Basel Committee on Banking Supervision (BCBS)
Board of the International Organization of Securities Commissions (IOSCO)

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DIA Comments to the consultation on margin requirements for non-centrally cleared derivatives

The Danish Insurance Association (DIA) welcomes the opportunity to provide comments to the BCBS-IOSCO second consultative document on margin requirements for non-centrally-cleared derivatives.

Q1:
”Given the particular characteristics of physically-settled FX forwards and swaps, should they be exempted from initial margin requirements with variation margin required as a result of either supervisory guidance or national regulation? Should physically-settled FX forwards and swaps with different maturities be subject to different treatments?”

Response:
We support the proposal that physically-settled FX forwards and swaps should be exempted from initial margin and that supervisory guidance on required variation margin is sufficient to achieve desired protection. Supervisory guidance is a much more flexible tool to address this issue. The supervisory guidance should however be developed by the European Supervisory Authorities to avoid regulatory arbitrage.

In case initial margin is required we believe that short term (up to 6 months) term FX forwards and swaps should be exempted from initial margin due to reduced risk and operational issues. However variation margin following supervisory guidance should be mandatory for short term as well as for long term FX forwards and swaps.

Q2:
”Should re-hypothecation be allowed to finance/hedge customer positions if re-hypothecated customer assets are protected in a manner consistent with the key principle? Specifically, should re-hypothecation be allowed under strict conditions such as (i) collateral can only be re-hypothecated to finance/ hedge customer, non-proprietary position; (ii) the pledge treats re-hypothecated collateral as customer assets; (iii) the applicable insolvency regime allows customer first priority claim over the pledged collateral.”

Response:
We appreciate the effort to alleviate liquidity issues by proposing the allowance of re-hypothecation under strict assumptions. We do however believe that transparency will be lost to a certain degree and that re-hypothecation as such is in conflict with the aims of EMIR.

Hence we support the text as it is currently proposed.

Q3:
"Are the proposed phase-in arrangements appropriate? Do they appropriately trade off the systemic risk reduction and the incentive benefits with the liquidity, operational and transition costs associated with implementing the requirements? Are the proposed triggers and dates that provide for the phase-in of the requirements appropriately calibrated so that (i) the largest and most systemically-risky covered entities would be subject to the margining requirements at an earlier stage so as to reduce the systemic risk of non-centrally cleared derivatives and create incentive for central clearing, and (ii) the smaller and less systemically risky covered entities would be allowed more time to implement the new requirements? Should the phase-in arrangements apply to the exchange of variation margin, in addition to the exchange of initial margin as currently suggested? Or, given that variation margin is already a widely-adopted market practice, should variation margin be required as soon as the margin framework becomes effective (on 1 January 2015 as currently proposed) so as to remove existing gaps and reduce systemic risk? Do differences of market circumstances such as readiness of market participants and relatively small volumes of derivatives trading in emerging markets require flexibility with phase-in treatment, even for variation margin?"

Response:
Yes, we believe that the proposed phase-in arrangements are appropriate. We however recommend that no phase-in arrangements are necessary for variation margin.

Q4:
"The BCBS and IOSCO seek comment on the accuracy and applicability of the QIS results discussed above."

Response:
No comment.

Yours sincerely,

Helle Gade