

clear to trade



**Eurex Clearing
Response
to**

EBA's discussion paper on Draft Regulatory
Technical Standards on the capital requirements
for CCPs under the draft Regulation on OTC
derivatives, CCPs and Trade Repositories

Frankfurt am Main,
April 2nd, 2012

A. Introduction

Eurex Clearing is a globally leading central counterparty (CCP). We offer fully automated and straight-through post trade services for derivatives, equities, repo, energy and fixed income transactions. As a central counterparty, our focus is to increase market integrity.

Eurex Clearing is a subsidiary of Deutsche Börse Group and acts as the central counterparty for Eurex, Eurex Bonds, Eurex Repo, European Energy Exchange (EEX) the FWB® Frankfurter Wertpapierbörse (the Frankfurt Stock Exchange) - both Xetra® and floor - and the Irish Stock Exchange.

Eurex Clearing AG is a company incorporated in Germany and licensed and regulated as a credit institution under supervision of the Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin) pursuant to the German Banking Act (Gesetz für das Kreditwesen). The Financial Services Authority (FSA) has granted Eurex Clearing status as a Recognised Overseas Clearing House (ROCH) in the United Kingdom.

Eurex Clearing welcomes the opportunity to comment on EBA's Discussion Paper on Draft Regulatory Technical Standards on the capital requirements for the CCPs under the Regulation on OTC Derivatives, CCPs and Trade Repositories issued in March 2012.

The next part (Section B) of the document contains general remarks we have on aspects of the discussion paper. The last part (Section C) provides detailed answers to the questions posed by EBA.

B. General remarks

As mentioned in the introductory part Eurex Clearing is licensed as a credit institution and is thus also subject to CRD. This includes capital requirements as for any other credit institution. Eurex Clearing currently computes its capital requirements by using the 'Standardized Approach' for Credit Risk and Market Risk and the 'Basis Indicator Approach' for Operational Risk.

Before we elaborate on the specific responses to the questions raised in the discussion paper, in section C, Eurex Clearing would like to take the opportunity to address some general aspects.

- **Eurex Clearing supports the full application of the banking rules**

As pointed out in more detail below Eurex Clearing is of the opinion that the banking rules are fairly elaborated and well proofed. Some CCPs are already regulated as a bank.

However, based on cleared markets, asset classes and currencies cleared / used as well as the size of the operations of a CCP, the capital requirements imposed need to follow the principle of proportionality and need to be flexible enough to offer approaches with different granularity and complexity.

The employment of the banking standard for capital requirements is a suitable solution at least for larger CCPs. However, also smaller CCPs should have the option to use this method. In order to use the banking standards it needs to be ensured that the standard is applied in a fully consistent and compliant approach.¹ Any deviation from the future banking standard – i.e. from the intended CRD IV standard – needs to be incorporated already in CRD IV and / or its related (EBA) Technical Standards.

- **There should be no additional capital requirements for CCPs**

The business model of CCPs is in its nature more risk adverse as the risk model of banks, e.g. a CCP in general has no trading book positions in its risk profile since CCP are not active in proprietary trading. Market risk arises out of small open FX positions resulting from fees and interest, as well as from some operational expenses in non-domestic currencies. In addition, the characteristics of the CCP business lead to the fact that the sole exposures are derived almost entirely from placements of Member Cash Deposits (including cash contributions to the Default Funds) and to a smaller degree from placements of own funds.

Furthermore, any cash placed in the market is invested with highly creditworthy counterparts including central banks, and is collateralized to a large extent with high-rated and marketable government bonds, principally in the same currency. The investments are usually made short-term in order to secure liquidity to the highest extent possible. For the coverage of long term obligations (e.g. pensions) only a small portion of long-term investments including limited equity risk is in the books.

¹ This needs to include the level of proportionality already included in the banking rules as currently proposed in the CRR

- **The future EBA standards should consider and align with the upcoming CPSS-IOSCO Principles for Financial Market Infrastructures**

ECAG highly welcomes the EBA approach to link the proposal with the CPSS-IOSCO principles for Financial Market Infrastructure which according to our knowledge will be published in its final version during Q2 / 2012. With regard to our comments below, any reference is made to the current available proposal of those principles.

In this context, we want to point out that a proper handling of (1) the trade exposures of CCPs towards its Clearing Members, (2) the CCP contribution into the default fund (as requested by EMIR Article 41 (1)) and (3) own funds invested in not highly liquid assets (EMIR Article 44 (1a)) is currently missing for banks operating a CCP under the CRD / CRR rules as well.

