs on one hand to consider a level playing field for regulated entities operating within Europe, while on the other ensuring their global competitiveness.

While recognizing the need for quick adoption of intended changes, we want to point out that national legislative processes and possible complex technical implementation could lead to a longer time for implementation than appears to be envisaged. As described in Section 4.2 paragraph (6) which discusses the collection of micro-prudential information under the ESFS, regular reporting to supervisors could be impacted under the new supervisory structure. It would be important to ensure that entities that would be expected to deliver new data or reports have sufficient time to prepare to do so.

Regarding the authorisation and supervision of certain entities with pan-European reach it would be important to learn what form such new supervision would take. Arguably more and more CCPs are acting in a cross-border capacity and are already subject to supervision by a number of supervisors acting collectively, where some streamlining may be welcome, and in principle should be extended to non-EU jurisdictions. For the CCPs operating in Europe to benefit from a level playing field, it is indeed welcome to further harmonise the supervision of CCPs. We do not take a stand on whether supervision of CCPs should be entirely placed on EU level, but we do encourage closer cooperation among supervisors in order to tackle cross-border issues in an efficient way. This would support a level playing field as well as ensure better supervisory efficiency and also give supervisors a better view of the systemic roles of CCPs from a macro perspective.

We hope that you have found these comments useful and remain at your disposal for further discussion.

About EACH:

The European Association of Central Counterparty Clearing Houses (EACH), formed in 1991, aims at ensuring that the discussion on clearing and settlement in Europe and globally, are fully informed by the expertise and opinions of those responsible for providing central counterparty clearing services. Members of EACH nominate senior executives specialising in clearing and risk management from European CCPs to share knowledge about developments in central counterparty clearing in Europe.

Published by

European Association of Central
Counterparty Clearing Houses (EACH)

<http://www.eachorg.eu/each/>

July 2009

Reproduction – in total or in part –
only with the written permission of
the publisher

Contact

Chairman of EACH

Rory Cunningham

E-mail

Rory.Cunningham@lchclearnet.com

or

EACH Secretary

Marcus Zickwolff

E-mail

Marcus.Zickwolff@eurexchange.com