



**Eurex Clearing
Comments
to the**

**CPSS-IOSCO Consultative
Report**

“Public quantitative disclosure standards for
central counterparties”

December 2013

A. Introduction

Eurex Clearing is a globally leading central counterparty clearinghouse (CCP) and the largest clearinghouse in Europe. Eurex Clearing is a subsidiary of Deutsche Börse Group providing central clearing services for cash and derivatives markets both for listed as well as certain over-the-counter (OTC) financial instruments. Eurex Clearing actively contributes to market safety and integrity with state-of-the-art market infrastructure and clearing services as well as with industry leading risk management services for the derivatives industry. Customers benefit from a high-quality, cost-efficient and comprehensive trading and clearing value chain.

Eurex Clearing is a company incorporated in Germany and licensed as a credit institution under supervision of the Federal Financial Supervisory Authority (BaFin) pursuant to the Banking Act (Gesetz über das Kreditwesen). Furthermore, Eurex Clearing is a Recognised Overseas Clearing House (ROCH) in the United Kingdom and supervised by the Bank of England (BoE). On 1 August 2013 Eurex Clearing has submitted an application to its national competent authority BaFin for re-authorization as central counterparty under the Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (EMIR).

Eurex Clearing welcomes the opportunity to comment on the consultative document on "Public quantitative disclosure standards for central counterparties" published by the Committee on Payment and Settlement Systems (CPSS) and the Technical Committee of the International Organization of Securities Commissions (IOSCO) in October 2013.

This comment paper is arranged as follows. The first section contains our general observations on the CPSS-IOSCO consultation paper. The second section provides detailed comments on the questions in the report.

In addition, Eurex Clearing fully supports the comments submitted by EACH, the European Association of Central Counterparty Clearing Houses.

B. Comments

B 1: Summary of general observations

Eurex Clearing fully supports CPSS and IOSCO in its aim that CCPs shall disclose certain information, both in order to provide the public with sufficient confidence in the CCPs business conduct as well as to enable customers to make informed decisions about the services the CCPs offer.

The cover note to the consultation document outlines that the proposed quantitative disclosures are intended to support all stakeholders including authorities, participants and the public.

Given this broad scope of addressees for information, it is of utmost importance to acknowledge different demands for information with respect to CCPs. The right balance must be established between confidential information disclosed to regulatory authorities only to enable them to conduct effective supervision on the one hand and information disclosed to participants and the public on the other hand. In this respect the consultation paper is not transparent on which objectives are pursued with the very far-reaching and detailed information to be disclosed.

The scope for public disclosure should provide an adequate level of transparency about the services, products, general policies and procedures of the CCP, but shall not undermine the economic utility of CCPs or frustrate the effectiveness of their risk management functions. Hence, 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 respective CCPs reputation.

We challenge the supposedly underlying assumption within this consultation paper that any kind of information is good to be dispersed to the wider public space, and would rather recommend defining "public" as the clearing member community of respective CCPs. This even more so due to the fact that any reporting towards the regulators is already formulated in legal frameworks of the respective jurisdictions.

Eurex Clearing would like to highlight the following general remarks before we provide details on the individual questions:

- Considering the current regulatory environment, Eurex Clearing is of the impression that the level of detail of the information to be disclosed publically goes far beyond the EMIR and Dodd Frank Act requirements on disclosure by CCPs and even beyond the CPSS-IOSCO disclosure framework that was released in combination with the assessment methodology in December 2012. Furthermore, Eurex Clearing deems the consultation paper as partly inconsistent or overlapping with the current work performed by the Payment Risk Committee (PRC). It should also be kept in mind that CCPs which are listed companies or forming part of a listed group are bound to disclosure rules for

publicly listed companies that might be in conflict with the far-reaching disclosures as required by this consultation paper.

