



## **Cassa di Compensazione e Garanzia response to the Financial Stability Board Consultative Document on “Guidance on Central Counterparty Resolution and Resolution Planning”**

### *Introduction*

Cassa di Compensazione e Garanzia S.p.A. (hereinafter, “CC&G”) is a joint-stock company incorporated in Italy, entirely controlled by Borsa Italiana S.p.A. and part of the London Stock Exchange Group. Founded in 1992, offering clearing services on equity markets, CC&G has expanded the central counterparty (CCP) services to cover a broad range of trading venues and asset classes: shares, warrants and convertible bonds listed on MTA market, ETFs and ETCs listed on ETFPlus, stock, index futures and options listed on IDEM Equity as well as energy futures listed on IDEX, futures on durum wheat on AGREX, closed-end funds, investment companies and real estate investment companies listed on MIV, Italian Government bonds listed on MTS, EuroMTS, ICAP BrokerTec and Repo e-MID, Italian Government bonds and corporate bonds listed on MOT, EuroTLX and Hi-MTF.

CC&G also provides a guarantee service on the MIC interbank collateralised deposits market. CC&G eliminates counterparty risk acting as buyer toward the seller and vice versa, becoming the guarantor of the final settlement of the contracts.

In this context, CC&G welcomes the opportunity to respond to the Financial Stability Board (“FSB”) Consultative Document on **“Guidance on Central Counterparty Resolution and Resolution Planning”**.

\*\*\*



## Part A. General Remarks

While defining the recovery and resolution framework for CCPs, one of the key decisions for the Regulatory Authorities is where to draw the line between Recovery and Resolution. Clearly, when this is possible, it is preferable for a CCP to recover rather than be placed into Resolution (with the undesirable associated consequences that we propose to review in our detailed responses below). To this end, CC&G would like to make the following recommendations:

- 1. Clear trigger point:** The decision to place a CCP into resolution should only be made after the default management tools and all recovery options have been ruled out and the CCP is unable to meet or unlikely to meet its core obligations (e.g. breaching capital requirements). In defining these trigger points, it should be ensured that the right incentives are maintained i.e. that creditors will maintain high resilience standards and actively participate in the recovery plan of the CCP. In order to do so, the principle should be that resolution is only triggered once the recovery plan has been fully deployed. The assumption that the resolution authority will not step in until all the tools included in a CCP's recovery plan have been deployed will help to ensure that clearing members continue to participate constructively in a CCP's default management process and do not alter their behaviour during the recovery phase.
- 2. Resolution tools:** We consider that the resolution authority should primarily use the existing powers described in the CCP's rules and arrangements. However, we believe that it should apply these tools with more flexibility in order or magnitude than the CCP would. This flexibility within a pre-defined toolkit would be the main difference between the CCP applying its rulebook and the authority taking a different decision in light of specific market conditions. In our view, this approach improves the likelihood of a successful resolution as it strikes the right balance between efficiency and the understandable need for transparency and predictability from market participants. It enables the resolution authority to respond adequately to the unique conditions of a CCP resolution, while providing the market with the appropriate level of certainty and predictability through the *ex-ante* definition of the resolution tools.
- 3. No-Creditor-Worse-Off ("NCWO"):** Participants have contractually committed to certain losses through the CCP's rules and arrangements. They should not be able to claim any compensation when their losses are below or in line with their pre-defined aggregated liabilities. It is therefore important that the counterfactual assumes, at a minimum, the full application to the CCP's rules and arrangements including resolution tools comprised in these rules. This ensures legal certainty for the resolution authorities, as well as transparency and predictability for clearing members. Likewise, we support the need to make clear and transparent which resolution powers are included in the counterfactual. In addition, CC&G considers that there would be merit in capturing the value of financial stability or of continuity of critical services in the counterfactual, as participants would clearly benefit from it.



