March 2022

EBF feedback to the EC consultation on the review of the central clearing framework in the EU

Introduction

EBF welcomes the extension of equivalence for UK CCPs until June 2025 and the EC's [consultation on the review of the clearing framework in the EU.]

EBF would like to make two initial comments regarding the consultation:

- It is fundamental to distinguish OTC derivatives vs Exchange traded derivatives particular and all other cleared products in general, in in the course of this consultation as the instruments don't have the same features and the same level of liquidity, as well as the same level of availability in the continent.
- The EBF is drafting its feedback based/basing on assumptions regarding the definitions that the EC has in mind, considering the fact that they may not be fully explained in the consultation.

1) General comments

The consultation lists the possibility of a clearing obligation relocation in the EU of some clearing activities of EU-market participants and other measures improving the attractiveness of the EU clearing and capital market: this could be seen to imply that all these measures are on the same level and could potentially be applied together.

However, any forced relocation strategy or other coercive measures will not achieve, and could likely undermine, the objective of a competitive and resilient EU clearing: such strategy would, by definition, only capture EU market participants due to the territoriality of EMIR.

A forced relocation limited to EU clearing market will:

- Separate EU markets from the more liquid international markets
- Create an EU self-isolated market, structurally illiquid and unbalanced (prevalence of one-directional positions). Besides, non-EU market participants will not have any incentive to move trading activities into the EU other than to benefit from arbitrage opportunities. EU entities will, in fact, be cut-off from international markets. Moreover, their ability to offer market making and client clearing to both their non-EU and EU clients will not be subjected to the EMIR clearing obligation: this would imply serious, far-reaching consequences on their own competitiveness and on the international competitiveness of EU capital market (more, rather than less reliance on 3rd country institutions).

The risks of serious market disruptions and complex practical, operational and legal challenges in case of a forced relocation, especially if extended to legacy positions, have been pointed out in several occasions (see also below).

The following measures have similar effects and contravene the stated objective of increasing the attractiveness/competitiveness of the EU clearing and capital market while also severely harming the international competitiveness of EU institutions:

- Punitive capital charges will not produce inflow of non-EU liquidity (in effect similar to forced relocation). It will however significantly weaken the attractiveness and competitiveness of EU clearing members.

- Reduction targets will have little impact and their calibration and fair implementation/monitoring will be very difficult.
- Any FRANDT additional requirements may create disincentive to offer/expand clearing services.

The focus should lie on measures improving efficiency and the international competitiveness of the EU clearing offer and helping to attract non-EU liquidity as well as EU-liquidity, rather than creating coercive measures directed against EU entities and cutting-off their access to international markets. We would consider any approach that harms the clearing infrastructure in favour of one particular CCP to be disproportionate. **We urge the European Commission to only consider measures that make clearing in the EU more attractive,** without disproportionally undermining other market participants that are key to the fair and efficient provision of clearing services.

2) Additional measures

a) CMU

The completion of a true capital market union will be essential for developing a more integrated, more resilient and more competitive EU clearing and EU capital markets.

b) Legal protection of netting / client clearing arrangements:

Clearing relies on all levels on contractual netting as well as collateral arrangements (in the CCP rules / regulations and in the contractual framework for client clearing). Legal protections currently depend on Member States and on insolvency regimes, resulting in a complex and fragmented framework which requires ad hoc legal analysis and approach. Stronger harmonized protections for contractual netting and client clearing arrangements would increase legal certainty and reduce complexities within the EU, significantly facilitating client clearing services.

c) CCP access:

Less burdensome and simpler direct access solutions offered by CCP could encourage use of clearing and organically expand the EU clearing base (but if not impairing CCP risk management). In addition, burdensome requirements for client clearing should be reviewed (e.g. need for back-up clearing member).

3) Mitigating measures:

Should some form of forced relocation be pursued, despite the serious negative consequences, there will be a need for mitigating measures: these would secure the continued access of internationally active EU institutions to international clearing markets, not only for their non-EU operations in form of exemptions for non-EU operations (either entity specific or activity specific), but also for the EU operations with EU clients not subject to the clearing obligation. Without mitigating measures regarding access to international clearing markets, EU-institutions will become uncompetitive in a key segment of capital market services. International clients having the choice of the CCP at which they want to clear will move their entire capital markets business (not only the clearing business) to non-EU institutions.

