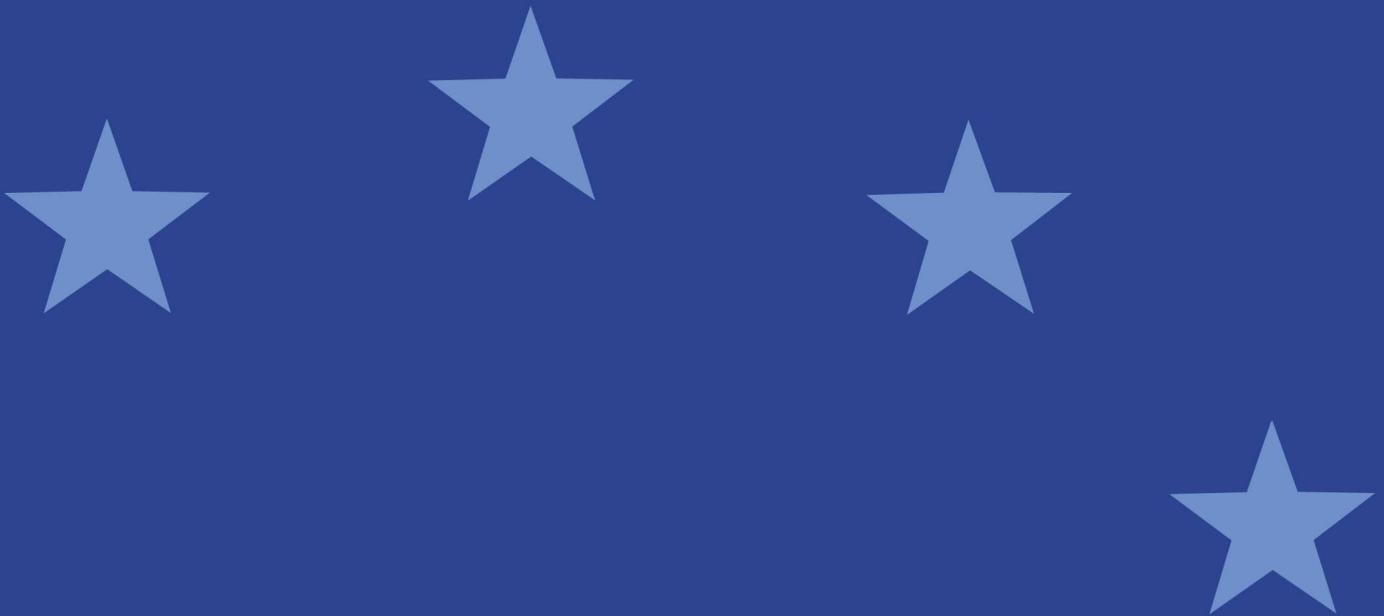




European Securities and
Markets Authority

Consultation Paper

Draft technical advice on criteria for tiering under Article 25(2a) of EMIR2.2



Responding to this paper

ESMA invites comments on all matters in this paper and in particular on the specific questions summarised in Annex III. Comments are most helpful if they:

- (a) respond to the question stated;
- (b) indicate the specific question to which the comment relates;
- (c) contain a clear rationale; and
- (d) describe any alternatives ESMA should consider.

ESMA will consider all comments received by **29 July 2019**.

All contributions should be submitted online at www.esma.europa.eu under the heading 'Your input - Consultations'.

Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly and prominently indicate in your submission any part you do not wish to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESMA's rules on access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESMA's Board of Appeal and the European Ombudsman.

Data protection

Information on data protection can be found at www.esma.europa.eu under the heading [Legal Notice](#).

Who should read this paper

All interested stakeholders are invited to respond to this consultation paper. In particular, responses are sought from central counterparties (CCPs), clearing members and clients of clearing members.

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Acronyms

CCP	Central Counterparty
TC-CCP	Third country CCP
CM	Clearing Member
EMIR	European Market Infrastructures Regulation – Regulation (EU) 648/2012 of the European Parliament and Council on OTC derivatives, central counterparties and trade repositories (as amended).
ESMA	European Securities and Markets Authority
ESRB	European Systemic Risk Board
ETD	Exchange Traded Derivatives
IM	Initial Margin
LEI	Legal Entity Identifier
NCA	National Competent Authority
OTC	Over-the-counter
SFTs	Securities Financing Transactions
TV	Trading venue or execution platform
VM	Variation Margin

DEFINITIONS for the purpose of this Consultation Paper

EU CM means any CM established in the Union (including CMs established in Norway, Lichtenstein and Iceland) and any CM established or registered outside of the Union, but which belongs to a group where the parent undertaking is established in the Union.

Non-EU CM means a CM not qualifying as an EU CM.

EU clients means the CM's clients established in the Union and any client established outside of the Union, but which belongs to a group where the parent undertaking is established in the Union.

EU indirect clients means the CM's indirect clients established in the Union and any indirect client established outside of the Union, but which belongs to a group where the parent undertaking is established in the Union.

EU entities means EU entities including non-EU entities where such entity is part of an EU group.

Union Currencies means the Union currencies and includes the currencies of Norway (NOK), Lichtenstein (CHF) and Iceland (ISK).

Asset classes means a reference to relevant classes of financial instruments including: bonds, structured finance products, securitised derivatives, interest rate derivatives, equity derivatives, commodity derivatives, foreign exchange derivatives, credit derivatives, C10 derivatives, CFDs, emission allowances and emission allowance derivatives.

Sub-asset classes means a reference to an asset class segmented to a more granular level on the basis of the contract type and/or the type of underlying.

1 Executive Summary

Reasons for publication

On 13 March 2019, the European Parliament, the Council and the Commission reached a political agreement on the review of the regulatory framework for the authorisation and supervision of CCPs established in Title III of Regulation 648/2012 (EMIR2.2). While the legislative process for the adoption of the proposed regulation amending EMIR in this respect is being finalised, ESMA has initiated its preparatory work for the implementation of the new regime for third-country CCPs (TC-CCPs).

This review introduces a new category of TC-CCPs, the systemically important or likely to become systemically important CCPs, which in order to be recognised under Article 25 of EMIR, have to comply, among other things, with the EMIR requirements set out in Article 16 and in Titles IV and V of EMIR (see new Article 25(2b)(a)).

It also introduces a set of criteria to be taken into account by ESMA to determine whether a TC-CCP is systemically important or likely to become systemically important for the financial stability of the Union or of one or more of its Member States. A TC-CCP determined as systemically important will be considered a Tier 2 CCP for the purpose of EMIR.

Under the new regime the Commission has to adopt a delegated act to further specify the tiering criteria and the Commission shall endeavour to consult ESMA before adopting such a delegated act.

Accordingly, on 3 May 2019, ESMA received a provisional request (provisional mandate) from the Commission to provide a technical advice to assist the Commission on the possible content of this delegated act. The mandate is enclosed in Annex I in this paper. This consultation paper seeks stakeholders' views on the draft technical advice to further specify the criteria for tiering, i.e. for the determination of whether a TC-CCP should be considered a Tier 2 CCP.

Content

This paper presents ESMA's draft technical advice for public consultation. Section 4 discusses how to further specify the criteria. Section 5 contains the Annexes; the provisional mandate to ESMA (Annex I), the cost-benefit analysis (Annex II), the questions for the consultation (Annex III), the draft technical advice (Annex IV) and information that may be asked by ESMA for its assessment of the criteria and the associated indicators (Annex V).

Next Steps

The public consultation on the draft technical advice to further specify the criteria runs until 29 July 2019. When finalising its technical advice to the Commission, ESMA will consider all feedback received in relation to this consultation paper. A Final Report containing a summary of all consultation responses and a final version of ESMA's technical advice will be submitted in Q4 of 2019 to the Commission and published on ESMA's website.

2 Introduction

1. On 13 June 2017 the European Commission (the Commission) published a proposal for amendments to the regulation on OTC derivatives, central counterparties and trade repositories and the regulation establishing European Securities and Markets Authority (ESMA). The objective of the proposal was for the EU to equip “*its Capital Markets Union with a more effective and consistent supervisory system for CCPs, in the interest of further market integration, financial stability and a level-playing field*”. These amendments are often referred to as EMIR2.2.
2. On 13 March 2019, the European Parliament, the Council and the Commission reached a political agreement on the review of the regulatory framework for the authorisation and supervision of CCPs established in Title III of Regulation 648/2012 (EMIR¹). While the legislative process for the adoption of the proposed regulation amending EMIR (EMIR2.2²) is being finalised, ESMA has initiated its preparatory work for the implementation of the new regime for TC-CCPs.
3. Given the growing importance of CCPs in the financial system and the global increase in clearing and concentration of risks in a limited number of global CCPs, the framework for recognition and supervision of TC-CCPs has been enhanced with the introduction of EMIR2.2. In particular, a two-tier system for TC-CCPs based on their systemic importance has been introduced. Where a TC-CCP is determined as systemically important or likely to become systemically important for the financial stability of the Union or of one or more of its Member States, such TC-CCP will be considered a Tier 2 TC-CCP (Tier 2 CCP) by ESMA in accordance with Article 25(2a) of EMIR³. A TC-CCP that has not been determined as systemically important or likely to become systemically important for the financial stability of the Union or of one or more of its Member States, is considered a Tier 1 TC-CCP (Tier 1 CCP).
4. The consequence of ESMA determining a TC-CCP to be considered a Tier 2 CCP is that such TC-CCP can only be recognised and permitted to provide clearing services or activities in the Union if it meets additional conditions. The reason for these additional conditions is to address the concerns that may arise for the financial stability of the Union or of one or more of its Member States.
5. The box below sets out the relevant recital and provisions in Article 25(2a) of EMIR providing the criteria for tiering.

