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EACH RESPONSE TO THE CPSS-IOSCO CONSULTATIVE REPORT ENTITLED “PUBLIC QUANTATIVE DISCLOSURE STANDARDS FOR CENTRAL COUNTERPARTIES”

EACH, the European Association of Central Counterparty Clearing Houses, welcomes the opportunity to respond to the CPSS-IOSCO consultative report on public quantitative disclosure standards for Central Counterparties (“the Report”).

EACH recognises that CCPs must make certain information public, both in order to maintain public confidence in the conduct of their activities and to enable potential users of their services to make informed decisions about if and how to use them.

However a clear distinction needs to be made between confidential disclosure to regulatory authorities to enable them to conduct effective supervision on the one hand and disclosure to the public on the other.

EACH recommends that public disclosure should provide an adequate level of transparency about the general policies and procedures of the CCP, but it must be tempered by a need to avoid undermining the economic utility of CCPs or frustrating the efficacy of their risk management functions. In practice, this means that CCPs should not be required to publish any information which would have a market impact (e.g. information about the positions of clearing members and their customers, and the collateral held against them), details of an operational nature which, if they were made public, would undermine the ability of a CCP to conduct risk management in an effective manner, and the results of testing (e.g. back testing and stress testing) which, if taken out of context or misinterpreted, could inadvertently damage market confidence as well as the CCPs’ reputation.

As a matter of fact, there are different areas where EACH already is publishing quantitative data:

- EMIR provides for rules for reporting towards regulators;
- There is voluntary reporting and information provision by the CCPs to their respective Clearing member community;
- There is voluntary reporting to the public via the websites of the CCPs.

Also, it is unclear which objectives are pursued with the very far-reaching and granular information requested to be published. We challenge the supposedly underlying assumption within this consultation paper that any kind of information is good to be disseminated in the public domain. We would rather recommend that some of this information is made available to members and regulators only, rather than to the public at large, in line with existing reporting requirements already formulated in the legal frameworks of the respective jurisdictions.

EACH would like to highlight the following general remarks before providing details on the individual questions:

- Overall, the consultation paper requires a very granular set of information to be provided by the CCPs to the public. We feel that this level of detail goes far beyond the EMIR and Dodd Frank Act requirements on disclosure by CCPs and the earlier CPSS IOSCO disclosure framework in combination with the assessment methodology. In addition some of the requirements are partly inconsistent or overlap with the current work by the Federal Reserve Bank of New York's Payment Risk Committee (PRC). It is highly burdensome to the CCP community to provide potentially diverging information to the general public under different regulatory regimes but also to cope with these differing requirements.
- EACH would like to inquire clarity from CPSS IOSCO about the objective of publishing all these information which are partly highly sensitive, as we will explain in more detail below, and which may be misleading for the public, creating confusion instead of promoting financial stability, as intended by the authors of the Report. Further to this, a number of information is intellectual property of the CCPs, and even more, CCPs which are listed companies are bound to rules on disclosure for publicly listed companies that are in conflict with the far-reaching disclosures required by this consultation paper.
- It is particularly important that there be no requirement for CCPs to disclose information which risks impacting financial stability. Such a risk exposure takes place where there is a requirement to disclose potentially sensitive information without further context (disclosure of which would not be wise because market participants might attempt to subvert the CCPs' risk management processes).
- CCPs recognise the need for more transparency and the CCP's community proactively engages into the discussion with regulators, clearing members, clients and the public to provide the balanced level of detail. However, EACH members are concerned that the present consultation report places such a high burden of reporting onto CCPs without acknowledging neither timing of entry into force of the standards, nor a lead time for implementation efforts for the CCP's community. EACH members would appreciate the opportunity to discuss with their respective national regulators the appropriate implementation schedule in order to ensure that CCPs have enough time to comply with the standards, once finalised.
- EACH emphasizes that a number of required information absolutely compromises commercial sensitivity of clearing member related data that we feel are inappropriate for public disclosure, because the risk of being misinterpreted when taken out of context is too high and may have negative consequences for the market and market participants.
- There is a danger of regulatory arbitrage stemming from the following aspect: while EMIR is a regulation applied consistently throughout EU member states, the CPSS IOSCO standards are interpretative guidance and, as such, may be differently interpreted and applied throughout the different jurisdictions with potentially different levels of compliance and differing implementing measures imposed on CCPs. As a result, different CCPs may end up complying within different rules on public disclosure. EACH wishes to emphasize the need for regulators to apply the CPSS IOSCO standards consistently in their respective jurisdictions and encourage a level playing field. EACH wishes to emphasize that CPSS IOSCO requirements are aligned with existing regulatory frameworks in terms of frequency and type of information to the extent possible.

