

Amundi's answer to FSB's discussion paper on Financial resources to support CCP resolution and the treatment of CCP equity in resolution

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Amundi is Europe's largest asset manager by assets under management and ranks in the top 10 globally. It manages more than 1.470 trillion euros of assets across six main investment hubs. Amundi offers its clients in Europe, Asia-Pacific, the Middle East and the Americas a wealth of market expertise and a full range of capabilities across the active, passive and real assets investment universes. Clients also have access to a complete set of services and tools. Headquartered in Paris, and listed since November 2015, Amundi is also the 1st asset manager in Europe by market capitalization. Thanks to its unique research capabilities and the skills of close to 4,500 team members and market experts based in 37 countries, Amundi provides retail, institutional and corporate clients with innovative investment strategies and solutions tailored to their needs, targeted outcomes and risk profiles.

Derivatives are part of the investment strategy in many portfolios either as a way to reduce risk through hedging or as a means to get exposure in the most efficient way, particularly when considering liquidity and cost. Amundi supports the legislators approach to build a strong framework to address specific risks of derivatives. Daily margin calls and exchange of collateral together with frequent resets are common practice and totally automated when using a CCP. As an asset manager we access CCPs through Clearing Members and so far Amundi has not decided to be a direct member of a CCP. Consequently, we are very attentive (i) to the financial strength and resilience of CCPs we use (ii) the portability of our positions and (iii) to the possibility to access CCPs in good conditions through clearing members. We judge that our situation as a client paying a fee to get a service should not put us at risk in case of a losses incurred by a CCP.

We are thankful for FSB to open its discussion paper for consultation and take this opportunity to reiterate our concern about the most efficient way for authorities to smoothly manage resolution or recovery of a defaulting CCP. We have the two following recommendations to express:

- First, clients who are not clearing members nor shareholders should not be called to pay through VMGH for the losses of a CCP.
- Second, shareholders should not benefit from NCWOL for their equity in a CCP.

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Financial resources for CCP resolution

1. Do you agree with the suggested five-step process to evaluate the financial resources and tools for resolution? What other elements, if any, should be considered?

Yes.

2. The discussion paper outlines a number of CCP and product specific factors that authorities should consider when assessing the adequacy of resources and tools in resolution. Are these factors appropriate or are there other factors that should be considered?

Among the factors listed and from a general point of view when considering the architecture of a resolution process, Amundi believes that more attention should be paid to market participants who are end investors using CCPs, on a volunteer or regulatory basis. We support the move to centrally cleared transactions as an efficient way to enhance financial stability. We think that this must not result in a higher level of risk for end users and urge regulators to avoid impacting end client-investors of CCPs. In that respect we would like to insist on (i) the total transparency that we expect from CCPs and resolution authorities without relying on clearing members for the circulation of information, (ii) the counterproductive introduction of Variation Margin Haircuts that would act as a powerful disincentive to use CCPs and introduce uncontrollable nor predictable risks in asset management and (iii) a clear conformity with the principle that shareholders take the loss and not clients.

3. Should the assessment of financial resources for CCP resolution take into account (a) different CCP ownership structures; (b) different CCP organisational structures; or (c) the products cleared by the CCP? If so, how?

Yes. Factors listed page 4 and 5 are relevant to determine the appropriate level of own capital and reserves of a CCP. We believe that there is a large variety of cases and that responsible authorities should follow principles established by FSB and CPMI IOSCO and have the necessary flexibility to adapt to each specific case.

We also believe that regulators and supervisors should be attentive to properly consider that CCPs are often segmented into different lines of business with their specific rules and dedicated guarantee fund as well as a foreseen quota of equity. We suggest to explicitly mention in the process the fact that the distinction between dedicated and mutualised resources has to be considered. On that point, we would like CCPs to be very precise in their communication and not amalgamate different resources that will eventually not be available for one specific type of activities.

4. Step 1: The discussion paper outlines a number of high-level default and non-default loss scenarios that might lead to resolution. Does this cover a sufficiently broad range of scenarios? What other relevant scenarios, if any, should authorities consider in resolution planning?

The 1st, 3^d and 4th scenarios rely on a breach of rules and suggest, some would say evidence, mismanagement: risky investment, non-conformity with CPMI-IOSCO standards, resources not in fact available revealing a low degree of preparation. These is a strong case to engage the responsibility of the management and to make sure that shareholders are hit at the very first level. The last 2 scenarios evidence the central role of authorities and the 2nd is probably more comparable to a default case.