¹ Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories Text with EEA relevance - OJ L 201, 27.7.2012, p. 1

² Regulation (EU) 2019/... of the European Parliament and of the Council amending Regulation (EU) No 648/2012 as regards the procedures and authorities involved for the authorisation of CCPs and requirements for the recognition of third-country CCPs, which is currently subject to legal revision and translation prior to its publication in the EU Official Journal. The version approved by the European Parliament on 18 April 2019 is available at http://www.europarl.europa.eu/doceo/document/TA-8-2019-0438_EN.html?redirect#title2.

³ All references to Articles of EMIR in this report are to be considered as reference to Articles of EMIR as amended by EMIR 2.2.

6. The Commission is tasked with adopting a delegated act in accordance with Article 82 to further specify the criteria as set out in Article 25(2a) of EMIR within [12⁴] months from the entry into force of EMIR (second subparagraph of Article 25(2a)).
7. Box 1: Recital 31 of EMIR 2.2 and Article 25(2a) of EMIR on tiering of TC-CCPs [subject to final adjustments].

Recital 31

(31) When considering the application of a third-country CCP for recognition, ESMA should assess the degree of systemic risk that the CCP presents to the financial stability of the Union or of one or more of its Member States on the basis of objective and transparent criteria set out in this Regulation. These criteria should contribute to the overall assessment. Individually, none of these criteria should be considered determinative on its own. Where assessing the risk profile of a third country CCP, ESMA should consider all risks, including operational risks, such as fraud, criminal activity, IT and cyber-risk. A Commission delegated act should further specify these criteria. In specifying those criteria, the nature of the transactions cleared by the CCP, including their complexity, price volatility and average maturity, as well as the transparency and liquidity of the markets concerned and the degree to which the CCP's clearing activities are denominated in Euro or other Union currencies should be considered. In this regard, specific features concerning certain agricultural derivative contracts listed and executed on regulated markets in third countries, which relate to markets that largely serve domestic non-financial counterparties in that third country who manage their commercial risks through those contracts, may pose a negligible risk to clearing members and trading venues in the Union as they have a low degree of systemic interconnectedness with the rest of the financial system. Where a framework for the recovery and resolution of CCPs is in force in a third country, that should also be taken into account by ESMA in its analysis of the degree of systemic risk that the applicant CCP established in that third country presents to the financial stability of the Union or of one or more of its Member States.

2a. ESMA shall, after consulting the ESRB and the central banks of issue referred to in point (f) of paragraph 3, determine whether a CCP is systemically important or likely to become systemically important for the financial stability of the Union or of one or more of its Member States by taking into account all of the following criteria:

(a) the nature, size and complexity of the CCP's business in the Union, and outside the Union to the extent its business may have a systemic impact on the Union or on one or more of its Member States, including: (i) the value in aggregate terms and in each Union currency of transactions cleared by the CCP, or the aggregate exposure of the CCP engaged in clearing activities to its clearing members, and to the extent the information is available, their clients and indirect clients established in the Union, including where they have been designated by Member States as Other Systemically Important Institutions (O-SIIs) pursuant to Article 131(3) of Directive 2013/36/EU, and; (ii) the risk profile of the CCP, in terms of, amongst others, legal, operational and business risk;

(b) the effect that the failure of or a disruption to the CCP would have on: (i) financial markets, including the liquidity of the markets served; (ii) financial institutions; (iii) the broader financial system; or (iv) on the financial stability of the Union or of one or more of its Member States;

⁴ The text adopted in the European Parliament, 18 April 2019 contains brackets around this date. http://www.europarl.europa.eu/doceo/document/TA-8-2019-0438_EN.html?redirect#title2

(c) the CCP's clearing membership structure including, to the extent the information is available, the structure of its clearing members' network of clients and indirect clients, established in the Union;

(d) the extent to which alternative clearing services provided by other CCPs exist in financial instruments denominated in Union currencies for clearing members, and to the extent the information is available, their clients and indirect clients established in the Union;

(e) the CCP's relationship, interdependencies, or other interactions with other financial market infrastructures, other financial institutions and the broader financial system to the extent that this is likely to impact on the financial stability of the Union or one of its Member States.

The Commission shall adopt a delegated act in accordance with Article 82 to further specify the criteria set out in the first subparagraph within [12 months from the entry into force of this Regulation].

Without prejudice to the outcome of the recognition process, ESMA shall, after conducting the assessment referred to in the first subparagraph, inform the applicant CCP whether it is considered a Tier 1 CCP or not within 30 working days of the determination that that CCP's application is complete in accordance with the first subparagraph of paragraph 4.

8. On 3 May 2019 ESMA received a provisional request from the Commission for technical advice on a possible delegated act concerning the criteria to be taken into account by ESMA when assessing the systemic nature of TC-CCPs to be adopted by the Commission pursuant to the second subparagraph of Article 25(2a) of EMIR.
9. The scope of this consultation paper is to seek stakeholders' feedback on ESMA's draft technical advice to the Commission on how to further specify the criteria in Article 25(2a) of EMIR.

3 Structure of the Consultation Paper

10. This consultation paper covers:

Section 4: This section presents ESMA's draft technical advice for public consultation, i.e. the technical advice to be provided to the Commission in relation to the delegated act on the tiering criteria the Commission shall adopt under Article 25(2a) in EMIR.

Section 5: This section sets out the Annexes; the provisional mandate to ESMA (Annex I), the cost-benefit analysis (Annex II), the summary of questions for the consultation (Annex III), the draft technical advice (Annex IV) and examples of what type of information may be asked by ESMA for its assessment of the criteria and the associated indicators (Annex V).

4 Tiering - How to further specify the tiering criteria?

11. Article 25(2a) of EMIR introduces a set of criteria to be taken into account by ESMA to determine whether a TC-CCP is a Tier 2 CCP. Recital 31 of EMIR provides additional clarifications for the purposes of Article 25(2a) that ESMA's assessment of the degree of systemic risk of a TC-CCP should be based on the objective and transparent criteria listed in Article 25(2a) of EMIR. The recital clarifies that "*These criteria should contribute to the overall assessment.*" and, in addition "*Individually, none of these criteria should be considered determinative on its own*".
12. The Commission has to adopt a delegated act and the delegated act should further specify the criteria and in doing so, the clarification provided by Recital 31 should be taken into account, "*In specifying those criteria, the nature of the transactions cleared by the CCP, including their complexity, price volatility and average maturity, as well as the transparency and liquidity of the markets concerned and the degree to which the CCP's clearing activities are denominated in Euro or other Union currencies should be considered.*"
13. It is further noted in Recital 31 that specific features concerning certain agricultural derivative contracts listed and executed on regulated markets in third countries which relate to markets that largely serve domestic non-financial counterparties in such third-country, who manage their commercial risks through those contracts, may pose a negligible risk to EU CMs and EU TVs as they have a low degree of systemic interconnectedness with the rest of the financial system. ESMA is also expected to take into account if there is a framework for CCP recovery and resolution in force in such third-country when assessing the degree of systemic risk that the CCP established in that third-country presents to the financial stability of the Union or of one or more of its Member States.
14. ESMA is proposing a set of indicators that will further specify the criteria to assess whether a TC-CCP is systemically important or likely to become systemically important for the financial stability of the Union or of one or more of its Member States. The set of criteria covers a wide range of considerations and are a combination of qualitative and quantitative components. This is also reflected in the indicators. ESMA has to take into account all criteria. Hence the indicators are to be used as tools in the assessment of a TC-CCP and ESMA envisages that each one of the criteria should have at least one indicator. Each indicator is therefore "mapped" against a criterion.
15. ESMA, in addition to proposing a number of elements to be considered for the assessment of the relevant indicators, provides examples of information in Annex V likely to be collected by ESMA in order to assess the criteria and the associated indicators. Hence, the information listed is for explanatory purposes only. In requesting the information from the TC-CCP ESMA will apply the principle of proportionality, i.e. not go beyond what is required to achieve the objective of EMIR2.2 and avoid excessive financial, administrative or procedural burdens for TC-CCPs. When applying proportionality, ESMA will bear in mind the necessity for equal treatment in the recognition process and the need to ensure the quality and the scope of the assessment.

4.1 Indicators to further assess the nature, size and complexity of the CCP

16. The first criterion to be considered by ESMA covers the nature, size and complexity of the TC-CCP's business in the Union, and outside the Union to the extent its business may have a systemic impact on the Union or on one or more of its Member States, including the value in aggregate terms or the aggregate exposure of the CCP (Article 25(2a)(a) of EMIR).
17. The criterion regarding the nature, size and complexity of the TC-CCP includes two measurements, (1) the value in aggregate terms and in each Union currency of transactions cleared by the CCP, or the aggregate exposure of the CCP engaged in clearing activities to its CMs, and to the extent the information is available, their clients and indirect clients established in the Union, including where they have been designated by Member States as Other Systemically Important Institutions (O-SIIs) pursuant to Article 131 of Directive 2013/36/EU, and (2) the risk profile of the TC-CCP, in terms of, amongst others, legal, operational and business risk.
18. ESMA proposes the following list of indicators to further specify the criterion.

Indicator 1: Assess the ownership, business and corporate structure of the CCP including assessing in detail (i) the ownership structure specifying any qualifying holdings, (ii) other financial market infrastructures within the group to which the CCP belongs and (iii) whether the CCP acts in several capacities.

To assess this indicator 1, ESMA may consider:

- the countries where the CCP provides or intends to provide clearing or other relevant services;
- the ownership structure, including material ownership interests and the ultimate ownership;
- the corporate structure of the group to which the CCP belongs including whether the CCP belongs to the same group as other financial market infrastructures; and
- the business structure, including the scope of the CCP's clearing services, whether the CCP acts in several capacities and the extent to which the CCP provides other services in addition to clearing services.

Indicator 2: Assess the financial instruments cleared by the CCP including (i) whether they are subject to the clearing obligation in the Union, (ii) whether they are denominated in Union Currencies and (iii) their complexity, price volatility and average maturity.

