Introduction:

ABN AMRO welcomes the opportunity to provide its comments on DG Competition’s Issues Paper on “Competition in EU Securities Trading and Post-Trading”, published on 24 May 2006. In general, we believe that the obstacles to an efficient trading and post-trading environment have been well identified by the Commission. In our view, the key issues on which the Commission should concentrate its efforts in the future are:

1. Promotion of competition in post-trading through open market access to each layer of trading, clearing and settlement as well as harmonisation of business rules and legal and fiscal aspects;
2. Elimination of restrictive clauses in agreements between exchanges and CCPs relating to the freedom of the latter to provide services to competitors;
3. Better transparency in infrastructure pricing;
4. Better interoperability between CCP and CSD enhancing access.

ABN AMRO believes that market based initiatives coupled with the exercise of competition policy are the two main strand of the optimal approach open to legislators and market participants to work towards creating a truly single pan-European market in post-trading. We therefore support light legislation if and only if the general criteria of cost-efficiency, avoidance of systemic risk and allowance of fair competition is not be delivered. In this context, we support the opening of formal procedures at EU or national level in cases of infringements of competition rules, where appropriate.

Regarding ESCB/CESR standards, ABN AMRO confirms that standardisation plays a key role in the promotion of transparency and competition within the trading and post-trading sector. However, it is essential that ESCB/CESR receives a clear mandate from the Commission to work on these issues. Any measures that may lead to a double layer of supervision for banks should be avoided. Furthermore, in line with the basic principles underlying the Lamfalussy Process, standards (essentially guidelines at Level 3 of the process), should not precede Level 1 measures (framework principles enshrined in legislation).
I. General comments

a. ABN AMRO does support the view that costs of post-trading services in Europe are currently too high and that stronger competition in this sector would contribute to market efficiency, openness, cost reductions and greater price transparency.

b. ABN AMRO agrees that the potential for competition in CCP services is significant and that it should be better exploited. In our view, multiple CCPs are possible (e.g. UK) but further consolidation should be encouraged following a market-driven approach. Such consolidation can lead to an efficient market structure under appropriate conditions (full implementation of competition rules, open market access, price transparency, etc.). One way to promote competition at the clearing level would be to allow CCPs to hold accounts in each other (“cross accounts”) or to hold accounts with Euroclear. This could lead to substantial cost savings for the industry both in terms of collateral and margin, and avoid multiple investments in different systems.

c. Whilst the potential for competition in CSD services is also important, we believe it is more difficult to realise, due to the fragmented and long standing national rules in this sector. As far as the notary public function of CSD’s is concerned, we support further consolidation together with an open and well regulated access for all market participants.

d. ABN AMRO supports the analysis that in many circumstances, exchanges have the power to allow or disallow competition in post-trading services and that vertical integration may result in foreclosure at all levels of the value chain, leading to business inefficiencies. In this context, ABN AMRO is more favourable to horizontal openness for each layer of trading, clearing and settlement with ownership and governance by users. The fact that retrocession fees are now forbidden and being abolished in many EU countries is a very positive and encouraging step forward. Such efforts should continue in the future.

e. Whilst ABN AMRO supports measures that stimulate inter-operability in the post-trading functions, the Commission should focus its efforts above all on the enhancement of competition between clearing services. Furthermore, national securities law should be harmonized in line with the Giovannini group recommendation.

f. ABN AMRO believes that market based initiatives coupled with the exercise of competition policy constitute the optimal approach open to legislators and market participants to work towards creating a truly single pan-European market in post-trading.

g. Regarding the possible implementation of regulatory issues, ABN AMRO shares the general industry view that the technical, legal and fiscal barriers identified by the Giovannini Group are at the center of why the costs of post-trading are high on a cross-border basis. In this context, the removal of the Giovannini barriers, including those for which the public sector is responsible for is undoubtedly the major priority today and should be the focus of attention of the Commission. Again, we would encourage,–in particular, that national securities law be harmonized in line with Giovannini group recommendation.
h. Any proposal of the Commission regarding C&S should take into consideration the following aspects:

- **MiFID provisions**, in particular on concentration rules, transparency requirements and best execution disclosure;
- **Basel II requirements** (Capital Requirements Directive);
- **Market developments** (e.g.: exchanges consolidation);
- **Level playing field**: Any measures proposed should ensure a level playing field for both EU and non-EU players.

II. Detailed comments

In general, it is considered that the barriers to post-trading have been correctly identified by DG Competition, although they are not all of equal concern to ABN AMRO.

