

Mr Michel Barnier
Commissioner for Internal Market and Services
European Commission
B-1049 Brussels

Brussels, 24th September 2013

Dear Commissioner Barnier,

Disparity between US and EU CCP margin standards for exchange-traded derivatives

FESE represents 46 exchanges in equities, bonds, derivatives and commodities. Exchange-traded derivatives offer stable, liquid, cleared instruments providing risk management capability across financial, energy and commodity markets.

One of the overarching objectives of FESE is to promote the global competitiveness of European exchanges and it is with this in mind that we are writing today. We wish to follow up our statement of support for the EACH letter to Commissioner Barnier and to Mr Maijoor of 7 March 2013 setting out the differences in margin standards for exchange-traded derivatives between the EU and the US. We very much welcome the Common Path Forward on Derivatives announced by the European Commission and by the CFTC on 11 July 2013. Such joint working is essential if European exchanges are to continue to supply global derivatives markets with high quality risk-management tools that serve the real economy.

The Common Path Forward acknowledges the international nature of derivatives markets especially in OTC derivatives. Like OTC derivatives, exchange-traded derivatives also operate in a global environment and we note that on the question of CCP margin standards for exchange-traded derivatives the Commission and the CFTC admit that this is still 'a key material difference' between the two regimes, but that work is ongoing to reduce that disparity.

While CCPs in the EU will be obliged to require increased margin once authorised under EMIR (scheduled for Q1 2014), the differences in margin charges between the EU and the US under the latest rules are increasingly provoking reaction in the market. We are seeing signals already now that when examining the future cost of hedging in the EU end-users are fully prepared to move their activity to lower-cost jurisdictions notably the US. While the EMIR requirements are of course about safety rather than cost, there is a balance to be struck particularly where clients, who in the end are the ones who pay the margin, can access risk management products anywhere in the world. Therefore we see it as critical that, while talks continue to harmonise margin standards for exchange-traded derivatives between the US and the EU, the European Commission also takes appropriate steps to defer the introduction of increased margins within the EU pending international harmonisation, in order to prevent any further erosion in exchange-traded derivatives business in the EU as a consequence of regulatory arbitrage.

The current regulatory reform agenda for derivatives stems primarily from the G20 Pittsburgh conclusions, which aimed to require the same disciplines of centralised trading and clearing of OTC

derivatives as are commonplace in the exchange-traded derivative markets. Another of the conclusions in Pittsburgh was a commitment on the part of G20 economies to avoid regulatory arbitrage. It may make sense to schedule a progress report at G20 level to ensure the appropriate focus on co-ordinated derivatives reform, in service of the wider aims of the Russian G20 Presidency of strengthening financial regulation and predictable energy markets (which depend on liquid derivatives exchanges for pricing).

We cannot emphasise enough how resolution of the margin issue is critical to the continued competitiveness of EU derivatives exchanges in a global marketplace. Margin to support derivatives positions is paid by companies coming from all major sectors of the EU economy. It is vital that the European authorities take concerted action to close this loophole in global derivative exchange regulation before these companies take the decision to move their trading interest to other jurisdictions.

Yours sincerely



Hans-Ole Jochumsen
FESE President



Judith Hardt
FESE Director General