Considering the political events of the past few weeks we have also considered how to reduce the risk of exposures of EU clearing members to UK CCPs, especially since not all contracts are available on the continent (for example commodity derivatives).

I Scope of clearing participants and products

a) Clearing obligation for PSA

We believe that one of the possible ways to rebalance the clearing activity of a portion of the euro-denominated interest rate swaps ("IRS") and short-term interest rates futures ("STIR") in the EU, is to broaden the base of market participants who clear their transactions in the EU.

Consequently, in line with ESMA's letter to the EC dated January 2022, we see it as a positive step offering to pension funds an adequate framework to clear their euro-denominated derivative transactions in an EU CCP. Indeed, this measure, if adopted, would be positive for the liquidity of the EU clearing eco-system and would favour its attractiveness.

However, we would like to recall the conditions to be complied with to avoid any potential detrimental impact of such measure:

- Any measure aimed at incentivizing pension funds to clear their derivative transactions at EU CCPs should be accompanied by specific measures / conditions that preserve, through the cycle of the contract, the ability of the pension funds to access cash liquidity (for variation margins calls) through emergency repo lines facilities granted by the ECB: these could be used in case of distressed markets through the intermediation of commercial banks that are already offering repo facilities.
- Such measure should take into account the fact that pension funds' positions and exposures are, by nature, massive and directional. Therefore, EU authorities should adjust their contemplated incentivising measures, if any, to ensure that such directional positions will not jeopardise the financial stability of the EU clearing eco-system.
- Such measure, if any, should not put at risk the competitiveness of EU pensions finds towards non-EU ones.

In the case of PSA, sponsored access models (and comparable simple direct access models) can help, to a certain extent, to facilitate access to clearing. The key obstacle, however, appears to be the lack of a workable solution in respect of cash margin requirements and the lack of incentive for commercial banks to become sponsor banks.

In addition, direct/ sponsored access models can raise complex legal and operational challenges, especially in terms of booking and regulatory treatment. The sponsor that will need to be involved in the settlement and collateral transfers, may have to perform shadow booking in order to allocate the exposure.

In this regard, we also see the need for a more robust legal and regulatory framework supporting such model.

A further factor to take into consideration in this scope is that an important portion of PSA trades relates to products with very long maturities which are currently not offered by CCPs in the EU; furthermore, in cases where they are offered, there appears not to be a sufficiently liquid clearing market.

b) More clearing by private entities that do not access CCPs directly

EBF has no comment to make on this point.

c) Encourage clearing by public entities

A successful EU re-localisation of the clearing of euro-denominated derivatives (notably *Interest Rate Swaps*) implies public support and incentives.

Within this context, we support (i) a commitment from EU public sector entities (i.e., sovereigns, supranational entities, agencies, multilateral banks, public banks; central banks) which are today not subject to mandatory clearing obligation to "voluntary" clear their euro-denominated derivatives transactions with an EU CCP (or with a recognised third country CCP) and (ii) an appropriate disclosure of this commitment to the market.

We consider that this measure, if any, imposed by European authorities to European public sector entities, would prove to be very useful to address the desire of EU onshoring of European authorities, for the following reasons:

- It would increase the attractiveness of the EU clearing eco-system, notably by incentivizing non-EU stakeholders, who currently clear the major portion of their euro-denominated derivatives a LCH Ltd gradually, to re-localise in the EU their euro-denominated derivatives clearing activities,

- It would increase the liquidity pool available in the EU CCPs, even if the contemplated clearing volumes from EU public institutions may not be as massive,

- It would send a clear, positive and unambiguous message about the confidence that EU public actors have in the robustness and reliability of the EU derivatives clearing eco-system.

d) Broaden the scope of the clearing obligation

Only the most liquid and standardized product categories are actually eligible to clearing.