To assess this indicator 2, ESMA may consider:

- the financial instruments (separated per asset/sub-asset classes) cleared by the CCP and to what extent they are traded on a TV or traded OTC;
- the financial instruments cleared by the CCP subject to the EMIR clearing obligation under Article 4 of EMIR;
- the financial instruments denominated in Union currencies cleared by the CCP and for each of those, the respective aggregate volumes or notionals;
- the level of standardisation of contractual terms and operational processes for the financial instruments cleared; and
- the annualised price volatility and the average maturity for each financial instrument.

Indicator 3: Assess the value and volume cleared by the CCP at the level of the CCP, at the level of each EU CM and at the level of non-EU CMs and whether they clear on behalf of EU clients and EU indirect clients.

To assess this indicator 3, ESMA may consider:

- (A) for securities transactions (including SFTs, bonds and/or bond baskets), the value of open positions/open interest, (B) for ETD transactions, the value of open interest/turnover, and (C) for OTC derivatives transactions, the gross/net notional outstanding amount. Those values should be considered both (i) globally at CCP level split (a) per asset/sub-asset class and (b) in total (Union and non-Union currencies) and per Union currency, and (ii) per EU CM split (a) per asset/sub-asset class, and (b) in total (Union and non-Union currencies) and per Union currency;
- the relative value of open interest of securities/ETD and notional outstanding amount of OTC derivatives cleared by the CCP compared to the total value cleared by the CCP, by category of products;
- the average daily volume, including (A) for securities transactions (including SFTs, bonds and/or bond baskets), the number of securities or transactions (B) for ETD transactions, the number of contracts/transactions and (C) for OTC derivatives transactions, the gross/net notional outstanding amount. Those values should be considered both (i) globally at CCP level split (a) per asset/sub-asset class and (b) per (Union and non-Union) currency, and (ii) per EU CM split (a) per asset/sub-asset class, and (b) in total (Union and non-Union currencies) and per Union currency; and
- whether, to the extent the information is available, the CCP is providing clearing services indirectly to EU clients and/or EU indirect clients through non-EU CMs and where such non-EU CMs clear on behalf of EU clients or EU indirect clients, the scope of such clearing service.

Indicator 4: Assess the transparency and liquidity of the relevant markets

To assess this indicator 4, ESMA may consider:

- the nature, depth and liquidity of the market and the level of information available to market participants on pricing and any generally accepted and reliable pricing-sources;
- whether quotes and/or (pre-trade) bid and offer prices and the depth of trading interests at those prices on/off TVs are made public; and
- whether (post-trade) price, volume and time of the transactions executed or concluded on and off TVs are made public.

Indicator 5: Assess the risk profile of the CCP

19. By performing centralised activities, a CCP concentrates risks and one of the relevant risks is systemic risk including legal, credit, liquidity, general business, custody, investment and operational risks that contribute to the definition of the risk profile of the CCP and its systemic relevance. To assess the risk profile of the TC-CCP, and in order to establish the extent to which the TC-CCP's risk profile may have a systemic impact on the Union or on one or more of its Member States, ESMA should consider all risks, including legal risks, business risks and operational risks, such as fraud, criminal activity, IT and cyber-risk.

20. To assess those risks ESMA may consider international guidelines and principles, including the risks listed in Chapter 2 of the *Overview of key risks in financial market infrastructures (Principles for Financial Market Infrastructures⁵, PFMI)*. ESMA may in its assessment of operational risks on fraud, criminal activity, IT and cyber-risks consider any guidelines or principles established by global institutions, including the PFMI principles on *Guidance on cyber resilience for financial market infrastructures⁶* supplemental to the PFMI.

To assess this indicator 5, ESMA may consider:

- whether the CCP has completed an assessment of its risk profile based on, for example, PFMI and their related guidance, the methodology used and the result of the assessment; and
- the CCP's internal risk models and rules, frameworks/policies and guidelines on legal/operational/business/financial risk covering different types of risks a CCP may be exposed to including (A) cyber-risks, (B) IT systems and data management including data compromise, IT disruption and IT failure, (C) third party risks and outsourcing, (D) theft, fraud and criminal activity (E) settlements risks and (F) default management procedures.

⁵ <https://www.bis.org/cpmi/publ/d101.htm>

⁶ <https://www.bis.org/cpmi/publ/d146.pdf>

Do you generally agree with the proposed indicators (Indicators 1, 2, 3, 4 and 5) to further assess the nature, size and complexity of the CCP's business? Please elaborate and if you disagree with any specific indicator, please suggest an alternative one to measure the relevant criterion.

How would you envisage ESMA to consider risks and in particular cyber-risks in relation to the evaluation of systemic importance?

4.2 Indicators to further assess the effect of a failure or disruption of the CCP

21. The second criterion to be considered by ESMA covers the effect which a failure or disruption would have on (i) financial markets, including the liquidity of the markets served; (ii) financial institutions; (iii) the broader financial system; or (iv) on the financial stability of the Union or of one or more of its Member States (Article 25(2a)(b)).

22. ESMA proposes the following list of indicators to further specify the criterion.

Indicator 6: Assess the margins, default fund contributions and eligible collateral

To assess this indicator 6, ESMA may consider:

- the total amount of collateral (before and after haircut) held by the CCP, separating cash and non-cash collateral, collateral denominated in total (including Union and non-Union currencies) and in each Union currency and the extent to which the collateral is provided by EU entities directly or indirectly;
- the amount of collateral in each Union currency;
- the IM required and held at CCP level (in total) and by each EU CM, per asset/sub-asset class, specifying the IM both as a total (Union and non-Union currencies) and per Union currency;
- the default funds, the contributions required and held (i) at CCP level (in total) and (ii) by each EU CM, specifying the default fund both in total (Union and non-Union currencies) and per Union currency;
- the peak and average VMs received by the CCP (in total) and the peak and average VMs required by and provided to the CCP by EU CMs, specifying the total VM both in total (Union and non-Union currencies) and per Union currency; and
- the eligible collateral accepted by the CCP with the corresponding haircut methodology and the type of collateral held by the CCP.

Indicator 7: Assess committed/uncommitted resources and liquidity resources

To assess this indicator 7, ESMA may consider:

- the estimated largest payment obligation in total and in each Union currency that would be caused by the default of any one or two largest single CMs (and their affiliates) in extreme but plausible market conditions;
- the amount of the total and for each Union currency, liquid resources to the CCP's benefit separated between (i) committed and uncommitted and (ii) type of liquid resources, for example cash deposits, and other resources such as credit lines backed by liquid collateral or repos;
- the amount of total liquid resources provided by each EU entity to the CCP;
- the liquidity providers registered or established in the EU; and
- the average and peak aggregate daily values of incoming and outgoing EU-currency payments.

Indicator 8: Assess settlement and payments, including the use of central bank money for settlement

To assess this indicator 8, ESMA may consider:

- the CCP's settlement/payment cycle including the extent to which settlement/payment is made in Union currencies and entities used for settlement/payment;
- the extent to which central bank money is used for settlement/payment or where other entities are used for settlement/payment; and
- the extent to which the CCP applies technologies, such as distributed ledger technology, in its settlement/payment process.

Indicator 9: Assess the framework for recovery and resolution

To assess this indicator 9, ESMA may consider:

- the extent to which the CCP is subject to a framework or regulation on recovery and resolution and the effect of such framework or regulation on the CCP and its participants;
- the recovery process/plan, the tools envisaged, the maximum liability for an individual CM and for all EU CMs in aggregate, and how the CMs (both jointly and separately) could be impacted by the tools if implemented;



- the resolution process/regime, the tools envisaged, the maximum liability for an individual CM and for all EU CMs in aggregate, and how the CMs (both jointly and separately) could be impacted by the tools if implemented;
- if there is any crisis management group;
- if any additional recourses could be required from CMs; and
- the scope for state aid and the cases in which it could be activated.

Do you generally agree with the proposed indicators as specified above (Indicators 6, 7, 8 and 9) to further assess the effect of a failure or disruption of the CCP? Please elaborate and if you disagree with any specific indicator, please suggest an alternative one to measure the relevant criterion.

4.3 Indicators to further assess the CCP's clearing membership structure

23. The third criterion to be considered by ESMA covers the TC-CCP's clearing membership structure, considering the direct memberships and to the extent the information is available the structure of its clearing members' network of clients and indirect clients, in particular the proportion of its clearing members and their clients and indirect clients established in the Union (Article 25(2a)(c) EMIR).

24. ESMA proposes the following list of indicators to further specify the criterion.

Indicator 10: Assess and identify the CMs, and in particular EU CMs, EU clients or EU indirect clients

To assess this indicator 10, ESMA may consider:

- the identities and memberships of the CMs of the CCP;
- the extent to which the CCP has any EU CM, and to the extent the information is available, EU client or EU indirect client; and
- where this is the case, their share of the CCP's total clearing activity.

Indicator 11: Assess access to the CCP and to the clearing services provided by the CCP

To assess this indicator 11, ESMA may consider:

- the different options available to access the CCP's clearing services (including different memberships), any access requirements and/or conditions for granting or denying access; and



- the extent to which there are legal requirements on the CCP to grant access to clearing services.

Do you generally agree with the proposed indicators as specified above (Indicators 10 and 11) to further assess the CCP's clearing membership structure? Please elaborate and if you disagree with any specific indicator, please suggest an alternative one to measure the relevant criterion.

4.4 Indicator to further assess alternative clearing services

25. This fourth criterion to be considered by ESMA is to what extent alternative clearing services, substitutes, exist in financial instruments denominated in Union currencies to CMs, and to what extent the information is available to their clients and indirect clients established in the Union (Article 25 (2a)(d) EMIR).
26. ESMA has to assess the availability of alternative clearing services in each EU currency, i.e. where other CCPs provide clearing services covering the same or equivalent financial instruments as the TC-CCP.
27. ESMA considers that this criterion is fairly straightforward and therefore only one indicator is used to assist ESMA in its assessment. ESMA proposes the following indicator to further specify the criterion.