- 4. Adverse impact of equity compensation on incentives:** Compensating clearing members with the CCP's equity could disincentivise genuine participation in the recovery actions of the CCP, therefore, undermine the possible success of the recovery. These issues would be emphasized in the case of the compensation with the CCP parent's equity as in such case the transfer could cover other pieces of market infrastructures that are part of the Group such as CSDs and trading venues and therefore lead to the transfer of a complete set of infrastructures' ownership.
- 5. Default v. non-default losses:** CCP resolution plan should clearly differentiate defaults and non-default losses as well as the different types of non-default losses. Indeed, resultant actions needed to address default losses and non-default losses are likely to be very different, with specific powers and resources available. When defining the CCP resolution framework, default losses and non-default losses should be approached separately, in order to appropriately reflect the respective responsibility structure in the loss allocation mechanisms (e.g. there is an argument to allocate some of the investment losses to the CCP's membership when the clearing members have co-defined and signed off on the investment policy).
- 6. International Framework:** CC&G fully supports the continued efforts of CPMI IOSCO, the FSB and policy makers around the world to create a regulatory framework that will further enhance the resiliency of CCPs. The international nature of this framework is crucial, as coordination between the resolution authorities will play a key role in avoiding contagion across jurisdictions. In addition, sufficient granularity at the international level will mitigate the risk of deviation among the jurisdictions, the potential regulatory arbitrage and unlevel playing field that these deviations may cause.

\*\*\*



## **Part B. Detailed comments**

### **Section 1. Objectives of CCP resolution and resolution planning**

#### *General comments*

We agree that the objectives of the CCP resolution should be to ensure the continuity of the CCP critical functions while maintaining market and public confidence and financial stability.

1. We fully support that these objectives can be achieved by (i) restoring the ability of the CCP to perform its critical functions but also, in the case where the CCP has not lost such ability, by (ii) maintaining the ability of the CCP to perform its critical functions. The guidance seems to limit the objectives to two options:
  - In the case where the CCP has lost the ability to perform critical functions, the objective is to restore its ability to perform critical functions,
  - In the case where the CCP has not lost the ability to perform critical functions, the guidance implies they have to be ensured by another entity or arrangement.

We would therefore suggest including as an objective in Point 1.1 (i) 'maintaining or restoring the ability of the CCP to perform critical functions'.

2. One of the main objectives of resolution is to avoid exposing taxpayers to losses. This can only be achieved if the right incentives are put in place. When drawing up the resolution plan, resolution authorities should look to maintain, support, and even reinforce the incentive structure for CCPs owners and operators, clearing members and other market participants to resolve the CCP and protect public funds. In addition, CCP resolution plan should minimise reliance on public financial support. We would suggest reflecting this in paragraph 1.2.

An effective resolution regime should avoid any unnecessary destruction of the value of the CCP. This is particularly important in the case of critical clearing services. Their continuity is of great value to the CCP's participants (both individually and mutually), but also more broadly to the wider financial system, not only as a matter of overall systemic impact. Indeed if the CCP or the a particular service ceased to exist, participants would incur costs due to the loss of positions (including replacement costs if trades are replaced), the impact on their capital requirements, the loss of revenue from client clearing business and overall, the impact of the lack of access to the corresponding products going forward. The CCP resolution plan should clearly aim at avoiding any unnecessary destruction of the 'greater' value. Therefore we would add this as a resolution objective in the Guidance.

Finally, to ensure consistency throughout the guidance we would suggest referring to CCP's rules and arrangements in point iii.

### **Section 2. Resolution authority and resolution powers**

#### *General comments*



CC&G supports the need for resolution authorities to have sufficient powers and tools to address the unique event of a CCP entering into resolution.

Firstly, CC&G recommends that the resolution authorities refrain from intervening until all recovery options have been deployed; or the CCP has failed to duly implement the recovery measures. Indeed, allowing CCPs to develop the full set of tools before the authority formally intervenes encourages the right incentives for clearing members, i.e. supporting high standards when it comes to CCP resilience and exhaustive recovery tools for the CCP to react to major stress. This would reinforce the responsibility of both the clearing members and the CCP in preventing the entry into resolution. Therefore, the possibility of applying the full recovery plan must be the preferred scenario and the rule; otherwise the recovery plan would only be a formal plan that would be overridden in case of stress. We suggest introducing strong and fully applicable recovery plans as a robust alternative to entry into the phase where the authority formally intervenes, i.e. in resolution.