For (1) we share the view as stated in the EBA discussion paper, that any risk deriving from the clearing business is covered by EMIR articles 39 to 41a and – beside the other financial resources (to be seen as (2) of our above list) should not be covered by capital according to EMIR Article 12 and therefore also not in the banking rules under CRD / CRR.

Finally, all options and choices given to the credit institution should also be available for CCPs.

The alignment of the capital requirements for CCPs and its reporting obligations towards the competent authority with banking rules will also allow using standard software which is available on the market. Furthermore, standard interfaces to the competent authorities could be used. In case of deviations towards the banking rules, this option might not be feasible and not just for preparation of the reports but also for their transmission to the competent authority, hence, own solutions need to be put in place.

The reporting requirements need to be a unique and integrated set of reports for (credit) institutions as well as CCPs and the future banking templates (COREP) as currently discussed in EBA's CP50 need to reflect also the necessary details for CCPs.

Clear rules need to be given for future changes of the rules. Changes of banking rules should not have unintended consequences for CCPs. It therefore needs to be clarified in both – the CCP capital standard and the banking capital standard – what the process should look like to approve changes with impact on CCP capital standards in case of changes in the banking standard. In order to maintain the desired close link of banking and CCP rules we are in general in favour also to follow changes of the banking rules for CCPs at the same time. However, any change of the banking rules need to be reflected in a change of the capital standards for CCP's based on the principles of EMIR Article 12 (3). In order to follow the structured dialogue as envisaged by the discussion paper, we have answered the questions raised and also commented on some EBA explanatory text as well.

C: Detailed answers to the questions raised by EBA

Paragraph 5: Eurex Clearing AG disagrees with the proposal to deduct CCP's contributions to any default fund of another CCP. CRD IV is proposing – in line with Basel III – (rules are still in discussion) a concrete handling of Clearing members contribution towards CCPs default funds. CCPs being obliged to contribute to another CCPs default fund as a consequence of CCP links should be treated like any other Clearing Member. This is in line with our general position to align CRD rules with capital requirements of CCPs to a maximum extent.

As a CCP in principle does not become member of another CCP for its "own" activities but in favour of its clearing members, it should be considered to allow the CCP to net off its contribution with any backing contribution received by its Clearing members or alternatively to use any pre-paid contribution of its clearing members for that purpose as collateral according to CRD rules (to be incorporated in the ITS on reporting for banks or CRR).

Paragraph 8: The approach in paragraph 8 requires that CCPs have to regularly analyse its cash flows and operating expenses under a variety of adverse business scenarios in order to assess the appropriate amount of capital for winding down the CCP. This implicitly also includes the need to determine the necessary time span for winding down the CCP on a permanent basis.

The time span to wind down a CCP is depending on a variety of influencing factors which to a large extent are just known at the point in time when the need to wind down a CCP occurs (or even just during the wind down process itself). Instead of determining the time span for winding down a CCP individually, we favour a much more generic assumption for all CCPs (i.e. a fixed number of month) and also accepting the inherent assumptions in the banking methods (especially the capital charge for operational risk is also implicitly covering winding down costs)..

In addition, CCPs could be obliged to have internal capital adequacy assessment processes as banks have to have under the so called pillar II.

In combination, we see standard winding down periods and the alternative usage of the banking model as being more adequate than the approach proposed in paragraph 8.

Paragraph 12: The determination of the number of months for winding down is highly dependent on market conditions at the point in time of winding down and also on the reason which leads to the necessity to wind down. It needs to be taken into account, that in case a winding down is necessary the following components of equity, not used at that point in time to cover positions of clearing members, are available:

- the minimum capital of 7.5 million € as required by EMIR article 12 (1),
- the capital calculated in line with the banking approach (see below),
- the CCPs contribution to the "other financial resources" as required by EMIR Article 41 and
- the (in principle close to nothing) equity portions as defined in EMIR Article 44 (1a) and excluded from equity for the purpose of EMIR Article 12 (2) and 42 (4) on a going concern basis, which are nevertheless available on a gone concern (i.e. winding done) basis.

On that basis, ECAG suggests standard winding down periods depending on the complexity of the CCP. The approach applied should be based on the different models as proposed below (question 1).

