
From: Caroline Ramsey
Sent: Tuesday, 11 March 2008 10:53 a.m.
To:
Subject: FW: Draft Emissions Units Settlement Systems and Futures Bill
Attachments: Legal Disclaimer

Caroline Ramsey

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From:
Sent: Monday, 10 March 2008 6:52 p.m.
To: Caroline Ramsey
Subject: FW: Draft Emissions Units Settlement Systems and Futures Bill

Dear Caroline

We refer to the Draft Emission Units Settlement Systems and Futures Bill, recently released for public consultation. We would like to make two submissions on the Bill.

Background on UBS

UBS is Australasia's leading investment bank, and one of the world's leading financial services providers. We have expertise across a range of financial services activities and provide investment banking, asset management and wealth management services to government, corporations, institutions and private individuals. UBS is the world's largest secondary market trader of equities, accounting for approximately one in every eight shares traded globally.

In New Zealand, our activities are primarily undertaken through UBS New Zealand Limited, which is a full trading and advisory firm accredited by New Zealand Exchange Limited (NZX).

UBS considers it is important to ensure that New Zealand's securities laws remain consistent with international expectations. Where the law can sensibly be improved it should be and we are supportive of the draft bill.

Financial Resources of a Central Clearing House

We note that the CPSS - IOSCO Technical Committee in its document titled Recommendation for Central Counterparties, provides 15 recommendations for central counterparties. Recommendation 5 states that a clearing house should maintain sufficient financial resources to withstand, at a minimum, a default by the participant to which it has the largest exposure in extreme but plausible market conditions. Within this document a list of methods are recommended for the clearing house to stress test and prove the ability of its financial resources to withstand a market default.

We also note from the Draft Emissions Units, Settlement and Futures Discussion Document that "The clearing house will be required to provide additional (actual or synthetic) capital to provide the necessary assurances about its credit worthiness". We are interested to understand why this recommendation has not been more explicitly detailed in the bill along with other international recommendations. Given it is the long term intention for a number of different

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commodities to be traded in the New Zealand market, we consider that it would provide more certainty to the financial markets as a whole should this be part of the legislated requirement to become a designated clearing house.

It is worth noting the approach taken for example in Australia in respect of clearing houses:

- a. the Australian Corporations Act provides that the Reserve Bank of Australia may prescribe standards for the purposes of ensuring that a clearing house conducts its affairs in a way that causes or promotes financial stability (section 827D Corporations Act); and
- b. the Reserve Bank of Australia has prescribed a "Financial Stability Standard for Central Counterparties" which set out in detail the matters relevant to the identification and control of risks by a clearing house. One of the many matters dealt with in this standard is the IOSCO Recommendation 5 and stress testing discussed above.

Amendments to Rules

We note that amendments to critical rules must be approved by both of the joint regulators before that amendment comes into force. We believe there should also be a requirement for a public consultation period prior to critical amendments coming into force. We are interested in understanding whether the joint regulators would consider adopting this as part of the amendment process.

We trust that these comments are of assistance. Please contact the writer if you would like to clarify any aspect of this submission.

Yours sincerely,
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