In the Bank’s view, the key issues on which the Commission should concentrate its efforts are:

1. Promotion of competition in post-trading through open market access to each layer of trading, clearing and settlement as well as harmonisation of business rules and legal and fiscal aspects;
2. Elimination of restrictive clauses in agreements between exchanges and CCPs relating to the freedom of the latter to provide services to competitors;
3. Better transparency in infrastructure pricing;
4. Better interoperability between CCP and CSD enhancing access.

**Concern 1 – Competition and open market access at all layers**

In order to improve market efficiency in post-trading, it is essential that competition be encouraged at all stages of the trading and post-trading process. This is particularly important at the clearing level in order to get choice of access. Harmonisation in business practices, technology platforms, standards and legal and fiscal treatment of post-trading operations is key to this consolidation process.

**As the C&S landscape harmonises users can realise further benefits through greater choice**

![Diagram showing the relationship between various financial market participants and trading operations including equities, bonds, ETDs, FX, Repos, SWAPS, ETFs, Secs Lending, OTC, Exchanges, ECNs, ATS', Broker, CCP A, CCP B, CSD, ICSD, Central Bank, Commercial Bank, Custodian / Agent Bank, and clearing member.]
Concern 2 - Restrictive clauses in agreements between exchanges and CCPs relating to the freedom of the latter to provide services to competitors

ABN AMRO confirms this is a key concern. In many circumstances, exchanges have the power to allow or disallow competition in post-trading services and vertical integration structures tend indeed to result in foreclosure at all levels of the value chain, leading to business inefficiencies. ABN AMRO is more favorable to horizontal openness for each layer of trading, clearing and settlement with ownership and governance by users.

Possible reactions:
- ABN AMRO supports the call of DG Competition to eliminate restrictive clauses in agreements between exchanges and CCPs. However, appropriate timeframes should be defined.
- In order to ensure a more open access to post-trading services and to promote competition between CCPs, ABN AMRO supports the creation of cross accounts between CCPs.
- Whilst ABN AMRO supports in principle the proposal of DG Competition to introduce relevant measures to avoid the risk of participants in closed systems free-riding on open ones, ABN AMRO would welcome clarifications on what such measures would consist of concretely.
- We support the opening of formal procedures at EU or national level in cases of infringements of competition rules where appropriate.

Concern 3 - Lack of transparency in infrastructure pricing

ABN AMRO confirms this is a key concern. Whilst banks know how much post-trading services cost them and their customers, they are often not able to say what exactly lies behind these costs. More transparency in infrastructure pricing is essential.

Possible reactions:
- ABN AMRO welcomes recent market driven attempts to improve transparency in infrastructure pricing (e.g. LCH Clearnet) and strongly encourages further progress in this direction. In particular, we would like to see the development by infrastructures of appropriate modelling tools that would allow users to compare trading and post-trading costs on a more transparent basis.
- MiFID will play an important role regarding the post-trade disclosure of transactions in shares.

Concern 4 - Lack of CCP and CSD interoperability undermining access

ABN AMRO confirms this is a concern. However, the focus should be, at least in the first stage, on competition. Indeed, considering the experience of inter-operability in settlement (e.g. inefficiency of the bridge operated between Clearstream & Euroclear), ABN AMRO is sceptical as regards the benefits of inter-operability both in term of cost-efficiency and risk mitigation.

Possible reactions:
- ABN AMRO believes that the Commission should focus on enhancing competition between post-trading infrastructures, in particular CCPs. This could be achieved by creating cross accounts in CCPs and promoting open market access. This development should be market-driven.

With respect to the other concerns mentioned in the Issue Paper of DG Competition, whilst they do not constitute major concerns for ABN AMRO, we do recognise their existence and would therefore like to make the following comments:
Concern 5 - Restrictive clauses in agreements between CCPs and providers of agency settlement services relating to the freedom of the latter to provide services to competitors

Possible reactions:
- ABN AMRO supports the open access to all layers of post-trading services and freedom of provision. However, the provision of such services should be limited to those market participants that do not pose a systemic risk and respect specific prudential criteria. Again, we expect such practices to promote competition under CCPs.

Concern 6 - Lack of accounting unbundling within vertically integrated services providers leading to difficulty in detecting abusive cross-subsidies.

Possible reactions:
Accounting bundling within vertically integrated services providers is a concern for ABN AMRO and we therefore support accounting unbundling within vertical structures. Authorities should make sure competition rules are well applied. Formal procedures at EU or national level should be opened in case of infringements of these rules where appropriate.

Concern 7 - Lack of accounting unbundling within non-vertically integrated structures, as it concerns information services and trade reporting fees.