EACH answers to general questions as mentioned in the cover note to the report:

***Q.1.** Are there additional quantitative data that are not included but are, in the respondent's view, necessary to allow risks associated with CCPs and the systemic importance of CCPs to be understood, assessed and compared? If so, what additional data should be disclosed, and why?*

A.1. EACH is not of the opinion that additional quantitative data should be disclosed.

***Q.2.** Are there alternative quantitative or qualitative data, or more effective ways of presenting these or alternative data, that would better meet the objectives of fully, clearly and accurately understanding CCP risks and systemic importance, and comparing CCP risk controls, financial condition and resources to withstand potential losses, given the different markets and products cleared by CCPs, and differences in their structure? Are there data items included that are not, in the respondents' view, necessary to achieve these goals and, if so, why are these not necessary?*

A.2. EACH is not of the opinion that additional quantitative data should be disclosed. For more effective ways of presenting the data included in the report, please refer to the answers to the specific questions.

***Q.3.** Would any of this data be materially commercially prejudicial to CCP participants, linked FMIs or other relevant stakeholders and why is this the case?*

A.3. Yes, some of the required information is highly sensitive because it would provide an insight into the activities of the individual market participants and may alter the behaviour of the market participants, if made public.

***Q.4.** Would disclosure of any of this data result in material additional burden to the CCP, and why (for example, because the data are not routinely available to the CCP in the normal course of its business and risk management)? If so, what analogous information could be disclosed in a meaningful way that would achieve similar goals while minimising this burden?*

A.4. Yes, existing data have to be prepared in tailor-made formats, and automation implementation efforts would be required given frequency and scope of information, placing additional costs onto the CCP community.

CCPs that are listed companies or forming part of a listed group, or that are under specific requirements in respect of financial disclosure may be challenged in respect of the requirements under principle 7, 15 and 16. Disclosure of items that would come under the regular reporting of financial statements should be co-ordinated so as not to come in conflict with applicable regulation, i.e. market abuse.

Q.5. *Would disclosure of any of this data be inconsistent with local law or any legal or regulatory limitations on public disclosure? If so, what analogous information could be disclosed in a meaningful way that would achieve similar goals while avoiding such inconsistency?*

A.5. Due to the fact that the local laws under which EACH members are regulated may vary in terms of limitations on public disclosure, EACH will not answer this question. Please see the respective answers of the individual members.

Q.6. *Do the suggested frequencies for disclosing data strike an appropriate balance between up to date information and reporting burden? What is an appropriate reporting lag?*

A.6. Frequency of reporting should be determined according to the type of disclosure, as follows:

- a) Periodic 'snapshot' values, providing a profile of a CCP: quarterly reporting is appropriate for such disclosure, with consistent dates for all disclosure values. A time lag of one month is appropriate to allow collation and publication of the data.
- b) Current parameters: Current levels (e.g. haircut levels, margin parameters) should be disclosed on an ongoing basis; i.e. updating the figures as changes are made. Historical levels are not relevant, and should not be subject to disclosure requirements.

Q.7. *(For CCP respondents) which of these data elements do you already publicly disclose? To what extent is that data maintained consistent with the quality controls called for in the template?*

A.7. Due to the fact that the data which EACH members disclose may vary, EACH will not answer this question. Please see the respective answers of the individual members.

Q.8. *What is the appropriate structure for presenting the quantitative disclosures so that comparability is facilitated? Once reporting has begun, should previous reports remain available to allow trends over time to be examined?*

A.8. We believe that the standards themselves will allow for comparable data to be formulated. Given the different structures of CCPs, we do not believe that specification of further details in the format of the reporting is appropriate. Indeed, given the differences between arrangements at different CCPs, an overly homogenised presentation format could lead to inaccurate comparability.

