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Committee on Payment and Settlement Systems
Bank for International Settlements
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IOSCO Secretariat
International Organization of Securities Commissions
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18 December 2013

Dear Sirs,

This paper provides the response of LCH.Clearnet Group ("LCH.Clearnet") to the CPSS IOSCO consultative report on 'Public quantitative disclosure standards for central counterparties'.

LCH.Clearnet is the world's leading clearing house group, serving major international exchanges and platforms, as well as a range of OTC markets. It clears a broad range of asset classes including: securities, exchange traded derivatives, commodities, energy, freight, interest rate swaps, credit default swaps, FX derivatives and bonds and repos and works closely with market participants and exchanges to identify and develop clearing services for new asset classes.

General comments

We welcome the opportunity to provide comments on the specific requirements on public quantitative disclosure included in the report. We appreciate the importance of making certain information on CCPs 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, CCPs should not be required to publish 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 on operational risk which, if they were made public, would undermine the ability of a CCP to conduct risk management in an effective manner, and detailed results of testing (e.g. back testing and stress testing) which, if taken out of context or misinterpreted, could inadvertently damage market confidence.

Once the right balance between the need to provide the adequate level of information to the public and the need to protect confidential information is achieved, it is fundamental that regulators adopt the standards in their respective jurisdictions consistently, so that they become legally binding for all CCPs. This will ensure a level playing field and a fair comparison across CCPs. If some CCPs were required to disclose more information than others, they would be put at a competitive disadvantage and the purpose of the disclosure would be defeated.

CCPs already report detailed quantitative information to their regulators and to their clearing members; in addition CCPs may decide to publicly disclose quantitative information via their websites on a voluntary basis. We challenge the need to disclose a very granular set of information to the public which goes beyond requirements under EMIR and the Dodd Frank Act on public disclosure by CCPs. We encourage CPSS IOSCO to implement the disclosure requirements in line with the existing regulatory frameworks.

We also note an overlap between the nature of information required in this report (e.g. under Principle 4. Credit risk and Principle 6. Margin) and those included in the 'Recommendations for Supporting Clearing Member Due Diligence of Central Counterparties' by the Payment Risk Committee (PRC). We, therefore, suggest that CPSS IOSCO requirements are aligned with the PRC recommendations to the extent possible, to avoid duplicative reporting for those CCPs which would follow the recommendations.

We would also appreciate the opportunity to discuss with you the appropriate timing for implementation of the requirements included in the report. It is vital that the regulators ensure that CCPs have enough time to implement the necessary IT developments to support the production and disclosure of this information on an ongoing basis, before applying the requirements.

Below are the answers to the general questions included in the cover note. Annex I includes the answers to the specific questions in the consultation, along with additional comments.

Answers to general questions included in the cover note

Question 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?

We do not believe that additional information should be required to be made public.

Question 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?

Please refer to the specific comments to the consultation questions in particular under Principles 5; 6; 7; 10; 15; 16; 18; 19 and 23.

Question 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?

Please refer to the specific comments to the consultation questions in particular under Principles 6; 10; 13; 16; 17; 18; 19; 20; 23.

Question 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?

The disclosure of some of this data will result in additional burden to the CCP. In order to support the production and disclosure of some of the information required on an ongoing basis, CCPs will need to implement the necessary IT developments. The regulators should ensure that CCPs have the necessary time to do so, before applying the requirements. Therefore we would appreciate the opportunity to discuss the appropriate timing for implementation.

Question 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?