5. Step 2: Are the considerations for conducting an evaluation of existing tools and resources appropriate and comprehensive? If not, what other considerations should be included?

VMGH is not an appropriate tool. It is easy to implement and seems efficient to collect money. But it appears as a trap with 2 very negative effects. On the one hand it is unbearable for end clients that do not participate to the management nor the determination of rules nor the profits of a CCP to be taken as hostages in case of default. For asset managers for example VMGH jeopardises their hedging policy at

once and without possibility to react. It harms the performance of the portfolio and transfers to investors the cost of mismanagement or insufficient supervision of a CCP: it is not easy to explain that clients who pay a fee for a service are subject to capital losses to keep the service provider alive. From a political point of view, investors are eventually more numerous than tax payers in many countries and the same objective to avoid pouring public money in the game should apply and exempt investors, i.e. end beneficiaries behind insurance companies or pension funds, using CCPs from undue contribution through VMGH. On the other hand, if VMGH were to apply it would necessarily be accompanied by a compensation scheme. It will be very difficult to identify all the beneficiaries that access a CCP through clearing members. Operationally this would represent a huge work for sometimes minimal amounts.

We actually find that the vocabulary is not clear in the discussion paper and suggest that time and efforts be devoted to definitions. For illustration purpose :

- Giving the precision, page 12, that participants include clearing members brings questions about the exact perimeter;
- resolution appears in some instances to be not differentiated from recovery in the first part of the consultation when it is very clearly separate in the second part...

6. Step 3: Are the considerations for analysing the hypothetical resolution costs (covering total losses and operational costs) appropriate?

The scope described in the paper is apparently not a straight forward resolution but a partial closure of some activities with a continuation of others and the continuity of the CCP. A plain resolution of a CCP should be an easier process. It could be considered as a possibility in the paper.

7. Step 4: Is there merit in relevant authorities and CMGs conducting quantitative analyses for the purpose of identifying and sizing potential additional tools or resources for resolution purposes? If so, what quantitative analysis should relevant authorities and CMGs conduct and how could they obtain the necessary data?

8. Step 5: Are the considerations regarding potential means to address funding gaps (including of any proposals to reserve resources for use in resolution) appropriate? Do they adequately address the issues of availability, costs and benefits, impact on and interaction with recovery and business as usual? If not, how should they be framed?

The paper rightly points, page 16 at the top, that non-bankruptcy-remote initial margin could be used for the purpose of covering gaps. It raises the question of CCPs and clearing members' offer to end clients of a CCP. In Europe EMIR required that they offer Individual Segregation Agreements (ISA) as an alternative to the usual omnibus or omnibus/LSOC possibilities. It is for an asset manager very concerning to see how difficult it is to gain a total certainty that its assets (including initial, variation and excess margin) are bankruptcy remote. ISAs are not standard practice and their cost does not provide incentives to reinforce investors protection. This is in our view a key obstacle for further improvement of financial stability.

Treatment of CCP equity in resolution

9. Do you agree that the key issues to CCP equity bearing loss in resolution have been accurately identified? Are there other key issues regarding equity bearing loss? What are they and how should they be addressed?

If we do not like the mention in the parentheses page 17 (*and potentially non-member participants*) we understand that in the mind of FSB this eventuality can only occur for losses resulting from a participant's default. In our opinion, even in this case it should be avoided. Non members are users of services offered by CCPs who are not involved in the organization and management of the CCP. They should not be subject to losses incumbent to the CCP, its shareholders and members.