Indicator 12: Assess substitutes to the CCP clearing service

To assess this indicator 12, ESMA may consider:

- whether there are alternative clearing services to the CCP's clearing services offered to EU CM, EU clients or EU indirect clients;
 - whether the CCP providing the same or equivalent clearing services on a TV (the same or an equivalent TV) is authorised or recognised in the EU; and
 - whether the CCP is providing clearing in derivatives subject to the clearing obligation under EMIR.
28. To assess this criterion and associated indicator ESMA will, to the extent possible, use available public sources such as financial market infrastructure data to assess the extent to which alternative exists to the CCP's clearing service. ESMA will also consider the data received through its TC-CCP data collection process and from NCAs in relation to authorised EU CCPs.

Do you generally agree with the proposed indicator as specified above (Indicator 12) to further assess alternative clearing services? Please elaborate and if you disagree with any specific indicator, please suggest an alternative one to measure the relevant criterion.

4.5 Indicators to further assess relationships, interdependencies, or other interactions

29. The fifth criterion to be considered by ESMA covers the TC-CCP's relationship, interdependencies, or other interactions with other financial market infrastructures, other financial institutions and the broader financial system. The criterion is qualified by the requirement that such relationships or interdependencies have to be considered to the extent that this is likely to have an impact on the financial stability of the Union or one of its Member States (Article 25 (2a)(e) EMIR).

30. ESMA proposes the following list of indicators to further specify the criterion.

Indicator 13: Assess outsourcing arrangements

To assess this indicator 13, ESMA may consider:

- the scope of services that have been outsourced to the CCP from EU entities⁷; and
- the possible effects on the Union or one of its Members States if such CCP would not be able to comply with its obligations under the outsourcing arrangement.

Indicator 14: Assess the links or connections with other financial market infrastructures, other financial institutions and the broader financial system

To assess this indicator 14, ESMA may consider:

- the extent to which EU TVs are served by the CCP; and
- the extent to which the CCP has interoperability arrangements and/or cross-margining agreements with EU CCPs, or links with or participate in other financial market infrastructures located in EU, such as central securities depositaries or payment systems.

Do you generally agree with the proposed indicators as specified above (Indicators 13 and 14) to further assess relationships, interdependencies, or other interactions? Please elaborate and if you disagree with any specific indicator, please suggest an alternative one to measure the relevant criterion.

⁷ This cover the case where the CCP is providing services to EU financial market infrastructures or EU entities e.g. margining/pricing calculation, IT hardware/software running and maintenance, audit functions etc

5 Annexes

5.1 Annex I Provisional Mandate to provide technical advice

Provisional Mandate to provide technical advice on how to further specify the criteria under paragraph 2a of Article 25 of EMIR.

On 3 May 2019 ESMA received a provisional request from the Commission to provide technical advice to assist the Commission in preparing a possible delegated act specifying the criteria set out in the second subparagraph of paragraph 2a of Article 25 of EMIR.

**PROVISIONAL REQUEST TO THE EUROPEAN SECURITIES AND MARKETS
AUTHORITY (ESMA) FOR TECHNICAL ADVICE ON A POSSIBLE DELEGATED ACT
CONCERNING THE CRITERIA TO BE TAKEN INTO ACCOUNT BY ESMA WHEN
ASSESSING THE SYSTEMIC NATURE OF THIRD-COUNTRY CENTRAL
COUNTERPARTIES (CCPs)**

With this provisional mandate the Commission seeks ESMA's technical advice on a possible delegated act concerning the European Market Infrastructure Regulation (EMIR) as amended by the 2019 CCP Supervision Regulation (the "Regulation as amended"). This delegated act should be adopted in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU).

The provisional nature of the present mandate stems from the fact that the Regulation as amended has not yet entered into force. However, the Council (at the meeting of COREPER on 20 March 2019) and the European Parliament (in a plenary vote on 18 April 2019) have approved the political agreement on the text of the 2019 CCP Supervision Regulation. Currently, the 2019 CCP Supervision Regulation is subject to legal revision and translation prior to its publication in the EU Official Journal.

The Commission reserves the right to revise and/or supplement this mandate. The technical advice received on the basis of this mandate should not prejudice the Commission's final decision.

The mandate follows the EMIR Regulation (Article 82), the Communication from the Commission to the European Parliament and the Council – Implementation of Article 290 of the Treaty on the Functioning of the European Union (the "290 Communication"), and the Framework Agreement on Relations between the European Parliament and the European Commission (the "Framework Agreement").

According to Article 25(2a) of the Regulation as amended and with regard to the criteria ESMA must take into account when determining the systemic importance of a third-country CCP, the Commission shall adopt a delegated act to further specify these criteria.

The European Parliament and the Council shall be duly informed about this mandate.

In accordance with the Declaration 39 on Article 290 TFEU, annexed to the Final Act of the Intergovernmental Conference which adopted the Treaty of Lisbon, signed on 13 December 2007, and in accordance with the established practice within the European Securities Committee, the Commission will continue, as appropriate, to consult experts appointed by the Member States in the preparation of possible delegated acts in the financial services area.

In accordance with point 15 of the Framework Agreement, the Commission will provide full information and documentation on its meetings with experts appointed by the Member States within the framework of its work on the preparation and implementation of Union legislation, including soft law and delegated acts. Upon request by the Parliament, the Commission may also invite Parliament's experts to attend those meetings.

The powers of the Commission to adopt delegated acts are subject to Article 82 of the EMIR Regulation. As soon as the Commission adopts a possible delegated act, the Commission will notify it simultaneously to the European Parliament and the Council.

1. Context

1.1 Scope

On 13 June 2017, the Commission published its proposal to amend EMIR as regards the procedures and authorities involved for the authorisation of CCPs and requirements for the recognition of third-country CCPs. On 13 March 2019 the European Parliament and the Council reached a political agreement on a compromise text, which was formally endorsed by the two institutions respectively on 18 April 2019 and 20 March 2019. Publication in the Official Journal is expected by Q3 2019. The text will enter into force on the twentieth day following its publication.

The Regulation as amended will strengthen the framework for the supervision of Union and third-country CCPs that provide clearing services to EU clearing members or trading venues. This is to address the increasing concentration of risk in these infrastructures and the significant proportion of financial instruments denominated in Union currencies that are cleared outside the Union, including as a result of the expected withdrawal of the UK from the Union. The objective of the Regulation as amended is to reinforce the overall stability of the Union financial system.

Given the growing importance of CCPs in the financial system and the global increase in clearing and concentration of risks in a limited number of global CCPs, the framework for recognition of third-country CCPs and their supervision under EMIR will be enhanced. The Regulation as amended introduces a two-tier system for third-country CCPs based on their systemic importance. Where a third-country CCP is considered systemically important or likely to become systemically important for the financial stability of the Union or for one or more of its Member States, such third-country CCP will be classified as a Tier 2 third-country CCP by ESMA in accordance with paragraph 2a of Article 25 of the Regulation as amended. A third-country CCP that has not been determined as systemically important or likely to

become systematically important for the Union or for one or more of the Member States, is referred to as Tier 1 third-country CCP.

The consequence of ESMA determining a third-country CCP to be a Tier 2 CCP is that such a CCP can only be recognised and permitted to provide clearing services or activities in the Union if it meets specific conditions. The reason for these specific conditions is to address the concerns that may arise for the financial stability to the Union and one or more of the Member States.

In accordance with Article 25(2a) of the Regulation as amended, ESMA will be empowered, in the process of recognising a third-country CCP or reviewing an existing recognition, to determine, in consultation with the ESRB and relevant central banks of issue of the Union, whether a CCP is systemically important or likely to become systemically important for the financial stability of the Union or of one or more of its Member States. In assessing the systemic importance of third-country CCPs ESMA shall take into account a list of high-level criteria that need to be further specified in a Commission delegated act.

1.2 Principles that ESMA should take into account

On the working approach, ESMA is invited to take account of the following principles:

- The principle of proportionality: the technical advice should not go beyond what is necessary to achieve the objective of the Regulation as amended. It should be simple and avoid suggesting excessive financial, administrative or procedural burdens for third-country CCPs.
- The technical advice should take account of the rule-of-law principle, which requires appropriate rights of defense for persons that are subject to ESMA's supervision. At the same time, it should ensure a high level of investor protection, which is a guiding principle of EU financial regulation and requires a strong supervisor with the power to carry out supervision and ensuring compliance with the EMIR Regulation in an effective and efficient way.
- While preparing its advice, ESMA should seek coherence within the regulatory framework of the Union.
- In accordance with the Regulation of the European Parliament and the Council establishing a European Securities and Markets Authority (the "ESMA Regulation")⁸, ESMA should not feel confined in its reflection to elements that it considers should be addressed by the delegated acts but, if it finds it appropriate, it may indicate guidelines and recommendations that it believes should accompany the delegated acts to better ensure their effectiveness.
- ESMA will determine its own working methods depending on the content of the provisions being dealt with. Nevertheless, horizontal questions should be dealt with in such

⁸ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), OJ L 331, 15.12.2010, p. 84.

a way as to ensure coherence between different standards of work being carried out by the various expert groups.

- In accordance with the ESMA Regulation, ESMA should, where relevant, involve the European Banking Authority and the European Insurance and Occupational Pensions Authority in order to ensure cross-sectoral consistency.

- In accordance with the first sub-paragraph of Article 25(2a) of the Regulation as amended, which requires ESMA to consult the European Systemic Risk Board and European Central Banks of Issue in the tiering process, ESMA may assess whether it is appropriate to seek their views in the preparation of its advice.

- In accordance with the ESMA Regulation, ESMA is invited to widely consult market participants in an open and transparent manner and take into account the resulting opinions in its advice. ESMA should provide a detailed feedback statement on the consultation, specifying when consultations took place, how many responses were received and from whom, as well as the main arguments for and against the issues raised. This feedback statement should be annexed to its technical advice. The technical advice should justify ESMA's choices vis-à-vis the main arguments raised during the consultation.