Disclosure of previous reports will magnify the magnitude of data requiring publication. We believe that such information should be on an on-request basis.

EACH answers to consultation questions:

Principle 4 – Credit Risk

Q.4.3.1. *How would this information best be presented to provide meaningful information across CCPs while avoiding disproportionate reporting burden (e.g. what is the case for disclosing further information on stress testing methods)?*

Q.4.3.2. *What are the pros and cons of seeking disclosures with regard to the estimated largest credit exposures to both the single largest and two largest participants (plus affiliates), from all CCPs irrespective of whether they are subject to a cover 1 or a cover 2 regulatory requirement?*

A.4.3.1. & A.4.3.2 It would be detrimental to provide to the public, particularly market participants, the number of business days on which the estimated largest aggregate credit exposure exceeded actual pre-funded default resources and by how much. The immediate consequence would be that the public starts comparing the number of breaches among CCPs without the relevant context. Furthermore, this piece of information is irrelevant because it does not qualitatively say much about the resilience of CCPs' risk management and default coverage. The resilience is demonstrated through the respective risk management framework which, per se, is intellectual property of the CCPs and, wisely, not required to be published. Disclosure of the number of breaches should be limited to the national regulator, with whom the CCPs discuss the breaches in the relevant context and the risk mitigation steps taken.

EACH recommends that CCPs are only required to disclose the average exposure over the preceding quarter as a percentage of prefunded resources. This should be disclosed quarterly at quarter end. In addition, CCPs subject to cover 1 should only be required to disclose the estimated largest credit exposures to the single largest participants and the CCPs subject to cover 2 should only be required to disclose the estimated largest credit exposure to the two largest participants. Disclosure of cover 1 information is not relevant for CCPs subject to cover 2 standards and could lead to confidential information being disclosed needlessly.

There are cases whereby CCP's internal risk management policies introduce for specific products a cover beyond the minimum required by their regulatory regime. In these cases the disclosure requirements set at "cover 1" or "cover 2" could potentially harm the one/two largest Clearing Members' reputation, since in relatively small CCPs such clearing members would be easily identified. EACH desires to recommend that the information required should only be based on the standards to which they are subject as per internal risk management policies, if these go beyond the standards set by their home regulatory regimes.

Principle 5 - Collateral

Q.5.1. *How frequently are haircuts changed?*

A.5.1. EACH members will hand in individual responses to this question. However, it is appropriate for CCPs to always report current haircut levels.

Q.5.2. *How frequently are haircuts changed?*

A.5.2. EACH members will hand in individual responses to this question. However, it is appropriate for CCPs to always report current haircut levels.

Q.5.3. *How could this information best be presented to provide meaningful information across CCPs while avoiding disproportionate reporting burden?*

A.5.3. EACH members are fine with disclosing the assumed holding period for the collateral accepted. However disclosing the number of breaches is not significant. The information derived from back-testing would not necessarily indicate whether the haircuts are sufficient to cover extreme but plausible moves, because the look back period used for back-testing (typically a year and may vary across CCPs) may not include significant stressful market moves. It is possible for haircuts not to have any back-testing breaches and yet not be adequate to cover historical market moves that are extreme but plausible.

An alternative is to state what is the kind of stress scenarios that that haircuts are designed to be able to sustain.

Principle 6 - Margin

Q.6.1. *Would it be preferable to report more frequently, e.g. monthly, or to report daily data over the period, the average over the period, highest and/or lowest values over the period, or data as at the end of the quarter?*

A.6.1. This is an example of information required in the 'Recommendations for Supporting Clearing Member Due Diligence of Central Counterparties' by the PRC. EACH would like to point out that the PRC includes the following note: 'this information is provided exclusively for the use of a clearing member's internal risk management and should not be shared with other areas of the firm'. We, therefore, challenge the assumption that this information should be public.

However, if CPSS IOSCO required this information to be made public, we encourage to follow the approach of the PRC by allowing CCPs to provide an aggregate initial margin (not split out by customer/ house) where the breakdown could reveal sensitive market information, particularly for newly established clearing funds. Also, in order to enable adequate comparability across CCPs, EACH members agree that reporting at the end of the quarter with a month reporting lag (e.g. January figures to be disclosed at the end of February) is preferable and sufficient.