Market developments foster further product standardisation, and the benefits of clearing will work as a natural and strong incentive to extend clearing services to other products once there will be a sufficient liquidity and standardisation.

The existing product scope of the EMIR clearing obligation already covers the most liquid and standard product categories with the largest trade volume/liquidity.

It is difficult to identify any other product category which is sufficiently liquid and standardised to be eligible for CCP clearing and, in particular, which would have noticeable cross-product benefits for market participants.

However, it should be added that EMIR does provide for a ”bottom up” and “top down” assessment by ESMA of products that may be suitable for a clearing mandate. This provides it with a sufficient mechanism to provide assistance in broadening the clearing obligation scope. As part of the IBOR transition, ESMA has recently made active use of this mechanism, proving its effectiveness to determine the appropriate product scope of the clearing obligation. For example, the structured process under EMIR Art. 5 requires ESMA to take into account a range of factors including the degree of standardisation of the contractual terms and operational processes of the relevant class of OTC derivatives, their volume and liquidity, the availability of fair, reliable and generally accepted pricing information, as well as the number of CCPs offering the product, and the type and number of active market participants. We therefore strongly recommend that all of these factors should continue to be applied to determine the suitability of products for the clearing obligation alongside CCPs exploring new product offerings to attract volumes.

Additionally, we believe that any extension of the scope of products subject to the clearing obligation, if contemplated, should be coordinated at international level.

II Measures towards markets participants

a) Capital requirements in CRR and supervisory tools

The CRR already distinguishes between recognized and unrecognized CCPs and provides for significantly higher capital charges for unrecognized/non-qualifying CCP (NQCCP). These higher charges already work effectively as a strong incentive to clear with QCCP where possible.

First, higher capital charges on EU banks for their clearing activities with Tier 2 CCPs would unduly and heavily penalize EU actors, who would not be able to compete with non-EU banks for their international activities.

Secondly, if UK CCPs would be derecognised and considered as non-qualified CCPs, then it could actually be argued that the higher charges for Non QCCPs are too high and are not necessarily justified from a risk perspective as NQCCP status does not necessarily constitute a correspondingly higher risk.

In fact, the delay in the assessments of 3rd country CCPs and the failure to provide for recognitions for certain important 3rd country CCPs works as a severe obstacle for EU institutions to their own risk management and totheir ability to provide client services at an international level.

Under the present combined regime of the EMIR and CRR, EU market participants seeking to clear trades not covered by EMIR clearing obligation are permitted to clear these trades via 3rd country CCPs even if these have not yet received an EMIR recognition (this follows from Art. 25 EMIR in conjunction with the CRR provisions on higher capital charges for such NQCCP[1]. However, the higher CRR charges are currently so "punitive" that they practically work as factual access barrier, thereby cutting-off access of EU-institutions to international clearing markets which may be essential for EU-institutions for their risk management purposes and/or their clients risk management purposes (e.g. the USD-markets of FICC and OCC or Asian CCPs). A more balanced approach with exemptions, or more nuanced capital charges commensurate to the actual risk, would be more appropriate.

In any event, capital charges are not the right tool to direct clearing activities since institutions trying to remain competitive should not be forced to choose between a better risk weight on the one side, and diversification of counterparties, prices, liquidity and other potential economic benefits on the other side**.**

In between the "QCCP" and "NQCCP" status, if the intention of the Commission is to create a specific capital charge on EU banks for their exposures toward Tier 2 CCPs, we believe that such measures would not address the EU's objective of a rebalancing in the EU of a portion of the clearing of euro-denominated derivative transactions. Conversely, it would dramatically hinder the ability of EU banks to offer competitive market-making and client-clearing services to both non-EU and EU clients which are not subject to the clearing obligation:more generally, it would jeopardise the competitiveness of EU banks in the euro-denominated derivative market with all clients towards their non-EU competitors.

