

**MEMO# 30157**

August 22, 2016

# International Regulators Consult on Clearinghouse Recovery and Resolution Planning

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TO: DERIVATIVES MARKETS ADVISORY COMMITTEE No. 43-16  
ICI GLOBAL TRADING & MARKETS COMMITTEE No. 37-16  
INTERNATIONAL COMMITTEE No. 41-16  
SECURITIES OPERATIONS ADVISORY COMMITTEE RE: INTERNATIONAL REGULATORS  
CONSULT ON CLEARINGHOUSE RECOVERY AND RESOLUTION PLANNING

The Basel Committee on Banking Supervision (“BCBS”), the Committee on Payments and Market Infrastructures (“CPMI”), the Financial Stability Board (“FSB”), and the International Organization of Securities Commissions (“IOSCO”) previously agreed to coordinate their international policy work to enhance the resiliency and recovery and resolution planning of central counterparties (“CCPs”). As part of that coordination, CPMI/IOSCO published a report on the assessment of a number of CCPs’ progress toward implementing the international framework for the resiliency and recovery of CCPs. [\[1\]](#) CPMI/IOSCO and the FSB also issued consultations providing further guidance on recovery and resolution planning, respectively. [\[2\]](#)

Comments are due on the Discussion Note by October 17 and on the Consultation Report by October 18. Based on the consultations, the FSB expects to publish its proposal for more specific guidance on CCP resolution in early 2017 with final guidance to be issued by the G20 Summit in July 2017, and the CPMI/IOSCO will issue a final report on more granular guidance for CCP resilience and recovery in the first quarter of 2017.

ICI expects to comment on the Discussion Note, focusing on the use of initial margin haircutting for recovery of CCPs. If members have concerns about the Discussion Note and/or Consultation Report, please contact Jennifer Choi at [jennifer.choi@ici.org](mailto:jennifer.choi@ici.org) or George Gilbert at [george.gilbert@ici.org](mailto:george.gilbert@ici.org) no later than Friday, September 9.

## FSB Discussion Note on Resolution

The Discussion Note seeks comments on the core aspects of the design of effective resolution strategies. The Discussion Note covers 11 different topic areas, which include: (1) objectives of CCP resolution; (2) resolution strategies; (3) timing of entry into resolution; (4)

adequacy of financial resources in resolution; (5) tools to return to a matched book; (6) allocation of losses in resolution; (7) non-default losses; (8) application of the “no creditor worse off” safeguard; (9) equity exchange in resolution; (10) cross-border cooperation; and (11) cross-border effectiveness of resolution actions. The FSB poses 24 specific questions for comment on these topics.

Three areas that may be of particular interest to regulated funds are the timing of entry into resolution, the tools to return a CCP to a matched book, and the allocation of losses in resolution. For the timing of entry into resolution, the Discussion Note considers whether authorities should determine a presumptive point in time for assessing the conditions for entry into resolution and whether the presumptive point should be disclosed in advance to the CCP and its participants. Disclosure of any presumptive timing of entry could help to provide more certainty in uncertain circumstances. On the topic of the tools to return a CCP to a matched book, the Discussion Note raises the possibility that a CCP could utilize a full or partial tear-up of contracts to achieve this objective. With respect to the allocation of losses in resolution, the FSB requests comment on whether initial margin haircutting should be considered as a tool in resolution.

## **CPMI and IOSCO Consultation Report**

The Consultation Paper seeks comment on guidance for use by CCPs on certain aspects of the international standards for risk management for financial market infrastructures, including CCPs, which was published by CPMI and IOSCO in 2012. [3] The Consultation Report also provides additional guidance to facilitate a CCP’s development of its recovery plan building upon prior work of CPMI and IOSCO. [4]

The Consultation Report provides further guidance on five key aspects of a CCP’s financial risk management framework: (1) governance; (2) stress testing for credit and liquidity exposures; (3) coverage of financial resources (i.e., sufficient liquidity resources for credit and liquidity risks); (4) effective margin system; and (5) CCP’s contribution of its financial resources to losses. The guidance is intended to provide further clarity and granularity in these key areas and to highlight areas in which CCPs need to further develop their recovery plans. According to CPMI and IOSCO, the guidance is not intended to create additional standards for CCPs beyond those that have already been set out in the international framework.

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### **endnotes**

[1] See CPMI and IOSCO, Implementation monitoring of PFMI – Level 3 assessment – Report on the financial risk management and recovery practices of 10 derivatives CCPs, August 2016, available at <http://www.bis.org/cpmi/publ/d148.htm>.

[2] See FSB, Essential Aspects of CCP Resolution Planning, Discussion Note, August 16, 2016, available at <http://www.fsb.org/wp-content/uploads/Essential-Aspects-of-CCP-Resolution-Planning.pdf>

("Discussion Note"); CPMI and IOSCO, Resilience and recovery of central counterparties (CCPs): Further guidance on the PFMI, consultative report, August 2016, available at <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD539.pdf> ("Consultation Report").

[3] See CPMI and IOSCO, Principles for financial market infrastructures, April 2012, available at <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD377-PFMI.pdf> (international framework for the resiliency and recovery of CCPs).

[4] See CPMI and IOSCO, Recovery of financial market infrastructures, October 2014, available at <http://www.bis.org/cpmi/publ/d121.pdf>.

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