DTCC

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February 7, 2022

VIA E-MAIL TRANSMISSION

The Committee on Payments and Market Infrastructures (CPMI) Secretariat
(cpmi@bis.org)

The International Organization of Securities Commissions (IOSCO) Secretariat
(consultation-06-2021@iosco.org)

RE: CPMI and IOSCO discussion paper on client clearing: access and portability

Ladies and Gentlemen:

The Depository Trust & Clearing Corporation ("DTCC") welcomes the opportunity to comment on the discussion paper issued in November 2021 by the Committee on Payments and Market Infrastructures (CPMI) and the Board of the International Organization of Securities Commissions ("IOSCO") entitled "A discussion paper on client clearing: access and portability" (the "Discussion Paper").[1] DTCC acknowledges the importance of CPMI and IOSCO's efforts on this topic, and appreciates their continued engagement with regulators, central counterparties ("CCPs") and industry groups. Recognizing the Discussion Paper poses a series of questions grouped by topic, we have provided thematic responses to the issues raised across the Discussion Paper rather than specific responses to each question.

Introduction

DTCC is the parent company of The Depository Trust Company ("DTC"), the U.S. central securities depository, and the U.S. cash market securities CCPs, National Securities Clearing Corporation ("NSCC") and Fixed Income Clearing Corporation ("FICC"). NSCC and FICC provide CCP services for multiple asset classes, including U.S. equities, corporate and municipal bonds, and government and mortgage-backed

[1] See CPMI and IOSCO, Discussion Paper entitled "A discussion paper on client clearing: access and portability" (November 2021), available at link to Discussion Paper.

securities.[2] The Government Securities Division ("GSD" or "FICC/GSD") of FICC[3] is the leading provider of trade comparison, netting and settlement for the U.S. Government securities marketplace. DTC provides settlement services for virtually all equity, corporate and municipal debt trades and money market instruments in the U.S. Each of these entities has been designated as a systemically important financial market utility ("SIFMU") by the U.S. Financial Stability Oversight Council ("FSOC") pursuant to Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 ("Dodd-Frank").

FICC/GSD has developed and offers a wide range of client clearing access models to support U.S. Treasury cash and repo transactions. This range includes correspondent clearing, prime broker clearing and sponsored clearing (via FICC's Sponsored Service), as well as a direct client access model through FICC/GSD's Centrally Cleared Institutional Triparty Service ("CCIT"™).[4] This open access and diversified approach to client clearing is based upon our belief that market participants should be able to select a client clearing model that best addresses their needs, while also promoting DTCC's broader goal of expanding the availability of central clearing in the U.S. Treasury market.[5]

Client Access

- *DTCC believes that it is appropriate for CCP client access models to vary in form and structure based upon the particulars of the relevant market and products cleared, but the need to manage risk comprehensively and effectively continues to apply in all instances.*

DTCC understands the importance of the Discussion Paper's objectives, including to
(i) develop knowledge and understanding regarding new access models by which entities that historically have participated indirectly as "clients" can directly access CCP services; and
(ii) consider in particular the potential benefits, risks and challenges that these new possible solutions may bring with respect to access.[6] While we support these efforts, DTCC believes it is necessary to acknowledge at the outset that client access models will differ based upon the type of market and products served by the CCP (e.g., securities cash markets vs. derivatives/futures markets, equities vs. government securities). Further, even where CCPs make client access models available for the same asset class (e.g., government

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[2] DTC, NSCC and FICC are registered under the Securities Exchange Act of 1934, as amended, as clearing agencies, are supervised by the U.S. Securities and Exchange Commission ("SEC"). In addition, DTC is licensed as a New York Limited Purpose Trust Company and state member bank of the Federal Reserve System and, as such, is subject to supervision and examination by the New York State Department of Financial Services and the Federal Reserve Bank of New York under delegated authority from the Federal Reserve.

[3] The other Division of FICC is the Mortgage-Backed Securities Division ("MBSD") which provides CCP services for mortgage-backed securities, including To-Be-Announced securities ("TBAs").

[4] See FICC/GSD Rule 3B "Centrally Cleared Institutional Triparty Service."

[5] See DTCC Whitepaper, "Making the U.S. Treasury Market Safer for All Participants: How FICC's Open Access Model Promotes Central Clearing," October 2021.