Secondly, CC&G would not recommend the exclusive use of certain tools by the resolution authority and considers it preferable that all tools that could potentially be used by the resolution authority are the ones already included in the CCP rules and arrangements, including recovery tools available to the CCP.

We believe that all of the loss allocation tools defined in the CCP's rulebook should be permitted to be used by the CCP in recovery, unless recovery is clearly ineffective or the resolution authority determines that execution of the recovery plan by the CCP would adversely affect financial stability. Resolution powers should be primarily based on the CCP's rules and arrangements, including recovery tools available to the CCP. Recovery/resolution tools can have very different effects depending on the degree to which they are used. CCPs should be able to access to the most extensive list of tools available to the resolution authority, provided that the resolution authority is able to use it to a much higher degree. Resolution authorities should be able to use the same tools in resolution but in different orders and with a more important magnitude if needed. This difference in the order and magnitude of the use of the tools would distinguish what the CCP can impose itself to the clearing members and what authorities could impose with a more constraining or even punitive aspect.

In this sense we support leaving CCPs as many tools as possible and not imposing a strict line between recovery and resolution tools, but rather a differentiation in the sequence and degree to which they can be used. In particular, we support the need to ensure that resolution authorities have the ability to allocate all losses and positions in the case of default losses and, in the case of default-losses, maintain or restore critical services and replenish CCP resources.

### ***Enforcing contractual obligations (2.1 – 2.2)***

To the extent possible, CC&G does not recommend that the resolution authority place the CCP in resolution before the default management tools and recovery options are exhausted. However, we agree that the resolution authority could intervene before this point in the cases where it considers that (i) it should intervene for specific macro-stability concerns and (ii) the application of the recovery plan would not be appropriate or sufficient to respond to these specific macro-stability concerns. In



such case, CC&G fully agrees that the resolution authority should have the powers to use tools that differ, in particular in their order and magnitude, from the ones the CCPs could have used in its recovery plan.

In our view, it is crucial to ensure that the recovery arrangements are enforced in full to maintain the right incentives. We would therefore suggest reinforcing the wording of paragraph 2.2, and replacing the reference to a presumption for a more prescriptive one. Indeed, we tend to consider that the resolution authority **should** continue to enforce the steps and processes under the CCP's rules and arrangements where it intervenes (with the differences in order and magnitude highlighted earlier in Section 2), **unless** it determines that these measures would have significant adverse effects on financial stability.

We agree with the fact that, as a matter of principle, the CCP's rules and arrangements should be exhausted before any direct intervention by the resolution authority. This is even reinforced in the case where resolution tools (which should include tools also available to the CCP) are included in the CCP's rules and arrangements as suggested in paragraphs 2.14, 5.1 and 10.2.

A strong principle stating that the resolution authority would follow, with the previously mentioned nuances in order and magnitude, CCP's rules and arrangements including recovery plan and the resolution powers reserved to resolution authority, would allow predictability of the resolution for the different stakeholders, in particular CCP's participants and therefore improve the likelihood of a successful resolution.

We welcome the statement that if the resolution authorities differ from the CCP's recovery plan, it should not do so in a manner that would discriminate based on nationality. We would suggest, based on Key Attribute 7.4 that such discrimination should not be based either on location of the claim or jurisdiction where it is payable.

### ***Powers to return to a matched book (2.3)***

In the context of a clearing member default, one of the primary objectives should indeed be to restore the CCP to a matched book. We agree that in the first instance, and to the extent possible, this should be done by using the actions that are already contractually agreed in the CCP rules and arrangements, such as Assessments, VMGH, (partial) Contracts Tear-Ups, or otherwise terminating contracts.