Disclosure of the proposed quantitative data poses several problems from a legal and regulatory perspective. Firstly, many CCPs will have built their information capture and disclosure systems around the standards set out in EMIR and Dodd-Frank and we therefore believe that the proposed requirements should be in line with these existing regulatory frameworks. Secondly, the extent of disclosure of quantitative data may reveal information about CCPs which is commercially sensitive and intellectual work product. As well as potentially impacting a CCP in relation to competitors, this may result in a breach of confidentiality duties to third party contractors. Thirdly, it may be possible for information about specific members to be deduced from data which would result in a breach of confidentiality duties from CCPs to members. These confidentiality issues would not be solved by disclosure being limited to members rather than being public. Fourthly, disclosure in respect of a CCPs' investment policy or information about a members' trading strategy which can be inferred from data may affect markets if disclosed publicly or to members. This may result in disclosure amounting to a breach of laws or regulations for maintaining market integrity. This is a particular issue for CCPs' investment policies since some CCPs are very large investors in sovereign debt.

Question 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?

Please refer to the specific comments to the consultation questions in particular under Principle 6.

Question 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?

LCH.Clearnet already publishes some of the information included in the paper in order to be compliant with EMIR and Dodd-Frank, as noted in some of the answers to the specific questions.

Annex I - Responses to specific questions in the consultation paper

Principle 4: Credit Risk

Consultation questions on 4.3

How could 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)?

It is important to note that across CCPs and even different products cleared by the same CCP, the calculation of credit exposure is subject to differences in model parameters such as stress scenario selection, choice of holding period, historical look back period, modelling methodology. Ultimately, the choice of stress scenarios is affected by the CCP's risk appetite as well. Therefore, the disclosure would not immediately lead to a meaningful comparison across CCPs.

In terms of how to present the information, we believe that comparison across CCPs would be best served by disclosing the average exposure over the preceding quarter as a percentage of prefunded resources. The ratio should be computed using the same Cover 1 or Cover 2 standard for sizing the required amount of prefunded resources and disclosed at quarter end.

It is not useful to disclose the number of breaches on the basis that they do not provide any qualitative information about the resilience of a CCP's risk management. Such resilience is demonstrated through diligent risk monitoring and holistic risk management framework. For instance, LCH.Clearnet is able to call for additional margin from members immediately whenever necessary. Such disclosure should be limited to the national regulator, with whom the CCP discusses the breaches in the relevant context and the risk mitigation steps taken.

Principle 5: Collateral

Consultation question on 5.1

How frequently are haircuts changed?

LCH.Clearnet reviews haircuts at least quarterly. In case of volatile markets, LCH.Clearnet would review haircuts more frequently (e.g. monthly).

Consultation question on 5.3

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

Back-testing results would be of limited use in gauging whether the haircuts are sufficient to cover extreme but plausible moves, as 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 the kind of stress scenarios that haircuts are designed to be able to sustain, for example the haircuts are sufficient to provide the collateral valuation against a Lehman like stress scenario.

Principle 6: Margin

Consultation question on 6.1 and 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 quarter?

We would like to note that the disclosure of the total initial margin required by CCPs and posted by members is already covered in the 'Recommendations for Supporting Clearing Member Due Diligence of Central Counterparties' by PRC. Importantly, the PRC notes that *'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 making this information public is appropriate.

However, if the information were required to be made public, we recommend CPSS IOSCO to follow the approach of the PRC by allowing CCPs to provide an aggregate initial margin (not split out by customer/house) if the breakdown could reveal sensitive market information, particularly for small or newly established clearing funds. Also, CCPs should disclose data as at the end of the quarter with a month lag. (e.g. January figures to be disclosed at the end of February).

Consultation questions on 6.3 and 6.4:

Is the information requested sufficient to provide a basic understanding of the initial margin model, or is more or different information necessary? (eg the weighting applied to historic data, the range of volatility shifts modelled, etc?)

We would like to suggest that CPSS IOSCO align the disclosure requirement under 6.4 with EMIR. Under EMIR CCPs are required to publicly disclose the general principles underlying the CCPs models and methodologies. LCH.Clearnet has this information available on the website. Please refer to the *margin models* drop down arrows from the link below.

http://www.lchclearnet.com/risk_management/ltd/default.asp

Consultation question on 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?

We would recommend that back-testing results of initial margin by service are disclosed using a RAG status¹ to demonstrate the extent to which the confidence level of Initial Margin is met. LCH.Clearnet currently provides this on its website (see *margin* drop down from the link below). This method enables the public to make a comparison across CCPs while avoiding disproportionate reporting burden.