In relation to EMIR Article 44 (1a) and (1), we ask EBA to include guidance, how investments of capital into the necessary equipment, software licenses, coverage of operational cost etc. are treated. In principle, there is no link of equity towards the assets from an accounting perspective where the "usage" of equity can be derived from. We propose to clearly limit the amount in scope of EMIR Article 44 (1a) to those financial investments, not in line with the requested investment rules of EMIR Article 44 (1) which are

- (a) not linked to the investment of received client cash in a proper documented manner, and are
- (b) not linked in a documented manner to any other provision or liability (e.g. investments of funds to cover pension liabilities e.g. according to IAS 19).

Paragraph 33: The existing reporting tools of the relevant authority should be used as far as possible so not to create additional operational cost or disadvantages for CCPs that also hold a banking license. The reporting should be possible by using the existing web reporting tools implemented by the local regulators or the planned XBRL based reporting. The so called 105 % rule for banks (i.e. as long as the CCP secures operational wise that the actual capital will not fall below 105 % of the minimum requirements, no daily calculation is necessary) should be allowed.

Q1. Do you support this approach to capital requirements?

1. As stated in the general remarks, we are generally supporting the usage of the banking approach. However, the approach should be proportionate to size and complexity of the CCP and needs to give flexibility for small / non-complex CCPs in order to follow a more simple approach (like the one given in Articles 90 to 92 CRR as proposed by the Commission), i.e. oriented on the operational expenses.
2. The approach should be 100 % equal with the rules for banks in order to allow same standards
3. Even as EMIR in Article 12 (2) asks for sufficient funds for winding down the CCP, we do not see any reason why this could not be captured by the operational charge under the banking approach. In case a CCP operates on a going concern basis, the operational risk charge serves to cover losses from operational mistakes. Once the CCP is to operate under a gone concern status, the operational risk charge is to be used to secure winding down. We therefore do not see the need to calculate a "winding down capital" amount to be compared with the capital charge as derived out of the banking standard. Financial losses out of cash placements might be severe and depending on the size of the placements boost out any amount which is put aside to (hypothetically) cover a winding down period. In case of capital calculations made for counterparty risk as well as for the coverage of operational risk, we assume that this covers also implicitly the requested time span and – as this is to be held at all times – also covers sufficiently the other risks stated in EMIR Article 12 (2).

4. As operational risks are THE driver in case cash is not maintained in the CCP itself, a capital requirement in relation to operating cost is a useful tool. As this gets less useful in case of more complex (and therefore most likely more revenue generating) business and in relation to cash placed, the model should change with the degree of complexity. CRR (and already the current CRD rules) shows a potential model for this (see the proposal three step model below). As this seems to be fitting for banks, we wonder if this should not also be a model for CCPs. Over several years of the Basel II process banking regulators have intensively discussed how risk and capital charge for operational risk is covered best and relating this to income has been resulted as the best estimate.

More concretely we propose the following model:

- (a) To include an “operating cost only” approach for CCPs that do not take clients’ money² themselves (cash collateral requested from clearing members are administered by a settlement / collateral agent) and that do not operate additional business which
 - (i) requires a license for regulated services or
 - (ii) – according to the competent authority – adds material risk to the CCP.This would follow the logic of article 4 (8) CRR which excludes certain investment firms as defined in MiFID from the application of CRR rules according to their low risk profile. Such CCPs should have 6 months operating expenses (to be in synch with the wording of CRR: one half (6 month) fixed overheads of the CCP for the preceding year [Article 92 (1) CRR]; the changed terminology to “fixed overheads” is not intended to change content but just intended to harmonize wording
- (b) To include a “higher of” approach for those CCPs that do not take clients’ money themselves (cash administered by a settlement / collateral agent) but operate additional business which
 - (i) requires a license for regulated services or
 - (ii) – according to the competent authority – adds material risk to the CCP. Such regulated service should not be services which require a banking license and hence lead to full CRR application in it.

This would follow the logic of Article 90 – 92 of CRR (i.e. such CCPs should follow the rules as laid down in article 90 (2) CRR). The CCP would have to have the higher of one quarter of its prior year fixed overheads and capital requirements as calculated under the banking approach. CCPs subject to the “operating cost” only model should be allowed to switch to the “higher of” model subject to approval of the competent authority. The “higher of” approach should also be used for large CCPs in case they do not fulfil the above mentioned criterions. “Large” being defined as earning gross revenues (in the sense of the relevant indicator for operational risk in CRR) of 100 mn € or more.

- (c) To include a “CRD” only approach to the CCPs those take clients’ money themselves or are subject to CRR due to other activities.