We also read with surprise, page 18, that No Creditor Worse Off than through Liquidation (NCWOL) principle could protect shareholders against their losses on equity. In a normal way of business, shareholders receive the profits and bear the risk of the activity. A scheme that protects creditors is welcome to avoid them to be penalized in the recovery process when compared to a pure liquidation. There are 4 sources for finance : shareholders, creditors, users and tax payers (or government money). Regulators should avoid to call the last 2 categories. Shareholders and creditors have conflicting interests. By law, creditors are favoured compared to shareholders. We do not see why shareholders of an entity which has failed should be entitled to complain against the resolution process conducted by authorities legally designated to run it. They failed, so they pay. Authorities have the right to prefer recovery and not liquidation for reasons of financial stability or as a way to better protect the interest of participants and creditors judging that it is globally a better solution even if it is more costly for shareholders. Applying NCWOL to shareholders creates an obvious conflict of interest and suggests that there could be derogations to the principle that shareholders are fully at risk. We think that it imposes a very counterproductive constraint on resolution authorities who should have discretion in their action. Crisis means urgency in decision making and cannot accommodate to have different objectives. We do not conceive that NCWOL could apply to shareholders and totally oppose FSB Guidance Section 5 in the wording copied page 20. We ask for an urgent reconsideration of this position.

10. Should the treatment of CCP equity in resolution take into account different ownership structures? If so, how?

Beside the necessity to clarify the relationships that a CCP has with other entities of its group, mother and sister companies as well as subsidiaries, we think that total clarity should be given on the fragmentation of activities within a CCP. Different pools, different guarantee funds, different procedures for replenishment calls ... all within one only CCP may create uncertainty and raise questions.

11. What are your views on the possible mechanisms for adjusting the exposure of CCP equity in bearing loss in resolution set out in Section A? What other possible mechanisms, if any, should be explored?

When discussing, page 22, the possibility to compensate clearing members or participants that contribute to a resolution, the paper makes the point that it will be difficult to compensate participants who were subject to VMGH. We totally agree that it creates real operational difficulties. We also see compensation as a direct consequence of fairness and do not think that it can be avoided. We stress that end clients should benefit from a priority in their compensation and receive full payment before any other stakeholder. We draw the conclusion that the most efficient way to avoid complexity and to comply with fairness necessary to maintain confidence in financial infrastructures is not to apply VMGH for end clients that are not clearing members.

12. Section B outlines different options for the point in time or in the waterfall for imposing losses on equity. What are your views on these options? Are there any other possible options?

We agree that when managing a resolution process, authorities should have discretion and flexibility.

13. What are your views on the potential constraints and challenges described in Section C? Are there other challenges or constraints to equity bearing loss? What are they and how should they be addressed?

We do not conceive that shareholders may have NCWOL claims. We should not forget that referring to the CCP rules to determine NCWOL means using procedures designed by the management designated and supervised by shareholders. More than a standard conflict of interest that could be cured through disclosure, in our view! We support the proposal to reinforce the total subordination of shareholders to creditors.

In our opinion, FSB should recommend that CCPs take a bank license. It introduces an extra layer of supervision that should be incentivized and brings the guarantee of a direct access to central bank money. It is definitely a decisive criterion for Amundi when selecting a CCP.

14. Section D outlines a number of policy considerations for the treatment of CCP equity in resolution. Are they appropriate and comprehensive? Would you suggest any additional policy considerations?

The most important conflict of interest we are attentive to as an asset manager who uses CCPs without being a clearing member is the risk to transfer risks from the clearing members to their clients. It can appear in the rules when arbitraging between higher margins and lower guarantee fund or when introducing VMGH for example.

We totally agree with the statement, page 25, that *“unlike clearing members and shareholders who may have more means to influence the risk profile of a CCP and its risk management, clients may have less opportunity to do so”*. We draw the conclusion that clients should not be called to pay for errors they are total strangers to. We oppose the capacity for a CCP to apply VMGH to clients.

15. Does the treatment of CCP equity in resolution appear clear under existing arrangements in your jurisdiction or in relation to CCPs you are familiar with?

16. How could authorities reconcile the expectations that equity bears loss in resolution with the ‘no creditor worse off than liquidation’ safeguard?

We have a strong recommendation that FSB review its approach on NCWOL applying to shareholders as a safeguard. There is no example of shareholders not bearing full risk and regulators should not see their discretion in the crisis management of a CCP restricted with a NCWOL constraint.

17. What, if anything, should change with respect to the treatment of CCP equity in resolution either to clarify existing arrangements or to potentially adjust the exposure of equity bearing loss in resolution (for example, setting out any additional measures to have equity bear loss in resolution in CCP rulebooks)?

We have the two following recommendations to immediately clarify the situation and responsibilities. First, suppress the possibility for CCPs to impose VMGH to clients who are not clearing members nor shareholders. Second, withdraw the application of the constraint of NCWOL to shareholders.

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