[6] Supra note 1.

securities), there will be differences across such models based on the particular CCP and market structure in question and the specific needs or objectives of each type of client seeking access. For example, it has been our direct experience that differences in client clearing models can coexist in the same market and product (i.e., U.S. Treasuries). This is because various market participants will have varying needs or motivations in seeking access to clearing, such as whether access to clearing results in certain desired regulatory capital outcomes or whether the client's objective is to conduct financing transactions or other cash market activities. DTCC believes that these types of factors need to be considered by CCPs, market participants and regulators alike when designing solutions for an access model and assessing regulatory and policy outcomes.

In addition to our view regarding the need for consideration of the factors noted above, DTCC also believes that the PFMIs[7] have provided, and continue to provide, a consistent and effective basis to guide CCPs, market participants and regulators in ensuring that risk is managed effectively and comprehensively in all such diverse instances. As such, DTCC believes that the PFMIs continue to fulfill their original policy objective, even with the ongoing emergence and future development of new clearing access models.

- *Any consideration of future policy work around CCP access models should be grounded in specific data, information and research that covers the broad range of CCPs, CCSPs, clients, and sponsored and direct access models present in today's markets.*

The need to recognize and consider the differences described above is one of the reasons we believe it is important to ensure that future policy in this area is based on specific data, information and research obtained from a variety of sources that represent different types of CCPs, CCSPs, clients, sponsored and direct access models. We understand that the Discussion Paper notes that the analysis "… [ ] elaborates on information collected through: (i) an industry workshop in July 2019; (ii) a survey addressed to CCPs, CCSPs and clients in late 2019; and (iii) targeted interviews in the autumn of 2020." Given the fact that the Discussion Paper and comments received could influence the development of future policy standards by CPMI, IOSCO, or other standard setting bodies, DTCC believes it is critical that CPMI and IOSCO ground any such potential future efforts in a more rigorous and public data collection and analytical process than what was indicated in the Discussion Paper.

- *Deference and recognition regimes for third-country CCPs can also be factors that impact the activity and uptake of direct and sponsored models and should be considered accordingly.*

Among the questions the Discussion Paper poses is whether there are any additional factors that may be impacting the activity and uptake of direct and sponsored models that are not considered in the Discussion Paper.[8] DTCC believes that recognition regimes for third-country CCPs and the general concept of cross-border regulatory deference are factors that can also influence the activity and uptake of direct and sponsored models. More specifically, where the objective for a third-country CCP seeking recognition is to provide access models to clients across multiple jurisdictions, the ability and willingness for such CCPs to pursue this objective will depend significantly upon the regulatory risks and attendant burdens home and host regulators may impose, or offer relief from, based upon mutual deference and recognition. Therefore, we believe that global regulators should consider more explicitly how cross-border deference and

[7] CPMI-IOSCO: Principles for financial market infrastructures, April 2012.

[8] Supra note 1.

recognition regimes for third-country CCPs can enhance the potential to offer direct and sponsored client clearing models to a more geographically diverse array of clients.

Porting

- *Issues around client portability will vary in scope and concern depending upon the particular market and product cleared, and it is important that these distinctions be recognized.*

As regards the topic of porting, we note that client portability may not be applicable to all CCPs based on, among other things, the products cleared, the legal framework in which a CCP operates, and the lack of detail available to the CCP with respect to clients' positions. As explained in the Discussion Paper, porting is primarily about the preservation of client positions (e.g., futures contracts, OTC derivative positions). Under the U.S. cash settlement legal model, the client segregation regime for broker-dealers, for example, is at the broker-dealer-intermediary level, not at the CCP level. Additionally, in the event of a member default, the DTCC CCPs do not need to restore a matched book because the closeout process involves liquidating buy/sell transactions within the applicable settlement cycle (e.g., T+2). As a result, the timeframe in which the open transactions of a defaulting member settle do not permit the CCP to have time to exercise a porting "game plan," as described in the Discussion Paper, nor would there be a need for the CCP to do so.

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We appreciate this opportunity to respond to the issues raised in the Discussion Paper and your consideration of the views expressed in this letter. Many of these matters are complex, and we welcome the opportunity to discuss the Discussion Paper and our comments. If you have any questions or need further information, please contact me at mpozmanter@dtcc.com.

Sincerely,

Murray Pozmanter