ABN AMRO supports horizontal models as they offer more visibility and competition in trading and post-trading (e.g. retrocession fees are easier to identify).

Possible reactions:
- In our view competition in non-vertically integrated structures is fairly visible and continuously improving. As such, we do not support any regulatory intervention in this field and rather favour a market driven approach.

Concern 8 - Elimination of concentration rules and other measures with equivalent effect

Possible reactions:
- Whilst ABN AMRO fully supports the elimination of concentration rules, we do not believe that any measures prior to the implementation of MiFID would be beneficial at this stage. Indeed, given that the implementation date MiFID for firms is November 2007, any tactical solution prior to this date seems very challenging. ABN AMRO does not support such action.
- DG Competition should intervene in case of infringement to EU competition rules.

Concern 9 - State measures prescribing specific platforms in order to qualify for primary dealer status in government bonds

Possible reactions:
- In some countries, a physical presence is needed to qualify for primary dealer status in government bonds. ABN AMRO supports the elimination of any such measures.

Concern 10 - Possible market failure in provision of technology interfaces allowing integrated trading on competing market platforms.

Possible reactions:
- ABN AMRO believes that there are two main aspects to take into consideration when addressing this issue: liquidity in trading and technology provisions. In our view, the liquidity issue is a key priority. Indeed, competition at the trading level in practice means competition on liquidity. Competition in trading for exchanges may arise as alternative trading systems and/or electronic communication networks enter the market. In this context, measures that hamper the
development of such pools should be avoided. We believe that the market is best placed to come up with the most appropriate solution in this field.

**Concern 11 - Intransparent bundling of execution and other services by brokers**

Whilst transparency of brokerage costs is necessary, banks should not have the obligation to disclose on all other services where costs are driven by the infrastructures.

*Possible reactions:*

- ABN AMRO believes that MiFID (best execution prices) will address this issue to a large extent.
- No other measures seem necessary at this stage.

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A) Views on the potential impact of competition:

The below views of ABN AMRO on the potential impact of competition were earlier expressed in our response in relation to the fact finding exercise of the European Commission DG Competition relating to the vertical arrangements between securities cash trading, clearing and settlement infrastructures in EU25 exercised in October 2005.

Competition on trading level:
Competition on trading level in practice means competition on liquidity. Competition in trading for exchanges may arise as alternative trading systems and/or electronic communication networks enter the market. Given that for each European stock the most liquid market is clear (most of the times the market where the stock was historically issued) scope for competition between exchanges is limited.

Competition on clearing level:
The central counterparty (CCP) function is seen by ABN AMRO as a user owned entity, not in any way controlled or owned by an exchange.
ABN AMRO expects further proliferation of the CCP model: in more markets and for more products we foresee the introduction of the CCP model. In addition to this we expect more clearing service providers (general clearing members) entering the European CCP space in the years to come.
ABN AMRO favours harmonisation and standardisation over complete consolidation, in order to ensure a healthy dose of competition. For the securities clearing function we would prefer to have choice and prefer to see at least more than one option for clearing services per each exchange.

ABN AMRO supports a market driven approach to competition in the clearing sector.

Competition on settlement level:
In relation to the settlement function, we believe that promoting competition and transparency is the basis for innovation in the sector. More settlement providers will lead to more choice, competitive pricing, and new service offerings, allowing for efficiency improvements that will benefit the industry as a whole.

We favour a market driven approach for the notary function for CSD.

B) Barriers to entry

As a user we aim for full open access to service providers without mandatory arrangement requirements. We realise that access is limited to those participants who do not pose a systemic risk. This could be perfectly achieved by setting minimum requirements for participants to the system. As far as the notary public function of central securities depositaries is concerned we prefer further consolidation and an open and well regulated access for all market participants.

C) Buying power

The buying power of exchanges is viewed as limited, given the concentration of liquidity on specific trading venues. Indirect influence via consultations of exchanges with users and user groups exists, however the level on how this is conducted varies from exchange to exchange. An example is the Euronext Post Trade Advisory Committee.
D) Other comments

Harmonisation of business rules and technological standards
We advocate further harmonisation and standardisation of business rules and technological standards. These could in our view be left to the market participants, with support of the standardisation bodies and of market infrastructures, and be driven by market demand. In this respect we refer to the actions taken by SWIFT in relation to the removal of Giovannini Barrier 1.

Harmonisation of legal and fiscal rules
We believe that the European Parliament, Commission and Council should play a significant role in the legal and fiscal harmonisation across the EU. Legal and fiscal barriers and differences between member states obstruct the realisation of one financial market in Europe.

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