Euronext Clearing's response to the targeted consultation launched by the European Commission on the review of the central clearing framework in the EU

Introduction

Euronext is a leading European financial markets infrastructure operator, whose offer covers the entire value chain of trading and post trading services. Within the Group, Euronext operates Euronext Clearing, a fully owned Central Counterparty (CCP) incorporated in Italy and authorized to provide clearing services under EMIR in 14 markets, across a range of trading venues including Euronext Milan, MTS, BrokerTec and Hi-Mtf. Asset classes cleared include equities, ETFs, Closed-end Funds, Financial Derivatives, Commodities (Agricultural & Energy) and Fixed income (Cash and Repos markets).

Clearing infrastructures are the backbone of the European financial economy and are expected to play a pivotal role in the context of the post COVID-19 recovery. Following Brexit, Europe deserves resilient, safe and efficient clearing infrastructures in order to foster growth and drive the Capital Markets Union.

As stated by the Commission, it is imperative that European clearing infrastructure can compete effectively on a global level. Euronext intends to play a significant part in this process, not least in respect of its plans to migrate clearing of most of its markets to Euronext Clearing over the next two years. This will contribute to the further development of strong, resilient, European infrastructure, in line with the Commission's commitment to building domestic capacity.

We therefore appreciate the opportunity to provide our feedback to the European Commission targeted consultation on the review of the central clearing framework in the EU (hereinafter called the "consultation").

1. Scope of clearing participants and products cleared

a) Clearing obligation for PSAs

Question 1. What measures (legislative or non-legislative) do you think would be useful in order to make clearing in the EU more attractive for PSAs?

Euronext Clearing is mindful of the significant financial stability benefits brought by clearing services in terms of the management of counterparty credit risks and multilateral netting of trades. In principle, Euronext Clearing is therefore in favour of making central clearing more attractive and accessible for PSAs and other private entities, helping them to benefit from robust and efficient CCP clearing environments.

Against this background, it should be noted that an extension of the scope of clearing participants should not lead to a reduction of CCPs' risk management standards for certain categories of participants. Clearly, CCPs would need to adapt their existing risk management models in order to support an extension of their participants' base. Evidence from the industry suggest that this process is currently undergoing.

However, further time is needed for both the sell side and buy side industry to get accustomed to the extension of the scope of clearing. From a longer-term perspective, standardization of access requirements through legislative provisions would help the market.

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Question 2. How could the current offer by EU CCPs, including the direct/sponsored access models which were designed to also specifically address central clearing issues for PSAs, be further improved and/or facilitated?

As stated above, under Question 1, Euronext Clearing believes that, from a longer-term perspective, a standardization of access models and possibilities should be performed at legislative level to harmonize the different industry solutions which might emerge in the coming years.

Question 3. (For CCPs) Can you provide information as to the number of EU PSAs on- boarded over the last year?

- **Yes**
- **No**
- **Don't know / No opinion**

Question 3.1 If you answered yes to question 3, please indicate the number of EU PSAs on-boarded over the last year, for what type of asset classes (e.g. repos/IRSs…) and, if possible, from which countries they were.

No input

Question 3.2 How do you see these numbers evolving overtime?

No input

Question 8. According to your estimation, what amount of Union currency-denominated OTC derivatives will be brought to clearing once PSAs become subject to the clearing obligation? What amounts could be brought to clearing in the EU? Please provide figures per EU currency if possible.

Euronext Clearing does not possess sufficient evidence to substantiate a response on this specific question.

b) More clearing by private entities that do not access CCPs directly

Question 11. Do you think further incentives to facilitate client clearing should be introduced?

As stated in reference to the question on pension scheme arrangements (letter (a) above) Euronext Clearing is generally in favour of making central clearing more attractive and accessible for PSAs and other private entities, allowing them to benefit from robust and efficient CCP clearing environments.

