

KAS BANK

To the chairmen Mr. Jean Michel Godeffroy and Mr Eddy Wijmeersch and the members of the Working group 'Standards for Securities Clearing and Settlement Systems in the European Union'.

You welcome comments and/or views regarding your consultative report 'Standards for Securities Clearing and Settlement Systems in the European Union', July 2003.

I appreciate your approach, your dedication to this topic and your proposal to set standards for clearing and settlement systems in Europe.

Please read my remarks and observations as an attempt to make a contribution (in line with your intention) to the formulation of standards which cover generally accepted principles and which are applicable in a practical sense.

My remarks focus on an unambiguous definition of the different functions in the sector of industry securities, the fundamental significance of the distinction between the infrastructural elements of settlements and custody and the commercial elements and where and how these elements are organised, the leading interest of the investor as the cornerstone in our considerations, the distinction between banking and interprofessional facility functions and the reach of risk management as well as supervision in this respect. Test the standards on clearing and settlement for both on-exchange and off-exchange transactions.

My remarks/observations are as follows:

- the co-mingling of a CSD and I-CSD under the definition of a CSD would not be wise;
- define the functions clearing and settlement < restrict clearing to the preparation of instructions for settlement; 'state-of-the-art' clearing covers a guarantee function (a bank function) which is built up by an admitted group of clearing members.
What are the professional demands for a clearing member: a bank licence and professional custody business.
One of the responsibilities of clearing organisations is to realise a final, irrevocable, riskless settlement at the settlement/custody infrastructure between the clearing members;
- define the infrastructural component of settlement and custody provided by the CSD and the central bank;
- define the reach of commercial settlement and custody; recommend that the entrusted securities by investors to the custodian are taken in custody by a segregated entity from the banks' other operations which underscores the role of the custodian as facilitator between the investor and the CSD;
- restrict the level of risk in a CSD to zero or minimum level realised by non-acceptance of other functions than the pure CSD-function (of course, the CSD needs professional management, organisation and economic basis);
- the commercial functions provided in competition are in terms of risk management under control of the supervisor, central bank

(compare the Basel I/II rules) and in terms of integrity under control of the securities regulators. I would recommend: apply these standing organisations in this context;

- different additional services are organised under the commercial functions based on a contract between the custodian and the investor. Among these services securities lending, a product that has been developed and offered in a full open market solution and developed market practice;
- access refers to the facility functions; the access conditions guarantee a level playing field for the commercial providers;
- systemic risk: the central banks have a responsibility in monitoring/overseeing the securities settlement systems to prevent systemic risk, which responsibility is in line with the responsibility for payment systems.

In conclusion:

In my opinion, standard 1 is more effective and productive provided that the standard refers to the legal framework for ownership and the transfer of ownership at the level of the pure CSD sec (infrastructure). The link to the CCP refers to the communication of instructions at the level of CSD/central bank initiated by the clearing house. The effective transfer of ownership is a legal issue, regards the admitted institutes/the clearing members (for the clearing house) which are commercial organisations.

Standard 4 is solely a recommendation, not a standard.

Standard 5 refers to securities lending. A standard as such is not necessary. It concerns a commercial product which in terms of risk and collateralisation is under control of central bank rules and regulations.

Standard 6 underscores my plea for a pure zero risk or minimum operational risk basis for a CSD.

Standard 14 refers to a level playing field, implying that standard 14 is applicable to infrastructural settlement and custody organisations. The commercial relationship of a bank (custodian) - client should not be described in terms of access.

I thank you for your attention to my comments/remarks.

I have enclosed a document: KAS BANK's research paper regarding clearing and settlement which I hope will be of interest to you.

Once again I would like to thank you for the consultation you opened on your report.

Kind regards,

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KAS BANK