Concerning penalising measures (i.e., higher capital constraints) for the clearing on Tier 2 CCPs, they could *de facto* be compared to a prohibition for EU banks to access the relevant CCPs unless the following crucial conditions are satisfied: (i) the exemption of such measures for exposures to UK CCPs or segments which are not assessed as highly systemic and, regarding the latter segments, (ii) the exemption of such measures for exposures resulting from market-making and client-clearing activities with all non-EU clients and with EU clients not subject to the clearing obligation.

b) Macroprudential tools

[1] The weighting factor for exposures to NQCCPs, which should be about 100% of the Bank/Clearing Member Exposure to a NQ-CCP, vs a 2% weight for a Bank / Clearing Member Exposure to a Q-CCP

We consider that contemplating macro-prudential measures to address any potential "*over-reliance on Tier 2 CCPs*" from EU banks is absolutely not the appropriate way to address this issue, for the two following reasons:

- Capital constraints imposed on EU banks have already been strongly increased by the EU prudential and regulatory framework (CRD / CRR) and, therefore, the robustness of the EU banking sector has been largely improved, as acknowledged by EU authorities.

- The EU banking sector, in general, has proved its high resilience during the recent financial crisis, preserving as such the EU and its Member States from any financial stability risk.

c) Set exposure reduction target

EBF members consider that setting targets, at least in a first step, for reducing the level of euro-denominated exposures of EU market actors to Tier 2 third-country CCPs is not adapted to address the objective of the EU of rebalancing a portion of the clearing activity of euro-denominated derivatives within the EU. Moreover, itwould be very ccounterproductive for all stakeholders for the following reason.

Setting out a minimum percentage of derivatives volume to be reduced by a certain date by clearing members of a given Non-EU CCP would not make sense in the same way to EU financial actors, given the fact that market making and client clearing activities are "client driven" activities (ie: the client- if not subject to a mandatory clearing obligation on EU CCP- keep the choice where to clear). Imposing targets on EU market participants would rather drastically limit the ability of EU clearers and market makers to offer their services to their non-EU clients and EU clients not subjected to the clearing obligation. Those clients will therefore prefer to clear with non-EU market participants able to offer the clearing on both EU and non-EU CCPs

A minimum percentage will be understood by the market as a cap as, once this level is reached, there will be no need to pursue the efforts to relocate. Indeed, setting targets will not incentivise the market (EU CCPs and market participants) to further develop clearing capacity and relocation inside the EU, hence not giving a positive signal for non-EU participants.

As specified below (see our answer to the section g) "Active account"), we favour a two-step approach, whereby an "Active account" solution (i.e., to invite EU entities subject to the EMIR clearing obligation to open and maintain active clearing accounts in an EU based CCP for the clearing of their euro-denominated derivatives) would be implemented in a first phase via a market-led and non-legislative approach.

This solution would have various positive effects (i) to be started promptly, (ii) to provide the opportunity for supervisors to work with market actors in a careful measured way, considering the specificities of different business models and franchises, and (iii)to avoid any "one size fits all" approach and the use of somewhat arbitrary quantitative thresholds.

Some of EBF members believe that, if setting "Active Account" is not proved to be sufficient, a more coercive approach (see our answer "Active account" below) through a legislative action could be envisaged: EU authorities should be entitled to impose mandatory quantitative thresholds to ensure that the "Active accounts" opened in an EU based CCP receive volumes representing at least a specific proportion of the total euro-denominated clearing volumes. This minimum proportion would result from new trades of the entities subject to the EMIR clearing obligation, but also subject to the relevant exemptions allowing EU clearers and market makers. This exemption would enable them to continue to clear on Tier 1 CCPs and on segments of Tier 2 CCPs other than the 3 segments scoped by ESMA and the Commission (IRS, CDS and STIR instruments denominated in EUR), with their non-EU clients not subject to EMIR and EU clients not subject to the EMIR clearing obligation.

We draw the attention of the European Commission to the fact that, in our sense, when determining such a proportion, it should carefully be considered that it should remain possible for EU financial actors to soundly manage their activities, which implies the clearing of a not excessive unbalanced positions within EU CCPs.

d) Level playing field

In case of any form of restrictions to the access to third-country CCPs (forced relocation) or reduction targets, there would be in any case the need of mitigating measures (regulatory exemptions) to allow the EU-Institutions continued access to such TC CCPs: this would be required in order to maintain international business on competitive terms and to allow them to offer market making and client clearing to their non-EU clients and EU clients not subject to the EMIR clearing obligation, e.g. by way of an exemption for international (non-EU-operations), either entity specific (branches) or activity-specific (non-EU-counterparties).