The proposed model is aligned with the proportionality rules of CRD as:

- Small CCPs, that do not take clients’ money do not face substantial credit (and market) risk should not be forced to use the banking approach (even not to cal-

² In this case, banking terminology has been used. “Clients” in this sense are meant as being clearing members and not “clients” as being customers of the clearing members.

culate it for comparison reason). As the model is less complex as well as less risk sensitive, a higher period of cost is to be covered for potential winding down risk.

- The “higher of” approach is imposed to those more “risky” CCPs that do not take clients’ money. This is in line with CRR. Those institutions are obliged to calculate the banking approach. As they do not take clients’ money, the credit and market risk is supposed to be low, but the capital charge for operational risk needs to be covered. As the operational risk for CCPs is supposed to be lower than those of classical banks (due to higher straight through processing and a limited, but risk focussed business model including the lines of defence for the core activities) it is proposed to follow the 3 months approach of article 92 CRR instead of the 6 months approach for the small CCPs.
- The banking rules only approach is followed (a) as the risks are driven to some extent from credit and market risk (though according to investment guidelines out of EMIR supposed to be limited) and (b) as this is in line with CPSS-IOSCO recommendation 15 – key consideration 3 (“Capital held under international risk based capital standards should be included where relevant and appropriate to avoid double regulation.”). The avoidance of double regulation is the driving moment and to our understanding both risk adequate as well as in line with EMIR requirements and CPSS-IOSCO principles. We cannot read out of EMIR Article 12 (2) the requirement to determine the time span for orderly winding-down nor read in CPSS-IOSCO, that the international capital standards cannot replace the minimum period approach. Furthermore, we feel that the proposed approach is proportional to the risks of the CCP as requested by EMIR Article 12 (2).

Based on EMIR Article 41 (1) last sentence the pre-funded contribution of the CCP to the default funds, irrespective if used (1) before using the default fund contributions of non-defaulting Clearing Members, (2) to the same extent as the default contributions of the non-defaulting Clearing Members (pro rata) or (3) once the default fund contributions of the non-defaulting Clearing Members are fully absorbed, shall not be used to meet the capital required under EMIR Article 12. This can be reached either as a deductible to equity or – what we would recommend – to use this as a technical exposure weighted to the extent which equals a full deduction (currently with a 8 % capital requirement this would lead to 1250 % risk weight, or more generic: 100/capital requirement rate). In case “operating cost” or “higher of” model is used, the amount of the pre-funded CCP contribution needs to be added to the cost as a correction position in order to stay in line with the CA1 – CA5 template proposals of CP50 or a reduction position in CA1 needs to be added. Similarly, according to EMIR Article 44 (1a) any investment of own funds in non-highly liquid financial instruments are to be treated.

Finally, it needs to be clarified in the banking rules by EBA or even in CRR that the trade exposure towards the Clearing Members in any case does not qualify as a risk position of the Bank operating a CCP. This would be in line with current EBA interpretation in the discussion paper.

Q2. Do you consider there to be any alternative approach which is more appropriate that would be consistent with Article 12 of the Regulation?

As outlined in question 1, the model with three different levels but in general 100 % in synch with the banking rule seems to fit properly.

Q3. Which criteria do you take into account for estimating the appropriate time span for orderly winding down or restructuring of the CCP's activities?

The time span to wind down a CCP is highly depending on the reason to wind it down, its business scope, size and complexity, kind and size of collateral taken, economic and market conditions and many more. The time span is also depending on insolvency law and potential litigations. Furthermore, a CCP should also still be in a position to earn money out of existing positions even during the process of winding down or restructuring, which needs to be taken into account when determining the necessary amount to secure orderly winding down.

Having said this, we cannot see any basis in EMIR which forces to determine the winding down period. Current models for CCP capitalisation e.g. in UK ask for capital which covers a time span like 6 month operating expenses. This is not very risk sensitive and does not take into account risk arising from placements or market risk (we have to admit though, that additional measures on liquidity are in place and in most cases additional buffers are requested in excess of minimum requirements). Based on our comments to question 1, we feel that the approach outlined there is implicitly covering the winding down period as well as the other risks as specified in EMIR Article 12. We therefore do not see the need to determine neither in general nor on a case by case basis the winding down period. In fact, we do not see currently any appropriate method to determine such time span.

Q4. What is your estimation for the number of months necessary to ensure an orderly winding-down or restructuring of the CCP's activities?

See our answer to question 3 and paragraph 8 of the discussion paper above. We neither feel in a position to determine such a period ex ante nor see the need to specify it. A generic approach should be followed.

Q5. Do you think that a minimum list of items to be included in the operational expenses could be useful, such as the IAS 7?