Q.6.2. *Would it be preferable to report more frequently, e.g. monthly, or to report daily data over the period, the average over the period, highest and/or lowest values over the period, or data as at the end of the period?*

A.6.2. The same comments made under item 6.1 apply to this section. In order to enable adequate comparability across CCPs, EACH members agree that frequency of reporting of this item should be consistent with the frequency of reporting under 6.1 (i.e. at the end of the quarter with a month reporting lag).

Q.6.3. / 6.4. *How frequently are initial margin rates and key parameters, including correlations, changed? Is the information requested sufficient to provide a basic understanding of the initial margin model, or is more or different information necessary? (E.g. the weighting applied to historic data, the range of volatility shifts modelled, etc?)*

A.6.3. / 6.4. EACH would like to understand what the reasoning behind the questions is. It is unclear why information on the change of parameters is helpful to the public as the mere figures would not facilitate a better or worse understanding of CCPs' initial margin models. The margining policy is the one providing explanations as to the reasoning and frequency of margin parameter adjustments and these are known to regulators and clearing members. Also the notion of "not limited to" is confusing and is opposite to the goal of facilitating the comparability between CCPs, depending on how national regulators will require to interpret the standards.

Q.6.5. *How could this information best be presented to provide meaningful information across CCPs while avoiding disproportionate reporting burden? Is this information best presented at the level of clearing member accounts in each clearing service?*

A.6.5. CPSS-IOSCO disclosure framework proposes that CCPs provide the number and value of breaches on a quarterly basis. This information is not appropriate to determine whether the model achieves its objectives or not.

Validating a margin model that aims to achieve a 99 % (or even higher) level of confidence can only be done through an appropriate statistical test based on a large amount of observations.

An example of an appropriate statistical test is the Kupiec¹ test, which compares the actual number of breaches with the expected number of breaches for a given time interval. At a 99 % confidence level this test requires at least 4 years of historical data.

In addition, empirical studies tend to indicate that back-test breaches occur in clusters, typically in periods of market stress. Margin models have been calibrated to capture inherent market risks with expectations on recent market developments, thus it is to be expected that CCPs will display an important number of breaches under such events – this does however not imply that the margin model has not functioned properly, which could be the conclusion of the uninitiated reader.

The back-test data which is now required to be published will therefore not be adequate for the receiver to make an assessment of the margin model of the CCP, or to compare CCPs and may well lead to wrong conclusions.

EACH members propose to disclose the aggregate figure that statistically determines the extent to which the confidence level of Initial Margin was met.

As to the last question, EACH agrees with the proposal that the information should be published at the level of clearing service, rather than by clearing member accounts, due to confidentiality concerns and the fact that the volume of data would make reporting cumbersome.

For 6.6. and 6.7. the information should be published at the end of the quarter.

¹ Kupiec, Paul H., Techniques for Verifying the Accuracy of Risk Measurement Models. THE J. OF DERIVATIVES, Vol. 3 No. 2, Winter 1995.

Principle 7 – Liquidity risk

Q.7.1. *Would disclosures on composition of liquid resources reveal sensitive information about individual liquidity providers? (please say why, and how the disclosure could be amended to ensure adequate information on liquid resources is disclosed without this sensitivity?)*

A.7.1. EACH feels that it is difficult to set a level reporting standards for liquidity risk and its management, due to the fact that different liquid resources are used by different CCPs. For example, some CCPs have access to central bank money while others do not. This will not enable the public to make a fair comparison between CCPs.

The majority of the information required is already published in financial accounting reporting that CCPs, in particular listed ones, are required to generate quarterly. This fact leads to another problem associated with publication of the information required in the consultation paper, because if a CCP is a listed company, reporting of such information upfront would put the CCP into breach with listed companies reporting rules. This does not ensure a level playing field between listed and non-listed CCPs, because the former ones would find themselves in breach of either rules.

The reporting requirements must be in line with the data publication of listed companies. However it should be respected that non-listed companies are not subject to higher reporting requirements.

