The International Securities Lending Association
4 Lombard Street
London EC3V 9AA

European Securities and Markets Authority
103 Rue de Grenelle
Paris 75345

22 May 2014

Dear sirs,

ESMA Discussion paper on the CSD Regulation (ESMA 2014/299)

We are pleased to provide a response to the above discussion paper on behalf of the International Securities Lending Association ("ISLA"). Given the focus of our association on the securities lending market we have restricted our comments to just one question in the discussion paper which we believe is of relevance to our members.

Securities lending is a technique employed by long term investors such as pension funds, insurance companies and mutual funds as a means of generating incremental returns on portfolios. Securities loans are fully collateralised and conducted within a well-established legal framework. Banks and prudentially regulated broker dealers provide the market for securities lending by acting as principal intermediaries, borrowing securities from long term investors and using or on-lending them for a variety of purposes, including facilitating market making and trading strategies such as covered short selling. Securities lending activity is acknowledged as adding to secondary market efficiency which benefits all users of the capital markets.

In relation to the CSDR, securities lending also plays an important role in ensuring that transactions settle in a timely fashion, as investors and intermediaries borrow securities to enable them to fulfil their delivery obligations. Our interest in the CSDR is to try and ensure that implementing measures achieve the desired market settlement benefits without inadvertently discouraging investors from participating in securities lending. Investors consider securities lending to be an ancillary investment activity and there is evidence that in some circumstances applying costly settlement penalty regimes can actually serve to deter them from lending their securities. As noted below we believe that further discussion is required in relation to the provision of buy ins to securities lending transactions.

The International Securities Lending Association
4 Lombard Street
London EC3V 9AA

Response to specific question

Q16: In which circumstances would you deem a buy-in to be ineffective?

In relation to the exemption in Article 7.10 (b) regarding short-term repos and stock loans, we have discussed this with our members and believe that further dialogue with ESMA and the authorities is necessary before determining the specific circumstances in which buy ins would be ineffective. We understand that other trade associations including AFME and ICMA have reached a similar conclusion on this issue.

On the one hand we believe that there is a case for exempting the vast majority of securities loans from the buy-in provisions given that these are conducted under master agreements that allow a party who is being failed into, to either close out, or allow an extension of the transaction. In the case of a close out, the transaction is effectively terminated and amounts due between the parties are set off against each other resulting in a net settlement of any difference in values (usually in cash) payable by one party to the other. That said we appreciate that there might be some circumstances that would argue for the application of buy-ins to securities finance transactions for some transactions.

We hope that this very short response to the discussion paper is helpful to you and we look forward to further discussing the specific matter raised above.

Yours sincerely,

Kevin McNulty
Chief Executive