IAS 7 deals with cash flows and not with expenses. Positions which lead to expenses in a specific period might be paid in a different one. In addition, provisions (e.g. for pensions) lead to expenses but are paid out much later. The cash flow also takes into account income, which definitively should not be connected to expenses. More generally, the concept of cash flow does not give any useful information for expenses.

Furthermore, usage of references to rule sets which either do not apply or are not used makes it necessary to acquire sufficient knowledge of such rules. As IFRS are not used for our stand alone accounts and quite some CCPs do not use IFRS at all, the mandatory linkage of regulatory figures to a not used accounting standard is adding unnecessary burden and cost without adding value.

In principle the items listed in the Banking Accounting Directive (Directive 86/635/EEC - BAD) are suitable. As also just a minority of CCPs is subject to this accounting standard (including ECAG currently) we nevertheless do not suggest imposing this. As far as CCPs annual statements are subject to an audit by an independent auditor the on-going operational expenses (not including extraordinary items) according to local GAAP should be considered adequate for this calculation. We do not see any reason to specify this and refer in this regard to the wording of CRR Article 92. In case deemed useful, we rather recommend to change the wording of Article 92 to operational expenses in the sense of Article 27 vertical layout items 7 and 9 BAD than do have diverting wording between CRR and EBA technical standards on CCP capital requirements.

Q6. How do you currently measure and capitalise for operational risk?

ECAG is currently classified as a credit institution under German law and subject to the national incorporation of CRD (Basel II rules). In turn, it is obliged to following banking rules for capital purposes and follows the Basic Indicator Approach for Operational risk.

ECAG wants to stress, that in general the business of CCPs bears less operational risk than that of commercial banks as the business is highly straight though processing, highly risk averse, high performing and the underlying risk of client default is covered by the lines of defence. As such, rather a lower than a higher multiplier should be chosen. In order to follow our general approach to be as close as possible to banking rules, we recommend using the banking multiplier (i.e. 15 %).

Q7. Do you think that the banking framework is the most appropriate method for calculating a CCP's capital requirements for operational risk?

If not, which approach would be more suitable for a CCP?

The banking framework is an appropriate method for calculating the capital requirement for operational risk. For small and medium size CCPs we however believe, that the minimum equity requirements from EMIR Article 12 (1) and the x month operational cost proposed for winding down time should be sufficient to cover operational losses in a going concern situation (see our proposal above). This is following the principle of proportionality.

Q8. What would be the cost of employing the basic indicator approach set out for banks for the calculation of your capital requirements for operational risk?

As the Basic Indicator is already implemented at our company, there will be no cost at all.

Q9. Do you think that the Basic Indicator Approach set out for banks is appropriate for CCPs?

Yes, the Basis Indicator Approach – like any of the three approaches allowed in the banking framework – is appropriate to CCPs to the same extent, it is for banks.

Q10. In your view, which alternative indicator should the EBA consider for the Basic Indicator Approach? (Please elaborate why such indicator would be more appropriate for CCPs)

Based on our general support to use the banking rules to the extent possible and having in mind the long debate in the Basel process, we cannot see any other indicator, which would fit more appropriate.

Q11. In your view, with regard to the Standardised Approach, which different lines of business or type of products can be relevant for CCPs' operational risk?

ECAG believes that there is no need to allocate the CCPs business artificially to a particular business line. In general, the CCP business is not comparable with any real banking activity and from an operational perspective less risky (straight through, highly risk averse and with sophisticated risk management tools). A higher weight than 15 % seems therefore not being risk adequate. It is therefore most likely, that the standardised approach is not used by the vast majority of the CCPs. Nevertheless, it should be feasible. (Note, the business lines receiving 12 % only are not relevant for CCPs but the rate of 12 % is closer to the inherent risk of CCPs than the 15 % rate).

In line with our general approach to follow the banking approach 1:1, we disagree to the creation of specific business lines for CCPs. In case a specific business line for CCPs is thought to be introduced, it should receive a 12 % risk weight and should be implemented in the CRR directly.

Q12. Do you think CCPs should be allowed to calculate the capital requirements for operational risk with an internal model, as in the advanced measurement approach?

As we favour the complete and unchanged use of the banking approach to the extent possible, we are also in favour to grant any choice given to the banks including free choice of available methods / approaches. We cannot see any reason, why internal models should not be allowed. We nevertheless see difficulties for CCPs to use the AMA based on missing external data and we also believe that use of the more advanced approaches by CCPs will be limited – if used at all. However, this does not change our view to allow these methods.