Q.7.3. *How could this information best be presented to provide meaningful information across CCPs while avoiding disproportionate reporting burden? Would reporting this data present confidentiality issues and why?*

A.7.3. Reporting should be limited to what is required by 7.1. Additional reporting of such information would likely lead to confidentiality issues, since the worst case scenario would likely be caused by a participant in a range of CCP services (as a clearing member and as a provider of banking / investment services). Since there are a limited number of such participants for any given CCP, the proposed disclosure would include market sensitive information. Further discussion is necessary on the optimal form of disclosure relating to liquidity risks which does not compromise confidentiality.

Principle 10 – Physical deliveries

Q.10.5. *Would this disclosure enable informed market participants to identify individual market participants and, if so, would that be materially commercially prejudicial to CCP participants and why?*

A.10.5. This disclosure enables market participants to identify individual market participants' positions especially in respect to products with small numbers of delivery participants. For example, it is possible that over a quarter it would be known in the market that only one participant delivers a physically settled security. As a result, this disclosure would give commercially sensitive information to other members about the identity and activity of that single participant. The same comment applies to the disclosure of the quarterly peak because this disclosure could refer to one single participant.

A solution could be to require the participants themselves in all cases to make this information publicly available.

Principle 13 – Default rules and procedures

Q.13.1. *Would it be useful to publish quantitative disclosures following a default, with a suitable lag? (e.g. amount of loss versus amount of IM; amount of other financial resources used to cover losses; proportion of client positions closed-out /ported (in aggregate such that individual clients/members cannot be identified))? How long after the default would be appropriate?*

A.13.1. It is important to recognise that any default is first and foremost individual and very sensitive. The management of a default is always of a lengthy nature and legal issues are tied to it far beyond the default event. Due to these legal issues it is not desirable to publicly disclose the requested information. Needless to say, the information on the default event, circumstances and the management of a default are available to the involved regulators in any case and at any time.

Principle 14 – Segregation & portability

14.1. *Split of total client positions held in individually segregated vs. omnibus accounts (and, where relevant, comingled house and client accounts), by service e.g. number of clients using an omnibus vs. individually segregated account, and total client initial margin held in omnibus vs. individually segregated accounts, where available.*

A 14.1. It is often the case that CCPs are not aware of the number of individual clients using a particular account, therefore a fair comparison across CCPs may not be achieved under this item.

Principle 15 – General business risks

Q.15.1. *Would any CCPs have difficulty providing more frequently e.g. every six months or quarterly, and would this add significant value?*

A.15.1. The information on general business risk should be aligned with financial statement requirement and EACH members are of the opinion that these are sufficiently covered by the annual reports provided by CCPs. Annual reporting frequency is appropriate; a more frequent reporting requirement, would have an impact in terms of time and resources, at a time when CCPs are facing a significant increase in costs related to compliance with regulatory requirements.

Q.15.2. *Would any CCPs have difficulty providing more frequently e.g. every six months or quarterly, and would this add significant value?*

A.15.2. Please see our response to 15.1.

Q.15.3. *What information on revenue would best give an insight into risks facing the CCP, while respecting commercially sensitivity?*

A.15.3 Revenue is not a metric to measure the risks facing the CCP and it is therefore not appropriate to require the income breakdowns for each clearing service. This is by definition commercially sensitive. EACH members usually publish similar, higher level information in annual reports already and would recommend to access this source of information for the desired purpose.

Principle 16 – Custody and investment risks

Q.16.2. *What summary statistics could be disclosed without revealing sensitive information? (e.g. on concentration, maturity)*

A.16.2. EACH members feel that the level of detail required under this item is far reaching and not appropriate for public disclosure. The publication of these information is commercially sensitive because the CCPs would in fact disclose their positions, for example in situations where CCPs need to wind down a position.

However, if the information were required to be made public they should be disclosed as a percentage. In addition, CCPs should only be required to disclose the weighted average life instead of a breakdown of maturities if the objective is to make a comparison on how quickly CCPs are able to access cash.