Portability arrangements can be set-up to ensure that clients are protected from the insolvency of the clearing member they use to clear their products. Such protection should be maintained, including in case of a recovery/resolution due to the said clearing member's default. In such a case, and in order to ensure the legal certainty and efficiency of portability arrangements, we would suggest specifying that when the resolution authority tears-up contracts of a defaulting clearing member, this should not include clients contracts already transferred to a non-defaulting clearing member according to a portability arrangement as referred to in Principle 14 of the PFMI. This should not mean that these contracts are ring-fenced from subsequent recovery/resolution measure applied on the receiving



clearing member. This would ensure a swift transfer of clients' assets in accordance with pre-established arrangements.

***Partial and full tear up (2.4 – 2.6)***

CC&G very much supports a clear distinction between partial and full tear up, which have very different objectives, as reflected in paragraphs 2.4 to 2.6. Indeed, as specified in paragraph 2.5, partial tear-up should be used to return the CCP to a matched book. We understand that paragraphs 2.4 and 2.5 are limited to **partial** tear-up and would therefore suggest specifying throughout these paragraphs that we refer to **partial** tear-up, for clarity.

We support that these tools should also form part of the CCP recovery toolkit, and that the price of tear up should be based on the CCP's rules and arrangements. Ensuring that the CCP has these tools allows preserving the incentives and safeguards put in place in setting up the CCP resilience tools. We share the view that full tear up should be used as a last resort tool, and should be part of the scenario against which the decision to put the CCP in resolution, to ensure continuity, should be made.

***Powers to address outstanding default losses and replenish financial resources in a member-default loss scenario (2.8 – 2.12)***

We agree that the resolution authority should be able to use any outstanding CCP recovery arrangement. We support the use of resolution authority statutory cash calls and Variation Margin Gains Haircutting ('VMGH') and we welcome the recommendation to include these powers in the CCP's rules. This would provide more transparency and predictability for clearing participants.

However, we do not support the use of initial margin haircutting, as non-defaulting members' initial margin is already being used as collateral against the CCP's potential future exposures to those members. Depleting this resource would lead to members being under-margined and trigger immediate margin calls to cover potential future market moves. In addition, in cases where non-cash margin is bankruptcy remote, it would change the cash/non-cash mix of margins posted by members, as cash can be at risk during a stress event. This could in turn have a profound impact on members' behaviour and the liquidity profile of the CCP. Members would be incentivised to post as little cash as possible during a stress event if they felt that cash posted as initial margin would be vulnerable to being confiscated in resolution. Liquidity would then be non-existent at the very time it is most needed. It would also disincentivise the posting of excess margin to the CCP, potentially decreasing the efficiency of clearing in non-crisis periods.

***Powers for non-default losses (2.13 – 2.14)***

CC&G agrees that for non-default losses, CCP shareholders should bear a responsibility. For instance, it is difficult to argue that clearing members should bear losses related to operational risk (e.g. defective processes, human error, fraud...) in the CCP, as this is linked to the idiosyncratic





processes and procedures put in place by CCP management. Any such non-default losses are expected to hit the CCP capital directly.

However, it should be clear that different types of non-default losses should be approached differently when defining the resolution powers, and that the associated loss allocation mechanisms should reflect the respective responsibility structure. Therefore, the appropriate tool to allocate a particular non default loss will depend on the type of loss in question. In the cases where the CCP has agreed upfront a strict investment policy with its members for how to carry out the required investments (which dictates counterparty credit quality, collateral acceptability criteria, limits etc...), there is a strong argument that, if the CCP experiences an investment loss under these criteria, these losses could be allocated back to the membership. A similar argument holds for liquidity related losses, in the cases where the CCP has agreed upfront a detailed liquidity framework with its members.

Furthermore, it should be made clear in paragraph 2.13 that the exercise of writing down power, including in the case of non-default losses, should only be contemplated when losses exceed those that can be absorbed under CCP's rules and arrangements.