Moreover, there is a general need for a more balanced approach regarding the triggering of "punitive" capital charges under the CRR regarding NQCCPS (3rd country CCPs not having received an EMIR recognition) as the current system results being too punitive and too simplistic in approach (see already our response in section a) above).

e) Facilitate transfer of contracts from outside the EU

The transfer of legacy (pre-existing) transactions from outside the EU to an EU based CCP should be dealt with by European authorities very cautiously, for the following reasons:

- The transfer of these legacy transactions in an EU based CCP (or a recognised non-EU CCP) will not be manageable within a short time-period, given the volume of such transactions and the existing capacity of the EU clearing system (EUREX, mainly).

- A significant risk and cost for the EU clearing members and their EU clients must be taken into account: in fact, it will be necessary for them to trade out of their pre-existing stock with non-EU counterparties whereas the latter, being out of scope (upon current EMIR provisions) of an imposed re-localisation, will not be required to relocate their own positions and will require an incentive (e.g., a price premium) to undertake this onerous business.

In addition, regarding the stock of transactions currently cleared on Tier 2 CCPs, we consider that European authorities should determine a regulatory solution to ensure an adequate treatment of the stock of euro-denominated derivative transactions, as well as sufficient time to a proper transition. This regulatory solution could be contemplated as follows:

- First option: to consider a "grand-fathering" of the stock positions, which would imply the possibility for the EU market actors not to re-localise such positions to an EU based CCP and to preserve their positions within the non-EU based CCP until the progressive extinction of the stock. Additional measures enabling EU market actors to meet their requirements toward the CCP, such as (i) the ability to continue to risk manage their portfolios, (ii) the ability to participate in the CCP default management process, (iii) and to continue to participate in industry wide portfolio efficiency programs, such as periodic trade compression runs, should be contemplated.

- Second option: to grant EU financial actors the entire flexibility to decide, based on the volumes of their remaining stock positions within non-EU based CCPs and on the discussions with their counterparties, to transfer (or not) their legacy positions in an EU based CCP.

In all cases, we recall the importance to apply an equal treatment to EU and non-EU financial actors, in order to ensure a sufficient liquidity of the EU based CCP beneficiaries of the transfer and to avoid any distortion of competition between EU and non-EU financial actors.

f) Obligation to clear in EU

An indiscriminate relocation will not achieve the central objective of a more resilient and competitive EU clearing market and will also severely harm the overall competitiveness of the EU capital market.

A forced relocation will be ineffective and counterproductive primarily for two reasons.

- It will only affect EU market participants subject to the EMIR clearing obligation with regard to products where EMIR imposes clearing (cleared products not covered by EMIR clearing mandate could still be cleared, would however be subject to punitive CRR capital charges for NQCCP).
- It will not affect non-EU market participants and – crucially – it will not make the EU market more attractive: this would disincentivize non-EU market participants to move a significant share of their market activity into the EU (other than in order to benefit from arbitrage opportunities).

The key factors for the competitiveness of a clearing market are liquidity and a balance of the directions of the positions. The most significant share of the liquidity in international clearing markets, including in interest rate derivatives denominated in EUR, (EUR IRS) is provided by non-EU market participants. Thus, any measure or combination of measures failing to attract international capital market participants to clear within the EU will not be effective and will harm the EU clearing and capital market.

A forced and indiscriminate relocation (even if limited to EUR IRS) is likely to have serious implications which can be divided into two macro categories.