Principle 17 - Operational risk

17. It is unclear what is meant by “system” and to what extent the information required could be of interest to the ‘public’. There are different boundaries of internal systems within the CCPs’ infrastructure and a definition of the scope would be helpful. Assuming that the requirement is limited to the systems to which clearing members are connected, then clearing members are already fully equipped with information on the performance of the systems (payment, risk management, collateral, etc.) due to their connection status. We firmly believe that public disclosure of information regarding operational risk would be detrimental for CCPs’ reputation because they could easily be misconstrued and misinterpreted if taken out of context. By illustration, information on number of extensions to system operating hours required over a given period and duration of extensions (17.6) may have nothing to do with a CCP’s system, for example, in case of outage in upstream (trading platform(s)) or downstream systems.

Principle 18 – Access and participation requirements

Q.18.2. *Could these metrics reveal information about individual members? If so, how should information about concentration across members be conveyed?*

A.18.2. Yes, depending on the product, such as less liquid / exotic products, it might be possible to receive information about the positions of an individual member. A possible solution would be to set a threshold of e.g. 25 members: clearing services with less than 25 members should disclose the data for the top 5 clearing members and clearing services with 25 or more members should disclose the data for the top 10 clearing members. This would make the disclosure proportional to the size of a service.

Also, specifically, the disclosure set out in paragraph 18.2 should be required by asset class, rather than by product, as it would make the comparison across CCPs more meaningful and understandable; and 18.5 is inappropriate, as it is effectively a different cut of the same underlying information as set out in paragraph 18.3.

Principle 19 – Tiered participation arrangements

Q.19.1. *Could these metrics reveal information about individual members? If so, how should information about concentration of client clearing be conveyed? Do CCPs have access to all the requested information?*

A.19.1. Please see our answer to Q 18.2.

Principle 20 – FMI Links

Q.20.4. *How could this information best be presented to provide meaningful information across CCPs while avoiding disproportionate reporting burden?*

Q.20.8. *If the number of members participating in the cross-margining arrangement is fewer than 5, the CCP should consider whether 20.6-20.7 can be disclosed without revealing information about individual member positions.*

A.20.8. & A.20.4. The information under this section is not appropriate for public disclosure due to confidentiality concerns. Disclosure should be strictly limited to regulators only.

Principle 23 - Disclosure of rules, key procedures, and market data

23. On 23.1-4 no issues are seen by EACH members.

On 23.5 and 23.6. The publication of this information is problematic, because the public could easily reconcile which member contributes which volume, which is commercially sensitive information. Therefore, we believe that this information is not appropriate for public disclosure. Regulators already have this information from various reports.

On 23.7. This is not proprietary information of a CCP. Given existing agreements between execution facilities and CCPs, a CCP may not have the right to disclose this information. CPSS IOSCO may consider requiring the actual venues to disclose this information. As a general comment, we do not see the value of providing such data to the public.

EACH would welcome the opportunity to discuss the contents of its response with you, particularly if you require any clarification about the contents of this response.

Should you require further information, please do not hesitate to contact the undersigned.

Yours sincerely,



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About EACH

European central counterparty clearing houses (henceforth CCPs) formed EACH in 1992. EACH's participants are senior executives specialising in clearing and risk management from European CCPs, both EU and non-EU. Increasingly, clearing activities are not restricted exclusively to exchange-traded business. EACH has an interest in ensuring that the evolving discussions on clearing and settlement in Europe and globally, are fully informed by the expertise and opinions of those responsible for providing central counterparty clearing services.

EACH has 22 members:

AthexClear S.A.	ICE Clear Europe
BME Clearing S.A.	IRGiT S.A. (Warsaw Commodity Clearing House)
CC&G (Cassa di Compensazione e Garanzia S.p.A.)	KDPW_CCP S.A.
CCP Austria	KELER CCP Ltd
CME Clearing Europe	LCH.Clearnet Ltd
CSD and CH of Serbia	LCH.Clearnet SA
ECC (European Commodity Clearing AG)	NASDAQOMX Clearing AB
EMCF (European Multilateral Clearing Facility)	National Clearing Centre (NCC)
Eurex Clearing AG	NOS Clearing ASA
EuroCCP (European Central Counterparty Ltd)	OMIClear
	Oslo Clearing ASA
	SIX x-clear AG

This document does not bind in any manner either the association or its members.

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