- ESMA is invited to justify its advice by providing a quantitative and qualitative cost-benefit analysis of all the options considered and proposed. ESMA should provide the Commission with a description of the problem, the objectives of the technical advice, possible options for consideration and a comparison of the main arguments for and against the considered options. The cost-benefit analysis should justify ESMA's choices vis-à-vis the main considered options.

- ESMA's technical advice should not take the form of a legal text. However, ESMA should provide the Commission with a clear and structured ("articulated") text, accompanied by sufficient and detailed explanations. Furthermore, the technical advice should be presented in an easily understandable language respecting current terminology in the Union.

- ESMA should provide comprehensive technical analysis on the subject matters described in section 3 below, where these are covered by the delegated powers included in:

- o the relevant provision of the Regulation as amended;
- o the corresponding recitals, or;
- o the relevant Commission's request included in this mandate.

- ESMA should address to the Commission any question to clarify the text of the Regulation as amended that ESMA considers of relevance to the preparation of its technical advice.

2 Procedure

The Commission is requesting ESMA's technical advice in view of the preparation of a delegated act to be adopted pursuant to the Regulation as amended and in particular regarding the questions referred to in section 3 of this mandate.

The mandate takes into account the EMIR Regulation (Article 82), the ESMA Regulation, the 290 Communication and the Framework Agreement.

The Commission reserves the right to revise and/or supplement this mandate. The technical advice received on the basis of this mandate will not prejudice the Commission's final decision.

In accordance with established practice, the Commission may continue to consult experts appointed by the Member States in the preparation of delegated acts relating to the Regulation as amended.

The Commission has duly informed the European Parliament and the Council about this mandate. As soon as the Commission adopts the delegated act, it will notify it simultaneously to the European Parliament and the Council.

3 ESMA is invited to provide technical advice on the following issues

The Regulation as amended requires the Commission to adopt a delegated act further specifying the criteria to be taken into account by ESMA when determining the systemic importance for the Union or one or more of its Member States of a third-country CCP. These criteria are the following:

- a) the nature, size and complexity of the CCP's business in the Union, and outside the Union to the extent its business may have a systemic impact on the Union or on one or more of its Member States, including: (i) the value in aggregate terms and in each Union currency of transactions cleared by the CCP, or the aggregate exposure of the CCP engaged in clearing activities to its clearing members, and to the extent the information is available, their clients and indirect clients established in the Union, including where they have been designated by Member States as Other Systemically Important Institutions (O-SIIs) pursuant to Article 131(3) of Directive 2013/36/EU, and; (ii) the risk profile of the CCP, in terms of, amongst others, legal, operational and business risk;
- b) the effect that the failure of or a disruption to the CCP would have on: (i) financial markets, including the liquidity of the markets served; (ii) financial institutions; (iii) the broader financial system; or (iv) on the financial stability of the Union or of one or more of its Member States;
- c) the CCP's clearing membership structure including, to the extent the information is available, the structure of its clearing members' network of clients and indirect clients, established in the Union;

d) the extent to which alternative clearing services provided by other CCPs exist in financial instruments denominated in Union currencies for clearing members, and to the extent the information is available, their clients and indirect clients established in the Union;

e) the CCP's relationship, interdependencies, or other interactions with other financial market infrastructures, other financial institutions and the broader financial system to the extent that this is likely to impact on the financial stability of the Union or one of its Member States.

In its technical advice specifying those criteria, ESMA should consider the nature of the transactions cleared by the CCP, including their complexity, price volatility and average maturity, as well as the transparency and liquidity of the markets concerned and the degree to which the CCP's clearing activities are denominated in Euro or other Union currencies. In this regard, specific features concerning certain agricultural derivative contracts listed and executed on regulated markets in third countries, which relate to markets that largely serve domestic non-financial counterparties in that third country who manage their commercial risks through those contracts, may pose a negligible risk to clearing members and trading venues in the Union as they have a low degree of systemic interconnectedness with the rest of the financial system. Where a framework for the recovery and resolution of CCPs is in force in a third country, that should also be taken into account by ESMA in its analysis of the degree of systemic risk that the applicant CCP established in that third country presents to the financial stability of the Union or of one or more of its Member States.

ESMA is invited to provide technical advice to assist the Commission in formulating a delegated act further specifying the tiering criteria, and more specifically establishing a set of indicators to be assessed to conduct the tiering process as well as the information necessary to build these indicators. These indicators shall incorporate components of a qualitative and quantitative nature.

4. Indicative timetable

This mandate takes into consideration that ESMA requires sufficient time to prepare its technical advice and that the Commission needs to adopt the delegated acts according to Article 290 of the TFEU. The powers of the Commission to adopt delegated acts are subject to Article 82 of the EMIR Regulation that allows the European Parliament and the Council to object to a delegated act within a period of 3 months, extendible by 3 further months. The delegated act will only enter into force if neither European Parliament nor the Council has objected on expiry of that period or if both institutions have informed the Commission of their intention not to raise objections.

The Regulation as amended requires the Commission to adopt the delegated act within twelve months from its entry into force. In order for the Regulation to be fully operational and for ESMA to be able to perform its new tasks with regard to third-country CCPs, it is of the utmost importance to start working on this issue as soon as possible.

The deadline set to ESMA to deliver the technical advice is therefore Q3 2019.



5.2 Annex II Cost-benefit analysis

1. Introduction

Pursuant to the second subparagraph of Article 25(2a) EMIR the Commission has to adopt a delegated act to further specify the criteria and the Commission shall endeavour to consult ESMA before adopting such a delegated act.

Accordingly, on 3 May 2019, ESMA received a provisional request from the Commission for technical advice on a possible delegated act concerning the criteria to be taken into account by ESMA when assessing the systemic nature of TC-CCPs to be adopted by the Commission pursuant to the second subparagraph of Article 25(2a) of EMIR. The mandate is enclosed in Annex I in this paper. The Commission requests that ESMA deliver their respective advices by Q3 2019.

ESMA has therefore been requested, in addition to the technical advice on the content of the delegated act, to justify their advice by providing a quantitative and qualitative cost-benefit analysis of all the options considered and proposed. This should include identification of the policy options available and an assessment of the costs and benefits. The results of this assessment should be submitted at the same time as the advice.

In carrying out a cost benefit analysis on the technical advice to the Commission on the proposed delegated act it should be noted that:

- The main policy decisions have already been taken under the primary legislation (EMIR2.2) and the impact of such policy decisions have already been analysed and published by the European Commission⁹;
- ESMA does not have the power to deviate from its specific mandate provided by the Commission.
- ESMA policy choices should be of a pure technical nature and not contain issues of a political nature;
- In most circumstances ESMA's policy options are limited to the approach it takes on drafting the technical advice to Commission in accordance with the mandate.

2. Background

Under the second subparagraph of article 25(2a) of EMIR, the Commission is mandated to adopt a delegated act on how to *further specify the criteria* under Article 25(a) of EMIR and ESMA has been provisionally mandated to develop and submit to the Commission a technical advice on how to further specify the criteria.

⁹ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52017SC0246&from=GA>



ESMA proposes a set of indicators that will further specify the criteria used to assess if a TC-CCP is systemically important or likely to become systemically important for the financial stability of the Union or of one or more of its Member States. The set of criteria spans over a wide range of considerations and are a combination of qualitative and quantitative components, this is reflected in the indicators. ESMA shall take “into account all” of the criteria. Hence the indicators are to be used as tools in the assessment of a TC-CCP and ESMA envisages that at least one indicator should cover each one of the criteria. Each indicator is therefore “mapped” against a criterion.

The consequence of ESMA determining a TC-CCP to be a Tier 2 CCP is that that such CCP can only be recognised and permitted to provide clearing services or activities in the Union if it meets additional conditions.

3. Policy Options

Considering the mandate to ESMA which is to further specify the criteria under Article 25(a) of EMIR, the only variable on which ESMA can apply and thus the actual policy option is to set the right level of granularity and quantity of the indicators used to further specify the criteria.

4. Cost benefit analysis

Below is detailed the different corresponding policy options on how to further specify the criteria and the cost and benefit impacts of each of the options. One policy option considered was to establish a two-tier assessment model, envisaging additional indicators to apply if certain “core indicators” were triggered. However, there is a risk that this option would not meet the requirement in EMIR to take into account all criteria therefore this option may result in a too limited assessment and therefore was deemed not compatible with EMIR. Hence this option was not considered a policy option and not included in the list below.

Specific objective	Ensuring that a TC-CCP that is systemically important or likely to become systemically important for the financial stability of the Union or of one or more of its Member States is identified in accordance with the procedure as set out in Article 25(2a) of EMIR as a Tier 2 CCP.
Policy option 1	To further specify the criteria by <i>establishing a complete set of indicators each containing a granular list</i> of aspects to be covered by each indicator.
How would this option achieve the objective?	This option would provide ESMA with a very extensive set of data for ESMA to assess.
Policy option 2	To further specify the criteria by establishing <i>fewer indicators covering a more limited set of aspects</i> as indicators.
How would this option achieve the objective?	This option would provide less indicators but would still have to ensure all criteria are further specified through at least an indicator. Further, if a bare minimum of indicators are used, there is a risk of

	manipulation and, due to the diversity of CCPs and their activities, of missing one or more indicators to capture a relevant CCP.
Policy option 3	To further specify the criteria by establishing <i>a complete set of “principle based” indicators</i> each aimed to establish a relevant data collection from the CCP at hand in order to achieve the objective of the indicator.
How would this option achieve the objective?	This option would provide ESMA with the ability to conduct a complete data collection based on the CCP’s activity to assess the indicators.
Which policy option is the preferred one?	Policy option 3, given that option 1 would risk an unproportionate high application of indicators to all TC-CCPs and option 2 would not allow to capture all the relevant data and may result in a too limited assessment. Policy 3 would be the most appropriate and proportionate approach to further specify the criteria without being too granular but without losing relevant data for the assessment.
Is the policy chosen within the sole responsibility of ESMA? If not, what other body is concerned / needs to be informed or consulted?	ESMA is only providing a technical advice to the Commission which has the liability to define which option to choose for its Delegated Act.

