[SEC Thailand] Response to discussion paper on client clearing: access and portability

<table>
<tr><th colspan="2">Design of direct and sponsored access models</th></tr>
<tr><td>1. Do you agree with the observation in the discussion paper that the direct and sponsored access models are designed for and generally used more by larger and/or more sophisticated clients?</td><td>We agree with the observation, since it is driven by market force. We see that the models are useful, since they provide alternatives to, even though just some, clients to have access to CCPs. Moreover, it helps reduce balance sheet burden of the members.</td></tr>
<tr><td>2. Could there be any other solutions that would facilitate access, either through greater use of such access models by small and medium-sized clients, or through some other solution?</td><td>No comment</td></tr>
<tr><th colspan="2">Barriers</th></tr>
<tr><td>3. Do you agree with the findings in the discussion paper that direct and sponsored access models are used more for certain types of products than for others? Do you agree with the reasons described in the paper for why this is the case? Why/why not?</td><td>No comment</td></tr>
<tr><th colspan="2">Challenges related to direct and sponsored access models</th></tr>
<tr><td>4. Do you agree that direct and sponsored access models have the potential to diversify the risk profile of the direct clearing participant basis of a CCP by introducing new types of direct participants? Why/why not?</td><td>We agree that the models have the potential to diversify risk profile. As the sponsored members have turned from clients to direct participants,
(1) sponsored members’ risks are passed on (from members) to CCP. Therefore, this helps diversify risks for members.
(2) In addition, the model allows the CCP to know the profile of direct participants directly, while still receive default fund contribution from members. This helps the CCP manages participants’ risk better</td></tr>
<tr><td>5. Do you think that CCPs have introduced sufficient safeguards to prevent risk transmission from direct participants (sponsored member) using direct and sponsored access models? Why/why not? If not, what additional safeguards do you think are necessary?</td><td>We think that the safeguards mentioned in the paper are sufficient.</td></tr>
<tr><td>6. Do you think that sponsors are properly incentivised to closely monitor the activity of their sponsored participants?
Why/why not? If not, how do you think sponsors could be properly incentivised?</td><td>The provided measures give a proper level of incentives if imposed. However, in the case that CCP rely only on member’s judgment in accepting sponsored members additional measures should be established.</td></tr>
<tr><td>7. Do you think that the number of sponsors is limited? Are you concerned about sponsor concentration risk? If so, is this because it is difficult to find a sponsor? Are there any other reasons?</td><td rowspan="2">No comment</td></tr>
<tr><td>8. Do you think that CCP rules adequately address the issue of sponsor default? If so, what are the CCP rules that adequately address this issue? If not, what kind of CCP rules are required to address this issue?</td></tr>
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Testing	
9. Have you participated in default management exercises that test direct and sponsored access models?	We haven't participated in the exercises.
10. Without providing identifying information, what has worked well in such exercises? What has not? Do you have recommendations as to what could be improved for such exercises?	
Additional considerations	
11. Please describe any additional factors that may be impacting the activity and uptake of direct and sponsored models that are not considered in this paper.	No comment
12. Please provide any additional comments with regards to the impact that direct and sponsored access models have on access to client clearing.	
13. Please provide additional comments regarding access to client clearing more generally.	
Risks from not porting	
14. Are there any additional risks or potential harm associated with not porting following a clearing participant default, which were not described in the discussion paper? If so, please describe such additional risks and/or harm.	The risks are adequately identified.
15. Potentially effective practices. (alternate CCSP and game plan) Do you agree with the two tools identified in the discussion paper as potentially successful porting practices? Are there any other tools that should be identified as potentially effective practices?	We agree with the tools.
16. What additional approaches do CCPs use to pre-emptively identify a backup member? What incentives can be provided to assist the development of alternative/backup member relationships? Are there any other considerations for alternate/backup members not set forth in the report?	We think that in addition to the extra charge of DF contribution, CCPs may impose transaction limit to the clients who did not identify alternate CCSP.
17. Are there other considerations for having a game plan that were not described in the discussion paper?	We think that it will be smooth transfer if there is a list of CCSPs which are willing to receive the clients' position which have no any problem on margin status or have efficient collateral.
18. In addition to those outlined in the paper, what attributes of account structures facilitate or impede porting client accounts?	No comment
19. Are some client accounts not suitable for porting?	In our view, omnibus accounts are difficult to port, especially in the case that the porting arrangement is organized by the CCPs. This is in line with the implication from the paper.