- **Immediate consequences:**
  - EU-institutions would lose their memberships with UK-CCPs and may then be forced to unwind their existing positions held at UK-CCPs and re-establish them with a new EU-CCP (including a transfer of collateral) over a short period of time. Considering the scale of volumes involved, this will have significant market effects (as also described during the meetings held by the European Commission Representatives with a selection of Senior Experts on Clearing) and may also involve considerable operational risks. Such winding-down of positions will also likely lead to higher re-hedging costs for the affected institutions and, presumably, for the indirect clearing members they vehicle. The impact depends on the time afforded by CCPs and under applicable regulatory requirements to clearing members for such winding-down operation.
  - To the extent permissible, existing (legacy) positions that continue to be held with UK CCPs (which also depends on the willingness of UK-CCPs to accept such legacy positions) would become subject to significantly higher – punitive – capital requirements for NQCCPs.
  - Depending on the level of access lost, EU banks would be at significant risk of not being a market marker in EUR, USD and GBP IRD. The EUR market would become fragmented and liquid markets in USD or GBP would not expand in EU CCPs from EEA client activity alone.

- International and EU clients not subject to the EMIR clearing obligation will quickly move their business from EU-institutions, no longer being able to offer competitive terms and/or a full range of capital market services and products, to international competitors. This will not be limited to derivatives services as these are a key component closely connected to all other capital markets services and products.

- **Mid/Long-term consequences:**
  - With EU-institutions no longer being competitive with regard to capital market services and products, there is a clear risk of the EU becoming largely dependent on non-EU institutions for capital market services and products.
  - Since a major portion of the EUR IRD clearing activities will remain outside the EU,and with the UK-CCPs no longer having any need to co-operate closely, EU regulators could end up with a reduced, rather than an increased, ability to oversee the systemically important EUR clearing market.
  - The structural deficiencies of the EU-only clearing market can introduce new systemic risks as well as higher end user costs, e.g. past experience shows that non-EU banks (which are supposed to benefit from EU and non-EU client migration) in times of crisis have proven to shift focus back to their home markets, leading European clients without support when needed.
  - There is a risk that some EU-based institutions may also reduce the offer of indirect client clearing services.

All of the above consequences would significantly be exacerbated if the forced relocation would also be extended to cleared interest rate derivatives denominated in other currencies or even other derivatives categories. A forced relocation will also mean that third-country CCPs and their supervisors will have no reason to cooperate with EU supervisors which thus would have less oversight over a sizeable section of the EUR clearing market outside the EU.

g) Active account

First of all, EBF members are not comfortable with favouring one particular for-profit CCP. We urge the EC to address this competition concern carefully.

Any assessment of creating an "active account" should, in our view, take into account that maintaining one membership, let alone two memberships, would be extremely burdensome for medium and smaller market participants. As such, this underlines the need for simpler clearing access solutions offered by CCPs (see however our response to Q3 in Sec III c): need to balance ease of access with efficiency / safety of CCP and default management system).

In order to preserve the level playing field for EU banks, both domestically and internationally, the maximum perimeter for such an Active Account should be the following:

1. Mandatorily cleared transactions on OTC derivatives denominated in an EU currency, made exception for transactions in which EU firms, not dealing for the banking book, transact with non-EU clients, EU clients not subject to the clearing obligation and potentially EU banks if this exemption is considered relevant from a sound risk management perspective of those: Trades outside of this definition should be free to be booked at any CCP in order to preserve the competitiveness of EU banking institutions both domestically and internationally.
2. The active account structure would ensure that the infrastructure is in place to allow these transactions to be cleared within the EU.

3. This perimeter should only apply when there is no prejudicial price impact for the EU entities.

h) Hedge accounting

No specific comment

i) Transaction resulting from Post trade Risk reduction

No specific comment

j) Fair, reasonable non-discriminatory and transparent (FRANDT) commercial terms for clearing services

As to the counterproductive effects of the FRANDT requirements see our response under Q1.1 in Section General Questions.

As to the proposal of an obligation to offer an alternative option, it is difficult to see how this can work as an effective incentive if the commercial conditions (prices/liquidity) are not better or at least equal. We would also like to underline that clients are those choosing where to clear and that already have access to EU CCPs on a FRANT basis within EMIR. It would therefore not be appropriate to put clearing mandates in the position of "advising" or incentivizing clients on the ultimate choice of the CCP most suitable for their business model.