Results of back-testing should not be required to be disclosed by clearing member accounts, due to confidentiality concerns and the fact that the volume of data would make reporting cumbersome. We agree with the proposal that disclosure should be at the level of each clearing service.

¹ RAG status: red-amber-green

http://www.lchclearnet.com/risk_management/ltd/default.asp

Comment on 6.6

Our interpretation is that 'total of variation margin called from participants each day' refers to total variation margin required and that clearing fund excludes initial margin. We would like to ask to clarify that our interpretation is correct.

Principle 7: Liquidity risk

Consultation question on 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?)

We believe that disclosure of the composition of liquid resources would not reveal sensitive information about individual liquidity providers and we appreciate the clarification in the report that CCPs are not asked to disclose the names of the providers.

We would like to note that not all CCPs have access to the same liquid resources or supplementary liquidity risk resources, such as cash at central bank of issue, and the interpretation of what is "highly reliable funding arrangements even in extreme but plausible market conditions" may vary across CCPs. In order to provide a level reporting standard, we would recommend that under item 7.1 CCPs are required to disclose all liquid resources in one currency and split into:

- Cash balances + repo/depo overnight only
- Committed lines of credit
- Securities realisable as repo-transactions and central bank repos

Consultation question on 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?

Comparisons across CCPs would be best served by disclosing the estimated largest same-day and, where relevant, intraday and multiday payment obligation as a percentage of available liquid resources per currency. This would provide clear and understandable information to the public.

Principle 8: Settlement finality

Comment on 8.1

The CSDs are best placed to provide this information to the public as they have a full view of the fails occurring in the securities market.

Principle 10: Physical deliveries

Consultation question on 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?

This disclosure would enable informed market participants to identify individual market participants because 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.

We would like to suggest that CPSS IOSCO consider requiring the participants themselves in all cases to make this information publicly available.

Principle 13: Default rules and procedures

Consultation question on this section

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?

The information related to the circumstances and the management of a default event should be made available to regulators only, as it is highly sensitive information. It is important to note that there are legal issues related to the management of a default which could last much longer than the default event itself. Therefore, we believe it is not appropriate to require CCPs to disclose the information even with a lag.

Principle 14: Segregation and portability

Comment on 14.1

We note that the report recognises that CCPs may not know the number of clients covered by omnibus accounts and that CCPs should complete this item with as much information as is available. On this basis, the public will not be able to make a meaningful comparison across CCPs and therefore disclosure under this item may not be necessary.

If CCPs were required to disclose this information, we ask that the regulators provide more details on the definition of omnibus and segregated accounts. There are different levels of segregation that have been implemented in various jurisdictions, therefore clarity is needed. For example, the LSOC (legally

segregated operationally commingled) account under the US rules, may in some ways be viewed as an omnibus account - on the basis that the collateral covering the positions of the clients is included into a single account - and in other ways seen as an individually segregated account – on the basis that clients are protected from another customer's risk.

Principle 15: General Business risk

General comments on this section

The information included in the CCPs' Annual Reports provides the public with the information necessary to understand the financial condition of the CCP. These Annual Reports are prepared in accordance with the International Financial Reporting Standards (IFRSs), which already enable comparability across the CCPs which adopt these standards. We challenge the need to disclose additional information beyond those required within this existing international framework. A possible solution would be that regulators require all CCPs to adopt the IFRS standards, which provide more detail than the GAAP Principles.

Consultation question on 15.1 and 15.2

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

CCPs should not be required to report financial information more frequently than on an annual basis, because it 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. We suggest that the CCPs are only required to include this information in their Annual Reports and not in addition to the quantitative disclosure report.

The information required under item 15.1 does not allow the readers to make a fair comparison across CCPs. This metric would be more punitive for CCPs, such as LCH.Clearnet, with a complex business structure because they have much higher capital requirements to cover business risk. On this basis, we would suggest that this item is not required to be made public.