Nonetheless, we would highlight that direct access solutions in Europe are still at an early stage, as the industry needs more time to develop appropriate solutions to enable widespread direct access to CCPs by new kinds of entities. These types of access relationships pose new operational, risk and default management challenges that CCPs need to address and take into account in the design of their risk management frameworks, without lowering the applicable standards. Furthermore, direct access by smaller or less sophisticated participants might be appropriate and desirable for certain asset classes, but not for others, in light of multiple dependencies, including the level of risk management practices adopted and enforced by these institutions.

Against this background, we believe that, in a long-term perspective, once the underlying conditions are mature, the Commission should asses the benefits of translating industry

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standards into legislation in order to standardize and support the adoption of the direct access model by CCPs and private entities.

Question 11.1. If you answered yes in question 11, please indicate which incentives should be introduced

Against this background, even if it might be premature to focus on specific incentive measures, we believe that in a long-term perspective, once the underlying conditions are mature, the Commission should assess the benefits of translating industry standards into legislation (for instance with reference to prudential treatment of exposures of sponsored members), in order to standardize and support the adoption of the direct access model by CCPs and private entities.

Question 11.2 Please explain your answer to question 11 and question 11.1, providing, where possible, quantitative evidence and examples including on the potential costs and benefits.

No evidence available.

Question 12. Collateral transformation services provided by banks are often used by clients to meet liquidity needs related to margin calls. How do you consider the treatment of repos/reverse repos under the Capital Requirements Regulation: do you think there is room for better encouraging banks to provide collateral transformation services to their clients which clear in the EU?

- **Yes**
- **No**
- **Don't know / no opinion**

Question 12.1. If you answered yes to question 12, how could that be achieved while at the same time properly catering for the risks of repo transactions? Please explain your answer providing, where possible, quantitative evidence and/or examples including on the potential costs and benefits.

No input.

Question 13. How could EMIR or other legal texts be amended so that direct access to CCPs is facilitated so that smaller banks or end users are less dependent on the limited number of client clearing service providers?

No suggestion.

Question 14: Is there a need to adjust the trading rules to make it more attractive for private entities to trade on trading venues with central clearing arrangements?

No comments.

Question 15: Is there a need to amend/recalibrate UCITS counterparty exposure limits (Articles 50(1)(g) (iii) and 52 and of Directive 2009/65/EC) to distinguish cleared versus non-cleared, cleared at a Tier 2 versus other CCPs?

No comment.

Question 15.1 If your answer to question 15 is yes, please explain the reasons providing, where possible, quantitative evidence and examples. Please also consider/explain any impact on investor protection.

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c) Encourage clearing by public entities

Question 1. To what extent do you think that the participation of public entities would add to the attractiveness of central clearing in the EU?

Euronext Clearing acknowledges that public entities (particularly Central Banks and Ministries of Finance) access CCP services to discharge their respective public mandates. On the other hand, we do not have sufficient evidence to perform an assessment on the potential benefits of the participation of public entities in CCPs on a broader basis.

In the case of Euronext Clearing, as more extensively described in this section, participation of public entities is limited to only two entities, the Italian Ministry of Economy and Finance and the Italian Central Bank, which are members within a specific section of the CCP's system. From the data available, Euronext Clearing understands that these entities access CCP services as part of the fulfilment of their duties in respect to the management of public debt issued by the reference country.

Question 2. What are the benefits of public entities to centrally clear? What are the costs and other drawbacks?

In general terms, central clearing always delivers to participating entities, regardless of their public or private nature, significant benefits in terms of counterparty credit risk management, as well as efficiencies in terms of the multilateral netting of trades. This benefits both the entities in question as well as the overall stability of the financial system.

On the other hand, due to the limited evidence available to Euronext Clearing, it is not possible to develop this assessment further, as costs and drawbacks should be assessed, considering the nature of the entities in question, primarily against the interest underpinning their respective public mandates.

