

**From:** [Manuel Andrade](#)  
**To:** [Basel Committee, Service](#)  
**Subject:** Comments from BME Clearing about Revised Basel III leverage ratio framework and disclosure requirements - consultation document  
**Date:** 21 September 2013 23:27:38  
**Importance:** High

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Sir or Madam,

In the document for consultation (Revised Basel III leverage ratio framework and disclosure requirements) we noticed that description of Derivatives Exposure in the paragraphs 22 through 33 does not specifically recognize the differences set up for Securities Financing Transactions of a *bank acting as a principal* (paragraph 35) and a *bank acting as an agent* (paragraph 37).

It may be considered that such distinction is implied recognized in paragraph 22 in the Derivatives Exposure (...Treatment of derivatives: derivatives create two types of exposure: (a) an exposure arising from the underlying of the contract and (b) a counterparty credit risk exposure....) as one counterparty credit exposure when the bank acts an agent (for instance a bank guaranteeing a direct legal relationship between a CCP and a client) or two counterparties credit exposures when the bank acts as a principal (for instance two back-to-back exposures, one between a CCP and the bank and another one between the bank and the client). Although a great number of CCPs just run a scheme of two back-to-back exposures regardless of the type of segregation available to choose (now to be compulsory offered under article 39.5 of EMIR the choice between omnibus client segregation and individual client segregation) there are some CCPs that have been offering the same choice both under the agent and the principal models. That is the case for BME Clearing (MEFF exchange activities have been recently segregated from the legal entity of MEFF which has been renamed to BME Clearing) where in the Individual Account the client has a legal and direct relationship with the CCP and also legally pledges the collateral being the member bank a guarantor of the client performance under the agent model, and in the Omnibus Account the client has a legal and direct relationship with the member - not with the CCP – and then the member bank has direct and legal relationship with the CCP under the principal model.

In our opinion it is important to cover the distinction for the Derivatives Exposure in the same way recognized in paragraph 37 when a bank is acting as agent for Securities Financing Transactions: *a bank acting as agent in an SFT generally provides an indemnity or guarantee to only one of the two parties involved, and only for the difference between the value of the security or cash its customer has lent and the value of collateral the borrower has provided. In this situation, the bank is exposed to the counterparty of its customer for the difference in values rather than fully exposed to the underlying security or cash of the transaction (as is the case where the bank is one of the principals in the transaction). Where the bank does not own/control the underlying cash or security resource, that resource cannot be leveraged by the bank. The following exceptional treatment therefore applies for a bank acting as agent in an SFT and providing an indemnity or guarantee.*

Exactly the same happens in the CCPs with the agent model for the clients with

an Individual Account in BME Clearing with derivatives exposures. All else being equal we can state that *a bank acting as agent in an derivatives transaction provides a guarantee to only one of the two parties involved (to the CCP in this case), and only for the difference between the result of a loss in the close out of the customer position when it defaults and the value of collateral pledged. In this situation, the bank is exposed to the counterparty of its customer for the difference in values rather than fully exposed to the nominal of the underlying. Where the bank does not own/control the collateral, that resource cannot be leveraged by the bank.* This is exactly the case of BME Clearing in the agent model for an Individual Account.

Also the same parallelism should be established for paragraph 39 of the STF: *A bank acting as agent in an SFT and providing a guarantee to a customer or counterparty will be considered eligible for this exceptional treatment only when the bank's exposure to the transaction is limited to the guaranteed difference between the value of the security or cash its customer has lent and the value of the collateral the borrower has provided. In situations where the bank is further economically exposed (ie beyond the guarantee for the difference) to the underlying security or cash in the transaction (For example, due to the bank managing collateral received in the bank's name or on its own account rather than on the customer's or borrower's account -eg by on-lending or managing unsegregated collateral, cash or securities etc.) a further exposure equal to the full amount of the security or cash must be included in the Exposure Measure.*

Exactly the same happens in the CCPs with the agent model for the clients with an Individual Account in BME Clearing with derivatives exposures. All else being equal we can state that *A bank acting as agent in a derivatives transaction and providing a guarantee to a customer or counterparty will be considered eligible for this exceptional treatment only when the bank's exposure to the transaction is limited to the guaranteed difference the result of a loss in the close out of the customer position when it defaults and the value of collateral pledged. In situations where the bank is further economically exposed (ie beyond the guarantee for the difference, For example, due to the bank managing collateral received in the bank's name or on its own account rather than on the customer's or borrower's account -eg by on-lending or managing unsegregated collateral, cash or securities etc.) a further exposure equal to the full amount of the security or cash must be included in the Exposure Measure.*

We appreciate the time devoted to the assessment of this request.

Sincerely,

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