- Eurex Clearing is concerned that the publication of all the information as required, part of which can be highly sensitive or subject to intellectual property rights, may lead to confusion and adverse reactions instead of contributing to financial stability. Therefore Eurex Clearing would like to clarify whether other objectives exist where these publication requirements originate from. After all, it is particularly important that no disclosure requirements for CCPs threaten financial stability. Such a threat might pose itself in cases where it is required to disclose potentially sensitive information without further context (disclosure could for example lead to market participants attempting to subvert CCP's risk management processes). Eurex Clearing would like to emphasize that disclosing certain information as required by the consultation paper would absolutely compromise the commercial sensitivity of clearing member related data. Making this information publically available may lead to false actions as a result of misinterpretations or to the risk of taking the information out of context, both having potential negative results for the market and its participants.
- In contrast to e.g. EMIR that is applied consistently throughout all EU member states, the CPSS-IOSCO standards provide interpretative guidance and may be differently interpreted and applied throughout the different jurisdictions. This can potentially result in different levels of compliance and differing implementing measures put onto CCPs. Thus, the CCP community may find itself in a situation of different frameworks for public disclosure. In order to avoid any potential for regulatory arbitrage a unified understanding of the standards is necessary for global regulators.
- Eurex Clearing is of the opinion that aligning the frequency of reporting between the different rules and standards dealing with the disclosure of information will improve practicability and lead to more efficient automated implementations.

B 2: Detailed comments

Q1: 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?

Comment:

As outlined in the general comments the proposed data disclosure is far-reaching and detailed. Therefore, it is questionable if all proposed data should be disclosed. Eurex Clearing does not see any value in disclosing additional data.

Q2: 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?

Comment:

Eurex Clearing supports the disclosure of certain data to judge the CCPs risk controls and financial conditions and resources. However, Eurex Clearing would like to highlight that comparing CCPs on singular pieces of data without the full knowledge of the inherent risk management methodology can be very misleading. The risk management methodology however is to a large extent intellectual property right of a CCP and should not be shared in public but only with regulators. Since the risk methodologies of CCPs are unique and differ, the resilience of a CCP to absorb defaults and external shocks should be judged by the respective regulators and rather should not be subject to public discussion.

Q3: Would any of this data be materially commercially prejudicial to CCP participants, linked FMIs or other relevant stakeholders and why is this the case?

Comment:

Yes, as outlined in answers below, some of the required information for disclosure is not only highly sensitive but would provide insights into individual market participants' positions and behavior potentially translating into unintended adverse impacts on the overall market.

Q4: 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?

Comment:

As outlined in the cover note CPSS and ISOCO envisage a common template for reporting purposes. Existing data have to be prepared in those formats, need to be maintained and amended if the format changes which will lead to high efforts. In addition, automated implementation of the reports will add efforts. Hence, the required frequency, format and scope of information placing additional costs onto the CCP community.

Eurex Clearing would like to highlight that some CCPs are listed companies or forming part of a listed group. For those CCPs specific requirements regarding financial disclosure may be challenging with respect to the requirements under principle 7, 15, 16 and possibly 23. Disclosure of items that would fall under the regular reporting of financial statements need to be coordinated in order to avoid double reporting requirements under different regulatory regimes, e.g. ad-hoc publication, non-discrimination, market abuse, etc.. Breaches of periodic information requirements and use of inside information may be subject to sanctions.

Further, to avoid unnecessary increasing reporting and disclosure burdens for CCPs, and for efficiency reasons, required information, frequencies and format should be aligned with existing or prospective reporting requirements (e.g. reporting to a Trade Repository).

Q5: 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?

Comment:

See answer to question Q4.

Q6: 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?

Comment:

The suggested frequency for disclosing data (quarterly / for some yearly) seems appropriate. However, the time for consolidation and review of data shall be considered. A reporting lag of at least one month for publication of the data might be necessary.

Q7: (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?

Comment:

In general competent authorities already receive this information regularly. In addition, some of the required data is also disclosed to the public. However, disclosure of all information to the public, as proposed in the consultation document, will result in unintended developments, potentially de-stabilizing the market as mentioned before.

Q8: 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?

Comment:

As outlined in the cover note CPSS and IOSCO envision a common template for reporting. Hence, such a standardized format should be used and previous reports should remain available. However, as mentioned before, information, format and frequency should be aligned with other regulatory reporting and disclosure requirements and a differentiation between kind and detail of information provided to the regulatory authorities and information disclosed to the broader public is essential.