Impacts of the proposed policies:	
Policy option 1	
Benefits	It will ensure a full set of data to be provided to ESMA and a detailed analysis to ensure a limited yet relevant number of CCPs are defined as systemically important or likely to become systemically important for the financial stability of the Union or of one or more of its Member States.
Regulator’s costs	The costs for regulators will be higher for this option than the other options considering the large amount of data to be assessed but the cost of tiering is foreseen to be covered by the supervisory fees.
Compliance costs	The costs for the TC-CCP will be higher for this option than the other options considering the large amount of data to be provided

	to ESMA, however the data will only be requested upon recognition application and review.
Policy option 2	
Benefits	It will ensure a limited set of main data to be provided to ESMA limiting the burden on ESMA and the TC-CCP.
Regulator's costs	The costs for regulators will be lower for this option than the other options considering the more limited amount of data to be assessed but the cost of tiering is anyway foreseen to be covered by the supervisory fees.
Compliance costs	The costs for the TC-CCP may be lower for this option than the other options considering the more limited set of data to be provided to ESMA.
Policy Option 3	
Benefits	It will ensure that a manageable, yet sufficient and pertinent set of data will be delivered to ESMA.
Regulator's costs	The costs for regulators will be slightly higher than in Option 2, considering a fair amount of data will be assessed but the cost of tiering is anyway foreseen to be covered by the supervisory fee.
Compliance costs	The costs for the TC-CCP will be slightly higher than in Option 2, considering a fair amount of data to be provided to ESMA, though it will to some extent derive from the scope of the CCPs business. It is worth noting though that most of this data is currently being provided in other contexts (for example CPMI IOSCO disclosure framework and current ESMA TC-CCP data request) and it will only be requested upon recognition application and review.

Do you identify other benefits and costs not mentioned above associated to the proposed approach (option 3)? If you advocated for a different approach, how would it impact this section on the impact assessment? Please provide details.

5.3 Annex III Summary of questions

- (Q1).....Do you generally agree with the proposed indicators (Indicators 1, 2, 3, 4 and 5) to further assess the nature, size and complexity of the CCP's business? Please elaborate and if you disagree with any specific indicator, please suggest an alternative one to measure the relevant criterion.
- (Q2).....How would you envisage ESMA to consider risks and in particular cyber-risks in relation to the evaluation of systemic importance?
- (Q3).....Do you generally agree with the proposed indicators as specified above (Indicators 6, 7, 8 and 9) to further assess the effect of a failure or disruption of the CCP? Please elaborate and if you disagree with any specific indicator, please suggest an alternative one to measure the relevant criterion.
- (Q4).....Do you generally agree with the proposed indicators as specified above (Indicators 10 and 11) to further assess the CCP's clearing membership structure? Please elaborate and if you disagree with any specific indicator, please suggest an alternative one to measure the relevant criterion.
- (Q5).....Do you generally agree with the proposed indicator as specified above (Indicator 12) to further assess alternative clearing services? Please elaborate and if you disagree with any specific indicator, please suggest an alternative one to measure the relevant criterion.
- (Q6).....Do you generally agree with the proposed indicators as specified above (Indicators 13 and 14) to further assess relationships, interdependencies, or other interactions? Please elaborate and if you disagree with any specific indicator, please suggest an alternative one to measure the relevant criterion.
- (Q7).....Do you identify other benefits and costs not mentioned above associated to the proposed approach (option 3)? If you advocated for a different approach, how would it impact this section on the impact assessment? Please provide details.

5.4 Annex IV Draft technical advice to further specify the criteria for tiering

This annex presents an illustration of how the draft technical advice on tiering could be transposed in the Commission's Delegated Act.

Article 1

The nature, size and complexity of the CCP's business

1. When ESMA takes into account the criterion in point (a) in paragraph 2a of Article 25 of Regulation (EU) No 648/2012, ESMA shall consider at least the following indicators:

- (a) the ownership, business and corporate structure of the CCP including assessing in detail (i) the ownership structure specifying any qualifying holdings, (ii) other financial market infrastructures within the group to which the CCP belongs and (iii) whether the CCP acts in several capacities. To assess this indicator, ESMA may consider:
 - (i) the countries where the CCP provides or intends to provide clearing or other relevant services;
 - (ii) the ownership structure, including material ownership interests and the ultimate ownership;
 - (iii) the corporate structure of the group to which the CCP belongs including whether the CCP belongs to the same group as other financial market infrastructures; and
 - (iv) the business structure, including the scope of the CCP's clearing services, whether the CCP acts in several capacities and the extent to which the CCP provides other services in addition to clearing services.
- (b) the financial instruments cleared by the CCP including (i) whether they are subject to the clearing obligation in the Union, (ii) whether they are denominated in Union Currencies and (iii) their complexity, price volatility and average maturity. To assess this indicator, ESMA may consider:
 - (i) the financial instruments (separated per asset/sub-asset classes) cleared by the CCP and to what extent they are traded on a TV or traded OTC;
 - (ii) the financial instruments cleared by the CCP subject to the EMIR clearing obligation under Article 4 of EMIR;
 - (iii) the financial instruments denominated in Union currencies cleared by the CCP and for each of those, the respective aggregate volumes or notionals;

- (iv) the level of standardisation of contractual terms and operational processes for the financial instruments cleared; and
 - (v) the annualised price volatility and the average maturity for each financial instrument.
- (c) the value and volume cleared by the CCP at the level of the CCP, at the level of each EU CM and at the level of non-EU CMs where they clear on behalf of EU clients and EU indirect clients. To assess this indicator, ESMA may consider:
- (i) (A) for securities transactions (including SFTs, bonds and/or bond baskets), the value of open positions/open interest, (B) for ETD transactions, the value of open interest/turnover and (C) for OTC derivatives transactions, the gross/net notional outstanding amount. Those values should be considered both (i) globally at CCP level split (a) per asset/sub-asset class and (b) in total (Union and non-Union currencies) and per Union currency, and (ii) per EU CM split (a) per asset/sub-asset class, and (b) in total (Union and non-Union currencies) and per Union currency;
 - (ii) the relative value of open interest of securities/ETD and notional outstanding amount of OTC derivatives cleared by the CCP compared to the total value cleared by the CCP, by category of products;
 - (iii) the average daily volume, including (A) for securities transactions (including SFTs, bonds and/or bond baskets), the number of securities or transactions (B) for ETD transactions, the number of contracts/transactions and (C) for OTC derivatives transactions, the gross/net notional outstanding amount. Those values should be considered both (i) globally at CCP level split (a) per asset/sub-asset class and (b) per (Union and non-Union) currency, and (ii) per EU CM split (a) per asset/sub-asset class, and (b) in total (Union and non-Union currencies) and per Union currency; and
 - (iv) whether, to the extent the information is available, the CCP is providing clearing services indirectly to EU clients and/or EU indirect clients through non-EU CMs and where such non-EU CMs clear on behalf of EU clients or EU indirect clients, the scope of such clearing service.
- (d) The transparency and liquidity of the relevant markets. To assess this indicator, ESMA may consider:
- (i) the nature, depth and liquidity of the market and the level of information available to market participants on pricing and any generally accepted and reliable pricing-sources;
 - (ii) whether quotes and/or (pre-trade) bid and offer prices and the depth of trading interests at those prices on/off TVs are made public; and

(iii) whether (post-trade) price, volume and time of the transactions executed or concluded, on and off TVs are made public.

(e) The risk profile of the CCP. To assess this indicator, ESMA may consider:

- (i) whether the CCP has completed an assessment of its risk profile based on, for example, PFMI and their related guidance, the methodology used and the result of the assessment; and
- (ii) the CCP's internal risk models and rules, frameworks/policies and guidelines on legal/operational/business/financial risk covering different types of risks a CCP may be exposed to including (A) cyber-risks, (B) IT systems and data management including data compromise, IT disruption and IT failure, (C) third party risks and outsourcing, (D) theft, fraud and criminal activity (E) settlements risks and (F) default management procedures.

Article 2

The effect of a failure or a disruption of the CCP

1. When ESMA takes into account the criterion in point (b) in paragraph 2a of Article 25 of Regulation (EU) No 648/2012, ESMA shall consider at least the following indicators:

- (a) the margins, default fund contributions and eligible collateral. To assess this indicator, ESMA may consider:
 - (i) the total amount of collateral (before and after haircut) held by the CCP, separating cash and non-cash collateral, collateral denominated in total (including Union and non-Union currencies) and in each Union currency and the extent to which the collateral is provided by EU entities directly or indirectly;
 - (ii) the amount of collateral in each Union currency;
 - (iii) the IM required and held at CCP level (in total) and by each EU CM, per asset/sub-asset class, specifying the IM both as a total (Union and non-Union currencies) and per Union currency;
 - (iv) the default funds, the contributions required and held (i) at CCP level (in total) and (ii) by each EU CM, specifying the default fund both in total (Union and non-Union currencies) and per Union currency;
 - (v) the peak and average VMs received by the CCP (in total) and the peak and average VMs required by and provided to the CCP by EU CMs, specifying the total VM both in total (Union and non-Union currencies) and per Union currency; and

- (vi) the eligible collateral accepted by the CCP with the corresponding haircut methodology and the type of collateral held by the CCP.
- (b) the committed/uncommitted resources and liquidity resources. To assess this indicator, ESMA may consider:
- (i) the estimated largest payment obligation in total and in each Union currency that would be caused by the default of any one or two largest single CMs (and their affiliates) in extreme but plausible market conditions;
 - (ii) the amount of the total and for each Union currency, liquid resources to the CCP's benefit separated between (i) committed and uncommitted and (ii) type of liquid resources, for example cash deposits, and other resources such as credit lines backed by liquid collateral or repos;
 - (iii) the amount of total liquid resources provided by each EU entity to the CCP;
 - (iv) the liquidity providers registered or established in the EU; and
 - (v) the average and peak aggregate daily values of incoming and outgoing EU-currency payments.
- (c) settlement and payments, including the use of central bank money for settlement. To assess this indicator, ESMA may consider:
- (i) the CCP's settlement/payment cycle including the extent to which settlement/payment is made in Union currencies and entities used for settlement/payment;
 - (ii) the extent to which central bank money is used for settlement/payment or where other entities are used for settlement/payment; and
 - (iii) the extent to which the CCP applies technologies, such as distributed ledger technology, in its settlement/payment process.
- (d) framework for recovery and resolution. To assess this indicator, ESMA may consider:
- (i) the extent to which the CCP is subject to a framework or regulation on recovery and resolution and the effect of such framework or regulation on the CCP and its participants;
 - (ii) the recovery process/plan, the tools envisaged, the maximum liability for an individual CM and for all EU CMs in aggregate, and how the CMs (both jointly and separately) could be impacted by the tools if implemented;
 - (iii) the resolution process/regime, the tools envisaged, the maximum liability for an individual CM and for all EU CMs in aggregate, and how the CMs (both jointly and separately) could be impacted by the tools if implemented;

- (iv) if there is any crisis management group;
- (v) if any additional recourses could be required from CMs; and
- (vi) the scope for state aid and the cases in which it could be activated.