#### ***Equity in return for contributions to the CCP resolution (2.15)***

CC&G strongly disagrees with the principle of compensating clearing members with the CCP's equity for the following reasons:

- It reduces the likelihood of successful recovery: clearing members take part in the default management process and the loss and position allocation tools. To compensate a clearing member with instruments of ownership of a CCP once in resolution would create disincentives for the clearing members to participate fully in the recovery actions of the CCP, and therefore, undermine the possible success of the recovery. In other words, there could in some circumstances be a significant conflict here, which might prevent the proper execution of the full CCP recovery plan.
- It reduces the possibility to sell the CCP in resolution: providing instruments of ownership to a clearing member would make the commercial sale of the CCP more difficult, as there could be a large number of additional owners for a purchaser to interact with.

If a mechanism for compensation is really deemed necessary, then such mechanism should preserve the right incentives pre-resolution, and support for continuity post-resolution. For the reasons stated above, we consider that the conversion in equity does not allow it.

Concerning the awarding of claims on a parent of the CCP, if that was to be introduced, we would agree that it should be with the consent of the parent and only where appropriate. On this particular point it should be clear that the resolution authority should take into account the structure of ownership of the CCP, for instance the share of the parent entity in the CCP capital.

Allowing the broader Group to be hit by the CCP resolution, even in the absence of operational relationship would create similar issues as the one previously listed:





- Incentive structure: To compensate a clearing member with instruments of ownership of a broader group would create disincentives for the clearing members to participate fully in the recovery actions of the CCP, and therefore, undermine the possible success of the recovery.
- Longer term effect: such mechanisms would concentrate the ownership of critical infrastructures in the hands of their users (which was more the case pre 2008 financial crisis) and therefore modify CCP's ownership.

Finally, it should be made clear that any resolution power, including the conversion in equity, should only be contemplated: (i) when losses exceed those allocated under the CCP's rules and arrangements, in the case for clearing losses; (ii) when the CCP is in breach of its regulatory capital and existing shareholders are unwilling or unable to replenish such capital, in the case of non-default losses. Likewise, compensation should only be contemplated for the residual amount of losses incurred by the clearing members/clients as a result of resolution authority's action when compared to the full aggregated losses they would have incurred if the CCP had applied its entire recovery plan including full tear-up of contracts.

### **Section 3. Entry into resolution**

#### *General comments*

The point at which the CCP is placed into resolution is very important. It should only be made after the default management tools and all recovery options have been ruled out, and the CCP is unable to meet its core obligations (for e.g. breaching capital requirements). In many ways, this definition would complement the CCP's criteria for placing a member in default, as the CCP would do so when the member is unable to meet its own obligations.

At least we would support defining very clear triggers to allow for a transparent and predictable process. An incorrect specification of the point of resolution may result in damaging members' incentives to ensure the success of recovery tools which could lead to the CCP being put in resolution.

#### ***Potential indicators relating to default losses (3.4)***

Concerning the specific trigger points proposed in the guidance:

- For points (i) and (ii), we would suggest bringing more certainty as to the entry into resolution in order to allow predictability. This would also avoid pre-empting market driven successful recovery if the entry into resolution is too early, or the impossibility to execute any meaningful resolution action/access to meaningful financial resources if the entry into resolution is too late. In doing so, we suggest to make specific reference to the resources included in the default management procedure set out under the CCP's rulebook and in its recovery plan. This would allow a comparative measure for the exposure and therefore bring more certainty on the trigger for the entry into resolution. Furthermore, we would welcome more clarity on how the authorities will determine that "the recovery measures will not be sufficient to return the CCP to viability in a timely manner".



- Concerning point (iv), this criterion based on CCP's participants confidence seems to bring uncertainty as the entry into resolution would be disconnected from CCP resilience and recovery tools. We consider that this proposed criterion is subjective, and allow for an arbitrary entry into resolution even before the CCP's resilience tools have been affected by a default or non-default loss. We, therefore, would suggest the removal of this proposed criterion since it would also alter the incentives for clearing members to participate constructively in a CCP's default management process.

### ***Potential indicators relating to non-default losses (3.5)***

It seems unclear which scenario is considered under the second trigger and would suggest clarifying it to bring more legal certainty. At the very least we would recommend being more precise on this trigger by specifying that the unpredictable losses for the CCP's participants would likely exceed the resources committed in the CCP's rules and arrangements.

