



Dino Kos
Executive Vice President
Head of Regulatory Affairs

Financial Square
32 Old Slip, 23rd Floor
New York, NY 10005
Tel: +1 212 510 4548
Fax: +1 212 363 6998

September 30, 2016

Via Email

Ian Searle
Prudential Regulation Authority
20 Moorgate
London
EC2R 6DA
Email: CP25_16@bankofengland.co.uk

Re: CLS Bank International's Response to the Prudential Regulation Authority's Consultation Paper, "The implementation of ring-fencing: reporting and residual matters"

Dear Mr. Searle:

CLS Bank International ("CLS") welcomes the opportunity to submit these comments in response to the consultation paper, "The implementation of ring-fencing: reporting and residual matters, July 2016 (the "Consultation Paper") from the Prudential Regulation Authority (the "PRA"). These comments should be considered in conjunction with CLS's submissions on the PRA's prior consultation papers on ring-fencing: 1) "The implementation of ring-fencing: prudential requirements, intragroup arrangements and use of financial market infrastructures," October 2015, provided by CLS on January 15, 2016; and 2) "The implementation of ring-fencing: consultation on legal structure, governance and the continuity of services and facilities," October 2014, provided by CLS on December 19, 2014 (please see attached together as Exhibit A).

CLS was established by the private sector to mitigate settlement risk (loss of principal) associated with the settlement of payments relating to foreign exchange transactions and is the operator of a financial market infrastructure ("FMI") that is the predominant settlement system

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for foreign exchange transactions (the "CLS System"). The CLS System is the world's largest multicurrency cash settlement system, providing payment-versus-payment settlement in 18 currencies directly to 66 participants ("Settlement Members"), some of which provide access to the CLS System for over 21,000 third party institutions.

CLS is an Edge corporation organized under the laws of the United States and is regulated and supervised by the Federal Reserve. The CLS System was designated in the United Kingdom in 2002 by the Bank of England for the purposes of the EU's Settlement Finality Directive 98/26/EC, as amended, and is designated or recognized for the purposes of comparable finality legislation in many other jurisdictions. In addition, in July 2012, CLS was designated a systemically important financial market utility by the United States Financial Stability Oversight Council and has been specified by HM Treasury as a recognized inter-bank payment system under the Banking Act 2009.

CLS very much welcomes the more detailed ring-fencing guidance provided in this Consultation Paper, specifically as applicable to participation in FMIs. CLS's comments below address those matters where CLS believes it can provide helpful input to maximize the access ring-fenced bodies ("RFBs") will have to FMIs in general and CLS in particular.

Operational continuity and financial market infrastructures (FMIs)

Under the Financial Services and Markets Act 2000 (Excluded Activities and Prohibitions) Order 2014, an RFB is prohibited from entering into any transaction that requires the use of services provided through an inter-bank payment system unless it is a direct participant in the system or one of several conditions applies. In CLS's submission earlier this year, CLS sought clarity on two particular conditions that provide relevant exemptions:

- 1) Where the PRA grants permission for the RFB to access the services through a designated intermediary where exceptional circumstances exist; and
- 2) Where the RFB could make payments through another intermediary if its initial intermediary ceases to be able to provide the RFB access to the payment system.

Regarding the first condition, CLS welcomes the additional clarity provided which includes the link to an application form with further details regarding the considerations that will inform the use of the condition. CLS has no further comments on this condition.

On the second condition, CLS previously noted that switching payment providers on short notice would be a complex, risky, and time-consuming process. Therefore, CLS asked whether the RFB must be operationally and technically able to switch immediately to the alternative intermediary or whether a ramp-up period would be permissible. We explained that, if immediate operational transferability were a requirement, most entities seeking to access CLS would most likely not be able to take advantage of this condition. In the interests of providing broad access to inter-bank systems for RFBs, CLS suggested that this condition be implemented in a manner

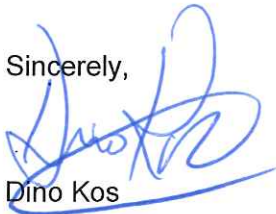
that would allow institutions to take advantage of this exemption. Finally, in an effort to further understand what would be required under this condition, CLS asked whether pre-existing documentation would be required to evidence the basis for the institution's access to an inter-bank payment system through the alternative intermediary or whether a pre-existing business relationship would be sufficient.

On all of these points regarding this second condition, CLS is unaware of any further guidance provided by the PRA. Although Chapter 10 of the Consultation Paper indicates that an RFB need not access FMIs through permitted suppliers unless its activity is significant, there is no mention of acceptable circumstances where an RFB could make payments through another intermediary if its initial intermediary ceases to be able to provide the RFB access to the payment system. Such information would assist CLS's Settlement Members and third parties evaluate how best to comply with their ring-fencing obligations in ways that reflect the business circumstances in which they operate. Any guidance that the PRA could provide on this condition would be useful to affected institutions.

* * *

CLS appreciates the opportunity to make submissions on the Consultation Paper and would be happy to discuss, or further develop, any of these submissions with the PRA.

Sincerely,



Dino Kos

cc: Alan Marquard, Chief Corporate Strategy and Development Officer and General Counsel,
CLS Group
Lauren Alter-Baumann, Managing Director, Legal and Regulatory Strategic Affairs,
CLS Bank International
Craig Rubin, Director, Assistant General Counsel, CLS Bank International