Principle 4 – Credit Risk

Consultation Question to 4.3

- a) **How would this information best be presented to provide meaningful information across CCPs while avoiding disproportionate reporting burden (eg what is the case for disclosing further information on stress testing methods)?**
- b) **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?**

Comment:

The questions target at the one hand the estimated credit exposures and on the other hand the actual observations for the disclosure of the number of business days, if any, on which the amount of the credit exposure for either cover 1 or cover 2 exceeds the initial margin and pre-funded default fund contribution.

Eurex Clearing doubts that disclosure of the number of business days on which the estimated largest aggregate credit exposure exceeded actual pre-funded default resources and by how much is valuable information for the public. The estimated credit exposure of either cover 1 or cover 2 is highly depended on the design of the stress testing framework of the respective CCP and therefore a simple comparison of numbers is not meaningful, without taking into account the underlying assumptions and scenarios. Those assumptions and scenarios are intellectual property of the CCP and not to be disclosed to the public. CCPs applying conservative stress scenarios will typically incur larger estimated credit exposures and publication of such results would be detrimental. The estimated aggregated credit exposure in excess of initial margin of a CCP using conservative scenarios and those of CCPs using less conservative scenarios might be similar in their results but differ in terms of possible risk absorption, since less conservative scenarios may result in less pre-funded default resources.

The actual observations might be a better indication for the above purpose. However, as outlined before the resilience of a CCP is to be determined by the respective risk management methodology including the complete picture of CCPs' risk management and default coverage as well as other financial resources and the assumptions they are based on. The disclosure of such information to the public might be misinterpreted and be misleading.

An alternative would be 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.

As outlined above Eurex Clearing recommends refraining from disclosure of any estimated numbers due to the high potential for misinterpretation.

Principles 5 - Collateral

Consultation Question to 5.1 - How frequently are haircuts changed?

Comment:

Eurex Clearing calculates and publishes haircuts on a daily basis. A quarterly report listing all changes would be overly burdensome and the added value such information could provide cannot be seen.

Consultation Question to 5.2 - How frequently are haircuts changed?

Comment:

See answer to question 5.1 above.

Consultation Question to 5.3

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

Comment:

Eurex Clearing is of the opinion that the required information should be disclosed on an aggregated basis to the public. The proposed frequency is fine.

Principle 6 – Margin

Consultation Question to 6.1

Would it be preferable to report more frequently, eg 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?

Comment:

Reporting at the end of the quarter with a one month reporting lag (e.g. January figures to be disclosed at the end of February) is preferable and sufficient.
However, Eurex Clearing would like to highlight that the comparability of the provided data across CCPs is not given since CCPs apply different margin methodologies which could result e.g. in different margin figures providing similar risk coverage.

Consultation Question to 6.2

Would it be preferable to report more frequently, eg 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?

Comment:

Please see answer to consultation question 6.1

Consultation Question to 6.3 and 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.?)

Comment:

Eurex Clearing would like to understand the background of questions raised in current consultation. It is not obvious how such information about the change of those parameters can help to understand CCPs' initial margin models. The key information about the margin models are outlined in respective policies of CCPs including explanations of the applied methodologies. Those policies are known to regulators and clearing members for necessary assessments. In addition, CCPs applying more advanced methods e.g. portfolio based margining methodologies rely on differing risk parameters as e.g. margin rates.

Consultation Question to 6.5, 6.6 and 6.7

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?

Comment:

Eurex Clearing proposes to align the disclosure requirements with Article 61 (1) of Commission Delegated Regulation (EU) No 153/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 (EMIR).

The information requested in consultation questions 6.6. and 6.7 should be published at the end of the quarter.

Principle 7 – Liquidity Risk

Consultation Question 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?)

Comment:

Data should be reported as balance at quarter end only.

Consultation Question to 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?

Comment:

Please see our response to question 7.1

Principle 10 – Physical deliveries

Consultation Question to 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?

