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LES PROFESSIONNELS DE LA BOURSE ET DE LA FINANCE

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FSB Consultation on Regulatory framework for haircuts on non-centrally cleared securities financing transactions

Introductory remarks

1. We wish to highlight the importance of this FSB's consultation. Indeed, as of today, supervisory authorities have focused on regulated banking actors when acting with non-banking entities. Yet, it is acknowledged that the transfer of some activities in the scope of such non-banking entities may entail the risk for the latter to become systemic actors.

2. We also wish to stress our satisfaction to answer this FSB's consultation, for two main reasons:

   (a) the willingness to avoid any shift of liquidity to the shadow banking system, and

   (b) the willingness to ensure an actual level playing field between banking actors and non-banking actors.

   Both issues are linked (a) to the policy recommendations developed by the FSB to strengthen oversight and regulation of shadow banking sector[1] and (b) to the purpose of the FSB's work to "*ensure that shadow banking is subject to appropriate oversight and regulation to address bank-like risks to financial stability emerging outside the regular banking system*"[2].

General and preliminary remarks

1. As a preliminary remark, we would like to stress that we support the "prudential" approach proposed by the FSB in the context of the implementation of numerical haircut floors. Unlike the "market-based" approach, this prudential approach is flexible: banks and broker-dealers are allowed to trade under the floors when needed, being then penalised by a higher capital charge attached to the transaction. This capital charge creates strong economic incentives for banks and broker-dealers to raise the haircut level while still allowing for flexibility which preserves market liquidity.

   The prudential approach would also place a greater reliance on the capacity of the banks to assess the creditworthiness of their counterparties.

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[1] Please see the FSB's report published on August 29, 2013, which had already included consultative proposals on a regulatory framework for haircuts on certain non-centrally cleared securities financing transactions.

[2] See « background » of the FSB's present consultation.

2. We would like to highlight that the securities financing transaction markets in the European Union and in the US operating differently; even a common regulation may have different effects in these two markets. The FSB project of regulation opens the door to different implementation approaches. Therefore there is a need for international coordination so that jurisdictions move in the same time in the same way in order to prevent regulatory arbitrage.

General answers to the FSB's consultation

Please note that we decided not to answer to any questions separately but to provide the FSB with our general views on the issues raised by the consultation.

1. We strongly support the extension of the framework of numerical haircut floors to non-centrally cleared securities financing transactions in which financing against collateral other than government securities is provided between entities other than banks and broker-dealers ("banks").

   We agree with the FSB assessment that, for the time being, the volume of non-bank-to-non-bank transactions is small enough so as not to represent a material threat. Nevertheless, expanding the framework is necessary to avoid an otherwise inevitable shift of liquidity from transactions involving prudentially regulated entities to transactions involving only unregulated ones. Such a shift would have a detrimental effect on the whole market encouraging the shadow banking development and leaving a high number of transactions not covered by appropriate rules and regulations.

   Furthermore, from a competitive viewpoint, the extension proposed by the FSB would maintain a level-playing field between banks on the one hand and non-banks lenders on the other, which would otherwise unduly benefit from their status.

   Therefore, we are of the opinion that the extension of the numerical haircut floors framework should happen according to the same timeline than the one to be put in place for transactions involving banks.

2. For regulated entities, such as banks and broker-dealers which are subject to capital and liquidity requirements, we believe that the prudential approach is the best for the reasons expressed above. This approach appears however not applicable to most entities of the shadow banking sector given the lack of the current prudential rules to apply to them. We encourage the FSB to propose a regulatory approach allowing to effectively applying to these non-banks entities the framework of numerical haircut floors.