### ***Cooperation between relevant authorities in the lead up to resolution (3.6-3.8)***

CC&G supports the recommendations in this section.

## **Section 4. Allocating losses to equity holders in resolution**

### ***Default losses (4.1)***

We agree, in principle, that the timing for equity write-down should be completely clear and transparent. However, we believe equity write-down should only occur once all recovery measures have been applied, or after equivalent resolution tools have been used.

### ***Non-default losses (4.2)***

We support the recommendation in this section.

### ***Alternative approaches (4.3)***

We believe that alternative approaches to allocate losses to existing equity holders and recapitalise the CCP— for example, writing down the equity and recapitalising the CCP by selling new equity in the CCP— should only occur once all recovery measures have been applied, or after equivalent resolution tools have been used.

## **Section 5. No creditor worse off safeguard**

### ***General comments***

While we consider that compensation may create contrary incentives, as it disincentivises participation in recovery measures, we agree with the main principles defined in this section. It is



important that the counterfactual assumes, at a minimum, the full application to the CCP's rules and arrangements including resolution tools comprised in these rules. This ensures legal certainty for the resolution authorities, as well as transparency for clearing members. Likewise, we support the need to make clear and transparent which resolution powers are included in the counterfactual. Clearing members have contractually committed to certain losses through the CCP's rules and arrangements. They should not be able to claim any compensation when their losses are in line with their pre-defined liabilities. This is valid whether the tools included in the CCPs rules and arrangements are triggered by the CCP itself or by the resolution authority.

We support the view that, in some instances, there would be a case for some participants to be worse off in light of the impact on financial stability or of the value of continuity of critical services provision. Indeed there are cases where, if on face value clearing members would be worse off, they would still benefit from market efficiency that would overtake these short term losses. Their continuity is of great value to the CCP's participants (both individually and mutually), but also more broadly to the wider financial system, not only as a matter of overall systemic impact. Indeed if the CCP or the a particular service ceased to exist, participants would incur costs due to the loss of positions (including replacement costs if trades are replaced), the impact on their capital requirements, the loss of revenue from client clearing business and overall, the impact of the lack of access to the corresponding products going forward. In such case it would make sense to include this value of financial stability or continuity of critical services in the counterfactual.

As to the scope of the safeguard, we would agree that it needs to be broad and cover all creditors including shareholders and clearing members and all losses they incurred compared to the counterfactual.

***No creditor worse off counterfactual for default losses (5.5)***

We support the recommendations. We welcome the limited recourse provisions that recognise the benefits of segregation.

***No creditor worse off counterfactual for non-default losses (5.6)***

We support the recommendations. However, we consider that the counterfactual should clearly include the full application of CCP's rules and arrangements, as it is the case for default losses. Indeed, the CCP's rules and arrangements might include some loss sharing arrangements as for example in the case of losses due to investments determined by the clearing members (see comments on section 7).

**Section 6. Financial resources**

*General comments*

CC&G supports the points made in this section. In particular, ensuring that public funding is only relied as a last resort ensures that the right incentives are in place.



## **Section 7. Resolution Planning**

### *General comments*

It is critical that any CCP resolution plan makes a clear distinction between default and non-default losses and different types of non-default losses. Indeed, resultant actions needed to address default losses and non-default losses are likely to be very different, with different powers and resources available. The issue of a CCP potentially failing can be more pressing in the case of non-default losses as these situations occur outside the CCP's powers associated with clearing member defaults, where margins, guarantee funds, cash calls, VMGH and (partial) contract tear ups are not available to the CCP. Default losses and non-default losses should be approached differently when defining the CCP resolution framework and that the associated loss allocation mechanisms should reflect the respective responsibility structure (i.e. there is an argument to allocate some of the investment losses to the CCP's membership when the clearing members have co-defined and signed off on the investment policy).

In addition, we would suggest that the actions proposed in point 7.3 are defined in such a way that they respond to all the trigger points defined in points 3.4 and 3.5. For example, the resolution plan should identify the set of tools and actions that would be applicable to restore compliance with the other regulatory requirements for authorisation mentioned in point 3.5(iii). This would ensure that the resolution plan contains the range of direct responses to the events triggering a resolution.