Comment:

The disclosure of peak daily volume enables informed market participants to identify individual market participants' market positions especially in respect to exotic products. Subsequently behavior of market participants might change.

Principle 13 – Default rules and procedure

Consultation Question to 13.1

Would it be useful to publish quantitative disclosures following a default, with a suitable lag? (eg 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?

Comment:

Eurex Clearing has doubts that there are any benefits of disclosing quantitative figures following a default. Every default is in itself individual and has to be treated quickly and very sensitive. The management of a default is always of lengthy nature due to various legal issues, including potential liability issues. It is neither desirable nor advisable to publicly disclose the requested information. It should be noted that the information on the default event, circumstances and the management of the default are available to the involved regulators in any case and at any time.

Principle 15 – General Business risk

Consultation Question to 15.1

Would any CCPs have difficulty providing more frequently eg every six months or quarterly, and would this add significant value?

Comment:

To avoid unnecessary double reporting the information required for disclosure on general business risk should be aligned with financial statements required by existing regulation. An annual reporting frequency seems appropriate. A more frequent reporting of that information would lead to a high impact in terms of time and resources.

Consultation Question to 15.2

Would any CCPs have difficulty providing more frequently eg every six months or quarterly, and would this add significant value?

Comment:

Please see our response to Consultation Question 15.1

Consultation Question to 15.3

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

Comment:

Eurex Clearing publishes income figures in the annual report. The data to be disclosed in that respect should be aligned with the data format as provided in the annual report. National characteristics in terms of accounting should also be taken into account. Eurex Clearing would like to highlight that this kind of required information is by definition commercially sensitive.

Principle 16 – General Business risk

Consultation Question to 16.2

What summary statistics could be disclosed without revealing sensitive information? (eg on concentration, maturity)

Comment:

Eurex Clearing would like to raise doubts whether the disclosure of such a detailed split of data is necessary. However, if the information were required to be made public they should be disclosed as percentage. In addition, CCPs should only be required to disclose the weighted average over a time period instead of a breakdown of maturities if the objective is to make a comparison on how quickly CCPs are able to access

cash. In case CCPs have access to central bank the concentration numbers might lead to misunderstandings and wrong conclusions.

Data should be reported as balance at quarter end only.

Principle 17 – Operational risk

Comment:

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 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 system and its performance (payment, risk management, collateral, etc.) due to their connection status.

Eurex Clearing firmly believe that public disclosure of information regarding operational risk would be detrimental for CCPs' reputation in case this information is 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 in case of e.g. outage in upstream (trading platform(s)) or downstream systems may encounter issues.

Principle 18 – Access and participation requirements

Consultation Question to 18.2, 18.3, 18.4 and 18.5

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

Comment:

Yes, the required information will reveal information on positions of individual members in particular in certain less liquid / exotic products.

Principle 19 – Tiered participation arrangements

Consultation Question to 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?

Comment:

Please see our answer to Consultation Question to 18.

Principle 20 – FMI Links

Consultation Question to 20.4

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

Consultation Question to 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.

Comment:

The information under this section is not appropriate for public disclosure due to confidentiality concerns. Disclosure of this data should be limited to regulators only.

Principle 23 – Disclosure of rules, key procedure and market data

Comment:

With respect to number 23.5 and 23.6 Eurex Clearing has major concerns with regards to confidentiality aspects. The information required, when disclosed to the public will be easy to reconcile and reveal which member contributes which volume. Therefore, Eurex Clearing believes that it is not appropriate to disclose this commercially sensitive information to the public.

With regard to number 23.7 Eurex Clearing would like to highlight that this is no proprietary information of a CCP. Given existing agreements between execution facilities and CCPs, CCP may not have the right to disclose this information. CPSS and IOSCO may consider requiring the actual venues to disclose this information. As a general comment, we do not see the value of providing such information to the public.

Regarding number 23.8 Eurex Clearing is of the opinion that it should be sufficient that changes to the fee schedule are made public if and when such changes occur.

C. Closing

We hope that you have found these comments useful and remain at your disposal for further discussion. If you have any questions please do not hesitate to contact:

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