20. Does holding excess collateral and the ability to make direct payments improve the probability that a client will be ported successfully or are there impediments to using this collateral?	We agree that holding the excess collateral will help the clients' asset transfer more successfully however it comes with cost to clients for having maintain the such amount of the excess. Therefore, the excess should be adequate and suitable amount.
21. What is your view of a client consent mechanism that could be used to facilitate porting, if permitted under applicable law?	Having client consent in advance is good for porting mechanism and there is no restriction. However, this information should be updated from time to time.
22. Are the potentially effective practices described in the discussion paper consistent with prior porting experiences?	SEC Thailand has no experience in porting problem. However, we have issued procedures for dealing with the failure of market intermediaries to minimize damage and loss to investors and contain systemic risk which include; (1) <u>Process when an intermediary has financial problem and could not restore their net capital at the minimum level</u>, it shall (a) transfer assets in client's cash account to other intermediary (b) arrange each client to be registered as the unitholder by oneself (c) transfer the trading account of clients, to other intermediary to provide the continuous services. (2) <u>Process when the intermediary is being under receivership by the court order</u>, the SEC together with the official receiver would process the segregation and management of the assets of an intermediary for the benefit of managing the clearing and settlement of derivatives or securities of clients, transferring of clients' assets having no obligations with the intermediary and having been segregated clearly. The SEC would (a) process the clearing and settlement to the clearing house for the pending orders (b) update the value of client's asset, inspect the related documents of each client to find the client consent on asset transferring (c) prepare client name list and asset list of each client grouped by another intermediary's name who would be the receiver of client's asset (d) co-ordinate with another intermediary, depository company and clearing house to process the asset transferring. If the consent is not found, or the asset cannot be transferred they would be returned to the client. (Cash: Transfer to bank account which was assigned by the client (ATS), Securities: Co-ordinate with another intermediary and the depository company to process the securities transferring under the client's assignment or issue a share script to the client (as the case may be).
23. Are there any barriers to implementing potentially effective porting practices that are not described in the discussion paper?	When member cannot contact client to ask for consent in porting.

Communication and coordination	
24. Are there any additional communications by the CCP or the defaulting member that may increase the probability of porting client accounts?	No comment
25. Are there additional actions CCPs can take following a clearing participant default to coordinate that are not set forth in the discussion paper? Are there any limitations on coordination that are not included in the paper?	
Harmonisation	
26. Are there additional items CCPs can harmonise or standardise during business as usual that are not outlined in the discussion paper? Are there any factors that may impede harmonisation or standardisation that are not provided in the paper?	No comment
Notable issues to consider when developing a porting protocol	
27. Are there additional regulatory requirements that could impede porting? Can such impediments be addressed or mitigated through action prior to the CCSP's default?	No comment
28. Are there any additional factors that should be addressed in testing exercises?	
29. Please provide examples of good disclosure practices from your perspective.	Intermediaries may disclose on their corporate website the necessary information for clients to understand the porting process, role of each parties, legal issues and regulatory framework etc. In order to achieve portability through timely transfer of client positions and collateral in the event of the clearing participants default, clients should be informed the choice between types of segregated account structures that facilitate efficient porting, risk of not being ported and benefit of data portability. Mentioned above may be incorporated as part of a disclosure statement.
30. Are there other arrangements a CCSP can make to ensure that, post default, the CCSP can help coordinate porting at multiple CCPs if the CCSP is a non-defaulter? If the CCSP defaults, what arrangements can the CCSP make to facilitate the porting of its clients?	No comment
Suggested next steps	
31. Please provide feedback on the suggested next steps for consideration. Do you agree that these issues warrant further consideration by CCPs, CCSPs and/or clients? Are there additional issues that may warrant further consideration?	We agree with the issues provided.