III Measures towards CCPs

a) Measures to expand the offer by EU CCPs

The rebalancing of a portion of euro-denominated IRS and STIR clearing activity in the EU implies, amongst other measures, the announcement of a development plan to bring the individual EU CCP clearing offers to the level of the clearing offer of their non-EU peers (LCH Ltd, notably).

That is the reason why we consider that European authorities should strongly encourage EU CCPs to develop their offer in order to be, from a user viewpoint, as attractive as possible.

In practice, EUREX, as the only EU- based CCP currently offering the clearing service on OTC contract, should be encouraged by European authorities to announce a contemplated plan to achieve the development of its clearing offer - with a timetable of the various planned actions aiming at improving and broadening the scope of its offering and meeting the expectations of the clients. Such encouragements by the European Authorities should however be open to every EU-based CCP interested in the OTC contracts clearing services.

Given the efficiencies (for clearing members) in clearing a multi-currency portfolio at the same CCP (i.e. optimization of liquidity and collateral needs), it will be vital that the EU CCPs target a product range that is broader than the EUR-denominated only. As such, among relevant developments, we believe that EUREX should develop its offer in all currencies offered by LCH Ltd, especially USD, and obtain regulatory approvals from a large number of third country jurisdictions (similarly to LCH, gained the approval from 18 jurisdictions).

Besides, we also consider that, in order to increase their attractiveness, EU CCPs should also develop and improve all their clearing capabilities (i.e., IT systems, risk management tools, liquidity schemes, margin methodology, extension of opening hours to cover the relevant opening hours of non-EU markets, compression services, account structure, trade capture, …).

This initiative, if endorsed by EU authorities and completed by EU CCPs, will improve the attractiveness of individual EU CCPs (notably EUREX) for both EU and (which is even more crucial) non-EU banking and for non-banking actors.

Finally, the current European supervisory set-up for CCPs has proven to be efficient, maintaining market stability and integrity in times of market stress. However, the set-up remains complex and, at times, unnecessarily operationally burdensome: this is due to a heavy internal governance/review process which includes NCAs, the ESMA CCP Supervisory Committee and CCP college with compositions that overlap often. This can sometimes lengthen the time to launch and market such products and/or to implement minor service changes.

b) Payment/settlement arrangements for central clearing

As acknowledged by the European Commission in the consultation, an improvement of the current set-up of payment and settlement arrangements available to clearing participants would be welcomed.

We would support the extension of the opening hours in EU CCPs and T2S system in view of easing the process of margin calls and payments in euro – which would avoid any dependence on US dollar liquidity. The importance of these extended opening hours has become even more apparent in the past few weeks, as volatility increased and commodity prices soared.

c) Require segregated default funds

No specific comment

d) Enhancing funding and liquidity management conditions

No specific comment

e) Interoperability

No specific comment

IV Monitoring progress towards reduced reliance of EU participants on T2 CCPs

We understand the willingness of the European Commission to measure the progress made by EU market stakeholders towards a reduction of their exposures (as defined here above) to Tier 2 CCPs.

For us, an "appropriate monitoring process" (as stated by the European Commission) should consider the following parameters:

- As acknowledged by the European Commission, the monitoring process should ensure EU authorities to obtain a comprehensive risk picture without imposing excessive burdens to EU market participants. This implies that data to be collected should only be comparable data between EU clearing members and focused only on derivative asset classes which are considered as involving a systemic risk in terms of volumes. It should be noted that considering the amount of data already provided under EMIR, we don't see the benefit of any additional reporting requirement.

- The monitoring process should consider the "progress made" (as stated by the European Commission) by EU clearing members, which implies that the European Commission should, to this effect, consider the trend of the re-localisation carried-out by EU clearing members, without relying upon quantitative thresholds: these would not be adapted to the derivative business models of EU clearing members which are different and may vary.

- Further work needs to be done on the data to be collected, as we believe that some data such as the number of trades, the nominal, the IM collected or the contribution to the default funds, may not give a correct picture of the risk incurred by EU market participants toward CCPs.