Article 3

CCP's clearing membership structure

1. When ESMA takes into account the criterion point (c) in paragraph 2a of Article 25 of Regulation (EU) No 648/2012 ESMA shall consider at least the following indicators:

- (a) the identification of CMs and in particular EU CM, EU clients or EU indirect clients. To assess this indicator, ESMA may consider:
 - (i) the identities and memberships of the CMs of the CCP;
 - (ii) the extent to which the CCP has any EU CM, and to the extent the information is available, EU clients or EU indirect clients; and
 - (iii) where this is the case, their share of the CCP's total clearing activity.
- (b) access to the CCP and to the clearing services provided by the CCP. To assess this indicator, ESMA may consider:
 - (i) the different options available to access the CCP's clearing services (including different memberships), any access requirements and/or conditions for granting or denying access; and
 - (ii) the extent to which there are legal requirements on the CCP to grant access to clearing services.

Article 4

Alternative clearing services provided by other CCPs

1. When ESMA takes into account the criterion point (d) in paragraph 2a of Article 25 of Regulation (EU) No 648/2012 ESMA shall consider at least the following indicators:

- (a) substitutes to the CCP clearing service. To assess this indicator, ESMA may consider:
 - (i) whether there are alternative clearing services to the CCP's clearing services offered to EU CM, EU clients or EU indirect clients;
 - (ii) whether the CCP providing the same or equivalent clearing services on a TV (the same or an equivalent TV) is authorised or recognised in the EU; and

(iii) whether the CCP is providing clearing in derivatives subject to the clearing obligation under EMIR.

Article 5

CCP's relationship, interdependencies, or other interactions

1. When ESMA takes into account the criterion point (e) in paragraph 2a of Article 25 of Regulation (EU) No 648/2012 ESMA shall consider at least the following indicators:

(a) outsourcing arrangements. To assess this indicator, ESMA may consider:

- (i) the scope of services that have been outsourced to the CCP from EU entities; and
- (ii) the possible effects on the Union or one of its Members States if such CCP would not be able to comply with its obligation under the outsourcing arrangement.

(b) the links or connections with other financial market infrastructures, other financial institutions and the broader financial system. To assess this indicator, ESMA may consider:

- (i) the extent to which EU TVs are served by the CCP; and
- (ii) the extent to which the CCP has interoperability arrangements and/or cross-margining agreements with EU CCPs, or links with or participate in other financial market infrastructures located in EU, such as central securities depositories or payment systems.



5.5 Annex V Information to assess the criteria and associated indicators

5.5.1 Example of information to assess the nature, size and complexity of the CCP

Example of information ESMA may ask the CCP to provide for ESMA to assess the nature, size and complexity of the CCP.

Details of the CCP's ownership and corporate structure, including schematic overviews and detailed summaries further specifying and providing details on (i) the ownership group structure, (ii) qualifying holdings (and the definition used) in the CCP or in its owners, and (iii) to the extent the CCP belongs to group which includes another financial market infrastructure (including a CCP).

Details of the CCP's CMs (including identities and type of membership) and in particular details on EU CMs and to the extent the information is available, its EU clients and EU indirect clients including where they have been designated by Member States as Other Systemically Important Institutions (O-SIIs) pursuant to Article 131 of Directive 2013/36/EU.

Details of which the countries (including Member States) the CCP is providing clearing (or other relevant) services and in which countries (including the Member States) it intends to provide clearing (or other relevant) services.

Details of the financial instruments and type of transactions (including SFTs) cleared by the CCP, allocated to asset classes and sub-asset classes and how they are traded, OTC or on a TV?

Details on any requirements to (i) trade those financial instruments on TV and/or (ii) clear financial instruments traded on TVs.

Details of the CCP's business structure, including schematic overviews and detailed summaries further specifying and providing details on (i) the extent to which the CCP acts in several capacities or provide other services in addition to the clearing services, for example as central securities depository, trade repository or reporting manager (ii) details of the CCPs clearing services (per financial instrument) provided to each EU CM, and (iii) details of the CCPs clearing services (per financial instrument) provided to non-EU CM, the extent to which such CMs clears on behalf of EU clients and/or EU indirect clients and information on where such clients are established or registered (specifying the Member State).

Details on the financial instruments cleared by the CCP which are subject to the EMIR clearing obligation under Article 4 of EMIR and for each of those the respective aggregate volumes or notionals.

Details for each financial instrument denominated in Union and non-Union currencies cleared by the CCP, separated by each Union currency or if denominated in a non-Union currency (i) in total at the CCP level (ii) for each EU CMs and (iii) (to the extent the information is available)



for non-EU CMs on behalf of each EU client and each EU indirect client, including information on

- where the financial instruments are being traded OTC or on a TV; and
- the respective aggregate volumes or notionals for each Union currency cleared by the CCP;

Details on value, including;

- for securities transactions (including SFTs, bonds and/or bond baskets), the value of open positions/open interest (including SFTs),
- for ETD transactions, the value of open interest/turnover; and
- for OTC derivatives transactions, the gross/net notional outstanding amount.

Where those values should be considered;

- globally at CCP level split (a) per asset/sub-asset class and (b) in total (Union and non-Union currencies) and per Union currency, and
- per EU CM split (a) per asset/sub-asset class, and (b) in total (Union and non-Union currencies) and per Union currency.

Details on the average daily volume, including

- for securities transactions (including SFTs, bonds and/or bond baskets), the number of securities or transactions
- for ETD transactions, the number of contracts/transactions and
- for OTC derivatives transactions, the gross/net notional outstanding amount.

Those values should be considered

- globally at CCP level split (a) per asset/sub-asset class and (b) per (Union and non-Union) currency; and
- per EU CM split (a) per asset/sub-asset class, and (b) in total (Union and non-Union currencies) and per Union currency.

Details on the relative value of open interest of securities/ETD and notional outstanding amount of OTC derivatives cleared by the CCP compared to the total cleared value, by category of products.

Details, to the extent the information is available, on whether the CCP is providing clearing services indirectly to EU clients and/or EU indirect clients through non-EU CMs and where



such non-EU CMs clears on behalf of EU clients or EU indirect clients, the scope of such clearing service.

Details on the level of standardisation of contractual terms and operational processes for the financial instruments cleared by the CCP.

Details on the products cleared by the CCP detailing if they are subject to a clearing obligation in such third-country and detailing, for example, to what extent the financial instruments cleared are linked to structured products, part of structured products or in any other way subject to specialised conditions.

Information setting out if any of the type of financial instruments cleared by the CCP are subject to a product intervention measure in the Union.

The following details on the current financial instruments cleared by the CCP;

- daily average number, volume and value of transactions for the financial instruments;
- average size of transactions; and
- size of the bid-offer spread.

Details on the availability of adequate pricing data and any generally accepted and reliable pricing-sources (including information on relevant “back-up” pricing sources) specifying the number of relevant liquidity providers per product, market makers (providing a two-way market), active market participants trading the financial instruments and/or trading platforms for the product.

Details on the liquidity of financial instruments (including the largest, lowest and the average) on a daily basis.

Details of the annualised price volatility cleared by the CCP.

Details of the average maturity for each financial instrument.

Details on the requirements, by law or otherwise, to make public the pre-trade current quotes and/or bid and offer prices and the depth of trading interests at those prices both on and off TVs.

Details on the requirements, by law or otherwise, to make public the price, volume and time of the transactions executed or concluded (post-trade).

Information on the status of the TV served by the CCP, has any of them been identified by ESMA as a TV complying with the requirements listed in ESMA Opinion Determining third-



country trading venues for the purpose of transparency under MiFID II / MiFIR¹⁰ or (if not) would the TV served by the CCP meet such requirements?

Information on any capacity restrictions the CCP is subject to, such as limits on the volume of transactions or exposure.

Information on the liquidity of financial instruments on the market served by the CCP.

Example of information ESMA may ask the CCP to provide for ESMA to assess the risk profile of the CCP.

Details on internal risk profiling of the CCP. What are the main internal risk models addressing the different types of risks (legal, operational, business/financial) the CCP may be exposed to? Has the CCP completed an assessment of its risk profile and if so, which methodology were used (e.g. PFMLs and their related guidances) and what was the result?

Details of the board minutes in relation to risk aspects of the CCP for the last 3 years.

Copy of any substantial reports or relevant updates of the CCP's risk position (including, where relevant, legal opinions and legal actions) both in relation to the country of incorporation and where the CCP provides clearing services (covering the last 3 years).