Question 3. What would make it more attractive for public entities (as referred to in Article 1(4) and Article 1(5) EMIR) to centrally clear? Please explain your answer providing, where possible, quantitative evidence and examples, including on the potential costs and benefits.

Please refer to questions 1 and 2 of the present subsection.

Question 3.1 Starting from which volumes would it be attractive for public entities to consider to centrally clear? Please explain your answer providing, where possible, quantitative evidence and examples, including on the potential costs and benefits.

Please refer to questions 1 and 2 of the present subsection.

Question 3.2 Do you see any opportunities to facilitate central clearing for public entities with small clearable volume? Please explain your answer providing, where possible, quantitative evidence and examples, including on the potential costs and benefits.

Please refer to questions 1 and 2 of the present subsection.

Question. 4 [for CCPs] Do you clear for public sector entities active in OTC Derivatives, Exchange Traded Derivatives, Securities Financing Transactions or other transactions that could be centrally cleared?]

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[yes/no]

Question 4.1 If yes, please describe your activity/the activity of these entities in terms of products, currency denomination and, if possible, average monthly volumes.[text box for each category: i.e. product, currency denomination, average monthly volumes]]

The membership of Euronext Clearing also includes two public entities, namely the Italian Ministry of Economy and Finance and Banca d'Italia. These public entities both participate as Individual Clearing Members in the Bond Clearing Section and are active in the clearing of Euro-denominated repo contracts on government bonds, that are traded on MTS Markets.

Question 4.2 [If yes, please provide more information regarding these entities (Type of entity? From which Member State?)

There are public entities currently participating in Euronext Clearing's CCP system: the central bank of Italy (Banca d'Italia) and the Italian Ministry of Economy and Finance. Their eligibility as participants to the system is expressly provided for within Euronext Clearing's Regulations at Art. B.2.1.1., par.1, lett. d), par. 5 and par. 6.

Question 5. Do these public entities / Do you already voluntarily clear some or all of these transactions via a CCP?

a. **Which transactions are these?**
   - **Credit derivative contracts [Please indicated whether OTC/ETD]**
     NO
   - **Equity derivative contracts [Please indicated whether OTC/ETD]**
     NO
   - **Interest rate derivative contracts**
     NO
   - **Foreign exchange derivative contracts**
     NO
   - **Commodity derivative contracts and others**
   - **+ additional options**

From the information available to Euronext Clearing, these entities are active only in respect of clearing of Euro-denominated repo contracts on Italian Government Bonds, which are traded on MTS markets.

b. **Why do they/you only clear some transactions (and the mentioned ones in particular)?**

In light of the information available to Euronext Clearing, both the Bank of Italy and the Italian Ministry of Economy and Finance participate in the CCP's clearing system on a voluntary basis only.

Notably, in compliance with Art. B.2.1.1, par. 6 of Euronext Clearing's Regulations, the Ministry of Economy and Finance may only participate in the CCP Bond Section for clearing of repo contracts on Government Bonds, whereas with regards to the Bank of Italy, theoretically, no limitations are foreseen in terms of its eligible clearing sections.

In fact, the two entities signed the participation agreement and have been submitted to the usual onboarding process, according to the provisions provided for by our Regulations for these specific entities. (Please, refer to Art. B.2.1.2, par. 16 of Euronext's Clearing Regulations).

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c. Where they/you do clear voluntarily, please describe the activity in terms of products, currency denomination and, if possible, average monthly volumes and [if you are a CCP] the share of public entities clearing per CCP and product.

See also above, under question 4.1 above.

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Question 9. Do those public entities which access CCPs for some or all of their transactions / you, do so:

- **directly**
- **as a client of a general clearing member**
- **through indirect clearing arrangements**

Question 10. Where these public entities / you are a clearing member of CCPs, Question 10.1 do they / you post initial and/or variation margin,

- **Yes**
- **No**
- **+ additional optional [text box]**

Optional: Please provide further quantitative and qualitative information.