Q13. Which other approaches should the EBA consider for operational risk measurement?

As stated above, the long lasting Basel discussion should not be repeated and the approaches being implemented since 2007 / 2008 in the banking industry have not proven to be materially wrong. As such, we currently do not see the need to look out for other approaches including any approach to link the operational risk charge to expenses, income or balance sheet size.

Q14. How do you currently measure and capitalise for credit, counterparty credit and market risk stemming from “non-clearing activities”?

ECAG is currently using the standardised approach for credit risk including the comprehensive method for collateral. It uses the standardised method for market risk. As market risk is coming from FX risk only and no trading book is existing, the method for market risk does not really matter.

Q15. Do you think that the banking framework is the most appropriate method of calculating a CCP's capital requirements for credit, counterparty credit and market risk stemming from “non-clearing activities”? If not, which method would be more suitable for a CCP?

We refer to our answer given to Question 1 and our additional comments to the other questions and in the general remarks.

Q16. What would be the cost of employing Standardised Approach methods for the calculation of your capital requirements for credit, counterparty credit and market risk stemming from “non-clearing activities”?

As the Basel II Framework using the Standardised Approaches is already implemented at our company, there will be no cost at all. However, the additional cost to implement “Basel III”, i.e. CRD IV including changes coming from the revised COREP templates will be substantial and require automated reporting compared to the manual reporting process currently in place.

Q17. In your view, are the Standardised Approach methods appropriate for the calculation of credit, counterparty credit and market risk a CCP faces stemming from “non-clearing activities”?

As stated above, we are in favour to allow full-fledged application of the banking approach including any choice given to the banks. We cannot see any reason to limit the usage towards CCPs. Already currently at least in Germany and France CCPs are within the scope of CRD and have free choice without any supervisory concerns to our knowledge.

However, under Basel III regulation the capital ratio to cover risk will be increased from 8% to up and around 13%. It needs to be clarified, if the current Basel II or the future Basel III rules should apply. In line with the general approach to follow the banking rules to the extent possible, we would support to follow Basel III, i.e. to have the CRD IV rules in place (for solvency only). However, clear rules need to be in place to monitor future developments and to decide on a case by case basis, which new / revised rules are to be applied in case future changes will happen. Implementation should be done by referencing from the EBA technical standard under EMIR to the CRD / CRR rules and the related EBA standards.

As the CRD IV package might be published later than the EMIR Technical Standards is finalised, the reference needs to be on the current CRD framework and an updated technical standard with reference to the final text of CRD IV need to be provided. The EMIR technical standard also needs to have adequate implementation time to fulfil the complex banking standards and any change to it.

Q18. Do you think that CCPs, which concentrate risks stemming from derivatives, should be allowed to calculate their capital requirements for credit, counterparty credit and market risk using internal models?

While we do not understand the linkage of concentration risk from derivatives with usage of internal models, we do not see any reason, why particular business models, activities, counterparties or transactions should limit the possibility to use any offered approach.

Q19. In your view, which assets held by a CCP should be better capitalised with a market risk treatment?

In principle, a CCP invests cash collateral and own funds in liquid assets according to EMIR rules. CCPs in general do not take market risk and follow a risk averse and highly "liquid" business model. In turn, there is also in this context no need to create rules deviating from the banking approach.

Q20. In your view, which other approaches should the EBA consider for credit, counterparty credit and market risk measurement?

We have outlined our modifications to the proposed approach in this response. The full application of banking rules including the modular application as proposed in our response to question 1 seems appropriate and no other approach should be considered.

Q21. What is your view on the notification threshold? At which level should it be set?

A threshold of 105 % should be implemented in order to be obliged for daily calculation. However, as for the banks this should not lead automatically to reporting obligations. In order to reflect the specific role of CCPs a reporting obligation might be useful, if the 105 % monitoring boundary is not fulfilled either several (say 5) days in a row or a dedicated number of days within a given timeframe (e.g. 10 times within 1 month).

Q22. In your view, in which case should restriction measures be taken by the competent authority once the notification threshold is breached?

We are of the opinion that restriction measures may be taken if either threshold breaches are reported frequently (more than 3 times within 12 month) or a threshold breach persists for more than 15 days in a row. Measures are to be taken in case of breaches of the minimum requirements.

D. Closing

We hope that you have found our comments useful and remain at your disposal for further discussion. Overall, we strongly support the general approach taken with the slight modifications proposed. If you have any questions please do not hesitate to contact:

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