Details on relevant review/assessment reports, including;

- relevant review/self-assessment reports, including any assessment of the PFMLs implementation/compliance guidances and reports on monitoring the implementation of the PFMLs;
- reports in relation to risk aspects of the CCP published either by the CCP or by another entity referring to the CCP; and
- the results of the stress tests and back tests performed during the year preceding the date of application.

Details (presented as a summary and supported by extracts of relevant documents) of the legal risks identified (last 3 years) by the CCP including in relation to (i) the governance structure, (ii) cross border risks based on different legal regimes (including settlement and finality aspects), (iii) enforceability of agreements and (iv) reputational risk if providing services for example without legal certainty. The summary should also include to what extent the CCP has outsourced any of its legal considerations to law firms.

Details on the CCP's internal risk models and rules, frameworks/policies and guidelines on operational risk covering in particular; (i) cyber-risks, (ii) IT systems and data management (including data compromise, IT disruption and IT failure), (iii) third party risk and outsourcing,

¹⁰ https://www.esma.europa.eu/sites/default/files/library/esma70-154-165_smsc_opinion_transparency_third_countries.pdf

(iv) theft, fraud and criminal activity (iii) settlements risks and (iv) default management procedures, including at least the following;

- A copy of the cyber-risk/IT risks framework in place and any sections in other frameworks covering aspect of cyber-risks/IT risks. Any reports on aspects of cyber/IT risks produced during the last two years, highlighting any main concerns or risks identified (if any) and in particular in relation to EU CM, EU clients, EU indirect clients, involving Union Currencies or in relation to any outsourcing arrangements to or from EU entities in relation to any of the CCP's activities;
- Details on the CCP's preparedness and undertaken exercises to be resilient of cyber-attacks and how the CCP applies cyber security measures.
- The method chosen (how cyber-risk is estimated in an amount) for valuing cyber-risks and listing the 5 highest risks (in amount) of the cyber-risks identified.
- If the CCP use a distributed ledger technology as a component in the clearing services provided, this should be clearly covered and if this could entail any cyber risk related aspects.
- If the CCP provide clearing or accepting collateral in virtual/digital currencies or "currencies" based on distributed ledger technology (or where the underlying instrument is a virtual currency what risks this could entail for example on payment-versus-delivery), this should be clearly described with a focus on any cyber risk it may entail.
- If the CCP is using cloud computing or other cloud-based solutions in its systems for clearing or internal systems for operating the CCP, this should be clearly described.

5.5.2 Example of information to assess a failure or disruption to the CCP

Example of information ESMA may ask the CCP to provide for ESMA to assess a failure or disruption to the CCP.

Details of the total amount of collateral (before and after haircut) held by the CCP, separating the cash and non-cash collateral, specifying the amount of collateral in total (including Union and non-Union currencies) and in each Union Currency and non-Union currency held and specifying, to the extent possible, where the collateral is provided by EU entities directly or indirectly.

Details of the IM, default fund contributions and the power of assessment (i) at CCP level (in total and per default fund for default fund contributions) and (ii) by each EU CM, including;

- The IM (i) required, and (ii) held (post haircut and including voluntary excess posted by CM) in total per asset/sub-asset class and including information on the daily average over a defined period and the maximum, and specifying the IM both as a total (Union and non-Union currencies) and per each Union currency;

- The default fund contributions (i) required and (ii) held (post haircut), specifying the name of the default fund and the asset/sub-asset class it covers and including information on the daily average over a defined period and the maximum and specifying the default fund as a total (Union and non-Union currencies) and per each Union currency; and
- The power of assessment (maximum over a relevant period), specifying what is, per asset/sub-asset class the maximum power of assessment and a cap (if any) of the CMs' liability in its rule book.

Details of the peak and average VM received by the CCP (at CCP level) in total and what the peak and average VMs required by and provided to the CCP by each EU CMs also specifying the VM both as a total (Union and non-Union currencies) and per each Union currency.

Details of the eligible collateral accepted and/or held by the CCP, including

- a list of the eligible collaterals accepted by the CCP, including details if instruments or cash in Union currencies and if any limits applies;
- a list of how much (broken down by currency) of the collateral held is in the form of (i) cash in Union currencies and non-Union currency, (ii) bonds issued by sovereign or quasi-sovereign EU entities regardless of currency (pre-haircut), (iii) bonds issued by corporates established or registered in the Union, and (iv) other securities issued in a Union Currency;
- the haircut methodology; and
- concentration limits.

Details of the amount of the total committed/uncommitted resources and liquidity resources at CCP level specified per liquidity provider and per Union currency, including; the amount in EUR equivalent (the maximum over a period) of total committed/uncommitted liquid resources;

- the amount of the total and for each Union currency, liquid resources to the CCP's benefit separated between (i) committed and uncommitted (where "committed" means an enforceable obligation on the liquidity provider to provide the resources to the CCP) and (ii) type of liquid resources, for example cash deposits, other resources such as credit lines backed by liquid collateral or repos; and
- the main characteristics of the type of liquid resources, for example if a credit/repo line can be drawn in multiple currencies and if yes, each currency should be specified.

Details of the amount of liquidity required at CCP level, in aggregate (in EUR equivalent) and for each Union currency, including the average and peak aggregate daily values of incoming and outgoing Union currency payments.

Details of the estimated largest payment obligation in total and in each Union currency that would be caused by the default of any one or two largest single CMs (and their affiliates) in



extreme but plausible market conditions and information on how the calculation was made and any applicable rules or regulations.

Details on the EU liquidity providers (including both entities established in the EU and entities not established in EU but which is part of group established in the EU), including;

- the legal name, LEI (or other identification number) and the address;
- the country of establishment of the EU liquidity provider; and
- the amount of total liquid resources provided by each EU entity to the CCP.

Details on the CCP's settlement/payment cycles including the extent to which settlement/payment is made in Union currencies and entities used for settlement, including (i) to what extent central bank money is used for settlement, including specifying the amount (both in absolute numbers and as a percentage) of central bank money used for settlement, and (ii) if there are other resources used for settlement.

Details on applied technologies by the CCP for settlement, including the use of Distributed Ledger Technology, in its settlement process.

Details on any framework or regulation on recovery and resolution, including:

- information to the extent the CCP is subject to a framework or regulation on recovery and resolution and the effect of such framework or regulation on the CCP and its participants;
- the recovery process/plan, the tools envisaged, the maximum liability for an individual CM and of all EU CMs in aggregate and how the CMs (both jointly and separately) could be impacted by the tools if implemented;
- the resolution process/regime, the tools envisaged, the maximum liability for an individual CM and of all EU CMs in aggregate and how the CMs (both jointly and separately) could be impacted by the tools if implemented;
- information on any crisis management procedures;
- information on any additional recourses that could be required from CMs and EU CMs; and
- information on the scope for state aid and the cases in which it could be activated.

5.5.3 Example of information to assess the CCP's clearing membership structure.

Example of information ESMA may ask the CCP to provide for ESMA to assess the CCP's clearing membership structure.

Details to identify CMs of the CCP, EU CM and to the extent the information is available, clients and indirect clients established in the Union, the following information should be provided;



- the full legal name, LEI (or any other similar identification number) and the address;
- Country of establishment or registration;
- Category of membership;
- The proportion of EU CMs in comparison to the total number of CMs;
- The proportion of volume of cleared transactions for EU CMs in comparison to the volume of cleared trades for all CMs; and
- The proportion of volume of cleared transactions for non-EU CMs on behalf of EU clients and EU indirect clients in comparison to the volume of cleared trades for all non-EU CMs.

Details on the different options to access the clearing services (including different memberships) as provided for in the CCPs rulebook.

Details on the access requirements, including conditions for granting or denying access and specifying if and under what conditions (advances notices and timeframes) a CCP unilaterally may change the access rights to and participation in a clearing service or to the CCP and any applicable conditions.

Details on the legal requirements on the CCP to grant access to its clearing services.

5.5.4 Example of information to assess relationships, interdependencies, or other interactions

Example of information ESMA may ask the CCP to provide for ESMA to assess relationships, interdependencies, or other interactions.

Details on services that have been outsourced to the CCP, and the latter is providing material services to EU financial market infrastructures or EU entities (e.g. margining/pricing calculation, IT hardware/software running and maintenance, audit functions etc.).

A summary (supported by the relevant legal risks) containing details on legal aspects on IT systems and management of IT risks focusing on risk related aspects to outsourcing and providers used.

Details on the links or connections, such as relationship, interdependencies or interactions, between the CCP and other financial market infrastructures or other financial institutions within or outside of the group of the CCP

Details on the EU TVs served by the CCP, including;

- the TVs (identified by legal name and jurisdiction) served by the CCP;
- the products, securities or derivatives and to specify to what asset class/sub-asset class the financial instruments belong;



- the value of open positions (for securities) or value of open interest (for ETDs);
- the value of contracts/securities;
- the volume i.e. number of securities, transactions and/or contracts;
- the net notional outstanding amount (for OTC derivatives); and
- any other information on any additional product information that are relevant for this indicator.

Details on the CCP's position within the broader financial system.

Details (listed below) on the CCP's interoperability arrangements/cross-margining agreements with EU CCPs, or links with or participation in or other financial market infrastructures located in EU, such as Central Securities Depositories or payment systems;

The legal name, LEI (or any other identification number commonly recognised) and the jurisdiction where the interoperable CCP or financial market infrastructure is established or registered.

Details on the interoperable activity; including specifics on asset classes (including sub-asset classes), scope of products (securities or derivatives), and Union currencies subject to the arrangement.

Details on the volume (including contracts/transactions) and value of open positions (for securities)/value of open interest (for ETDs).

Details on product information.

Details on the resources provided to each linked EU CCP/financial market infrastructure by the CCP, including (i) details on IM or equivalent (market value) and (ii) all additional resources (whether part of, additional or separate from default fund).

Details on the resources collected from each linked EU CCP/financial market infrastructure (at market value and post-haircut), including (i) details on IM or equivalent (market value) and (ii) all additional resources (whether part of, additional or separate from default fund).