In CC&G's view, the FSB should strike the right balance between flexibility and predictability. If it is necessary for the resolution authority to intervene, the resolution authority must be able to make a material difference to the execution of the loss allocation tools as it could be achieved by the CCP with deployment of its recovery tools.

Indeed, CC&G supports a flexible approach for resolution, within a pre-defined set of tools. This flexibility would leave the resolution authority free to decide the application of the tools in a different order than that available to the CCP in the recovery phase.

This is essential as each case where a resolution intervenes will be different and hardly predictable. The resolution authority should be in a position to use the right leverage at the right moment depending on the actual situation. We therefore support a clear resolution plan, with an *ex-ante* definition of the resolution tools and potentially the type of events for which they would be applicable. However, we would advise not prescribing a specific order in which the resolution authority should use them. While the *ex-ante* definition of the tools is desirable to provide the market with the appropriate level of certainty and predictability, flexibility in the order and magnitude with which these tools would be applied, would be the main difference between the CCP applying its rulebook and the resolution authority taking a different decision in light of specific market conditions. In order to strike the right balance between efficiency and the understandable need for transparency and predictability from market participants, CC&G would recommend setting out in the CCPs' Rulebooks as much



details as possible on the resolution plans, including the potential losses that could arise from the use of the resolution tools.

Therefore, we would not support the recommendation under point 7.5(v) to include in the resolution plan a rigid sequencing of resolution tool. In the event where such sequencing is defined, we believe that it should be indicative and that the resolution authority should not be bound by such sequencing. We would suggest making this clear both in the guidance and in the said resolution plan.

## **Section 8. Resolvability assessments and addressing impediments to resolvability**

### *General comments*

We support the need to conduct a comprehensive resolvability assessment. However, we would suggest clarifying in point 8.1 that the measures required should be proportionate, as further developed in the last paragraph of point 8.1. Indeed, it would not be desirable to split the CCPs in multiple individual legal entities when proper segregation within the CCP (for instance with separate default waterfalls for each clearing service) would ensure its resolvability. While resolution would apply at the legal entity level, the resolution authority would have the ability to deal with the different clearing services separately.

## **Section 9. Crisis Management Groups**

### *General comments*

CC&G strongly supports the need for cross-border cooperation at all stages as any recovery/resolution plan of a global entity can only be successful if cross-border aspects of its resolution are fully covered. This can only be achieved through the establishment of well informed crisis-management groups and the assessment of the cross-border enforceability of the resolution plan. Global entities acting in global markets need global coordination.

CC&G supports the establishment of Crisis Management Groups (“CMGs”) and agree that it should include other regulatory bodies, notably the relevant authorities of any systemically important member from other jurisdictions. During a crisis event, these bodies will be the ones managing systemic and contagion risks. Depending on the jurisdictions, the resolution authorities may differ from the day-to-day supervisory regulator, in which case, it may be more appropriate to have the supervisory regulator on the CMG, and to invite the resolution authority on an ad-hoc basis, when required.

## **Section 10. Cross-border effectiveness and enforcement of resolution actions**

### *General comments*

In line with the response on section 9, we agree that the full suite of powers available to resolution authorities should be agreed *ex-ante*, disclosed publicly and, where necessary, added to the CCPs’



rules and arrangements. Regulators in many jurisdictions will need to be fully aware of these powers, and in which circumstances they can be employed. We believe that there should be transparency on the powers of the CCP resolution authority. As noted in 10.2(iii), the inclusion of the resolution authority power and tools in the CCP's rules would support this objective and provide contractual certainty.

\* \* \*

We hope that the Financial Stability Board finds this submission useful and we look forward to engaging further as policies are developed. Should you have any questions on the response or wish to discuss it in detail, please do not hesitate to contact us at: Paola Fico: [paola.fico@borsaitaliana.it](mailto:paola.fico@borsaitaliana.it); Isabella Tirri: [Isabella.Tirri@lseg.com](mailto:Isabella.Tirri@lseg.com).