Consultation question on 15.3

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

As revenue is not a metric to measure the risks facing the CCPs, we would argue that there is no need to provide the income breakdowns for each clearing service. This information should only be provided at aggregate level as in the Annual Reports.

Principle 16: Custody and investment risks

Consultation question on 16.2:

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

We would be able to disclose the information in percentages. However, we suggest that CCPs are required to disclose the weighted average life instead of a breakdown of maturities. This allows a more accurate comparison between CCPs, in terms of how quickly CCPs can access cash (i.e. shorter weighted average means the cash is available more quickly). Disclosing the maturities would not add value to the information and would give too much insight into the investment strategy and activity of a CCP.

Principle 17: Operational risk

General comment:

It is not appropriate to require public disclosure for the data in this section, as it is commercially sensitive. Particularly, due to the fact that the raw system data does not take into account the measures in place to safeguard and maintain the service, the statistics could imply that a system is more vulnerable than it actually is. In turn, this would undermine the credibility and reputation of the system.

Principle 18: Access and participation requirements

Consultation question on 18.2/3/4

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

Disclosure of the top 5 and 10 members' concentration may allow the market to make inferences on relative market share of the participants - not just which members are significant market players, but also which ones are not. This may further drive more liquidity to the top players and encourage even more concentration of market activities with a few market participants.

As the metrics proposed could reveal information about individual members especially in the case of less developed markets where there are likely to be fewer members, we would like to suggest setting a threshold of 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 way the disclosure would be proportional to the size of the service and the CCPs would be able to satisfy the requirement without running the risk of reporting confidential information on members to the market.

Lastly, the requirement under 18.2 should be by asset class, rather than by product, as it would make the comparison across CCPs more meaningful and understandable.

Principle 19: Tiered participation arrangements

Consultation question

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?

We do not support the disclosure of information on client initial margin as it could reveal confidential information on members especially in the case of smaller/newly established services.

We would suggest that the requirement to disclose the other information under this section regarding clients should be implemented when the major banks and a larger number of clients become subject to a clearing obligation (end 2014/2015). The advantages of this approach are two: the information is likely to be more meaningful and the risk of revealing the identity of individual entities is mitigated.

Finally, we would ask to clarify that the 'number of clients' does not refer to the number of client accounts, as one client may have more than one account open at a CCP.

Principle 20: FMI Links

General comment

There are confidentiality concerns related to the disclosure of data under the interoperability and cross-margining sections. We are therefore not in favour of making the information public and suggest this information is required to be provided to the regulators only.

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

In line with our comment under 19.1, we think that the requirement to disclose the information on clients under item 23.4 should be implemented when the major banks and a larger number of clients become subject to a clearing obligation (end 2014/2015). The advantages of this approach are two: the information is likely to be more meaningful and the risk of revealing the identity of individual entities is mitigated.

We believe that the information proposed under 23.5 and 23.6 should be disclosed privately to the national regulator only. If CCPs were asked to disclose it publicly, we suggest that CPSS IOSCO requires ranking the top 5 members by geographical areas where the members are based, i.e. EMEA, Americas, Asia/Pacific. Given that some of the jurisdictions might only have one or two members (e.g. Switzerland), CCPs would reveal the open interest/notional outstanding and initial margin of a particular member, which is commercially sensitive. Under 23.5, it is appropriate to require the notional outstanding for OTC products, rather than open interest.

As a general comment on this section, the regulators should ensure that CCPs have enough time to implement the necessary IT development to support the production and disclosure of this information on an ongoing basis, before applying the requirements. Therefore we would appreciate clarity around the timing for implementation.

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We trust that the above comments will assist CPSS IOSCO in the process of finalising the standards and look forward to discussing them further. Should you have any questions or issues arising from this response please contact Perrine Herrenschmidt, European Head of Public Affairs at: perrine.herrenschmidt@lchclearnet.com

Yours sincerely,



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