These entities are not carved out from margin payments towards the CCP.

Question 10.2 do they/you contribute to the CCP's default fund or any recovery or resolution measures,

- **Yes**
- **No**
- **+ [additional optional [text field]**

Optional: Please provide further quantitative and qualitative information. [text box]

Pursuant to the Euronext Clearing rulebook, Article B.4.2.1. (7), Central Banks of the European Union and the Ministry of Economy and Finance do not participate in the Default Fund and therefore cannot be requested to pay any financial resources as a contribution to the Default Fund. These entities are also not currently subject to recovery and resolution measures foreseen in the CCP's rulebook.

Question 10.3 do they / you use any form of a sponsored model to fulfil their/your obligations vis-a-vis the CCP

- **Yes**
- **No**
- **+ additional optional [text box]**

Question 10.4 does the CCP's rulebook contain any specific provisions regarding the participation of these entities?

- **Yes**
- **No**
- **+ additional optional [text box]**

In addition to the provision mentioned under Question 10.2 of this Section, above, Article B.2.1.2 (16) of Euronext Clearing's Rulebook provides different criteria for the assessment of membership requirements for Central Banks of the European Union and the Italian Ministry of Economy and Finance

Question 11 Where these public entities access CCPs through a general clearing member:

Question 11.1 is that clearing member:

- **another public entity**

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- **a profit oriented entity**
- **other**

If you answered other, please specify what type of entity.

In the case of Euronext Clearing both the Bank of Italy and the Italian Ministry of Economy and Finance directly participate in the CCP Bond Section.

Question 11.2 do the contractual arrangements of the CCP, the general clearing member and the public entity contain special provisions reflecting the public entity's status?

- **Yes**
- **No**

Question 11.3 If you answered yes to question 11.2,please explain. [text box]

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Question 12 Have you encountered any issues regarding the post-trade reporting of transactions to which public entities are counterparties?

- **Yes**
- **No**

Question 12.1 If you answered yes to question 12, please explain [text box]
Question 13. Should there be a differentiation between types of public entities?

- **Yes**
- **No**
- **Don't know / no opinion**

Question 13.1 Please explain your answer to question 13 providing, where possible, quantitative evidence and examples.

Question 14. Are there characteristics of different types of public entities that require specific considerations in your opinion? Please explain and mention – where appropriate – the Member State concerned.

No opinion.

Question 15. Which public entities should centrally clear in your opinion? Why?

No opinion.

Question 16 Please provide your views on the following options. The determination of which public entities should centrally clear should be linked to:

	1 (strongly agree)	2 (rather agree)	3 (neutral)	4 (rather disagree)	5 (strongly disagree)	No opinion
The type of public entity (i.e. multilateral development banks, public banks managing state participations,						x

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debt management offices, central banks, other public (sector) entities)						
The assessment/ rating of the public entity						x
The size of the public entity						x
The mission of the public entity						x
The ownership structure of the public entity (fully owned by a public owner? (Partially) private investors ok)						x
Other						x

Question 16.1 Please explain your answer to question 16 providing, where possible, quantitative evidence and examples including on the potential costs and benefits.

No opinion.

Question 17. Which public entities should not centrally clear in your opinion? Why?

No opinion.

Question 18. Which type of central clearing do you consider most suited for public entities?

- **Directly**
- **as a client of a general clearing member**
- **through indirect clearing arrangements**

Question 18.1 Please explain your answer to question 18 providing, where possible, quantitative evidence and examples, including on the potential costs and benefits.

No opinion.

Question 19. Which type of transactions should be centrally cleared by public entities in your opinion? Why?

No opinion.

Question 20. Which type of transactions should not be centrally cleared by public entities in your opinion? Why?

No opinion.

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Question 21 What are the reasons not to centrally clear for those public entities that are active in OTC Derivatives, Securities Financing Transactions or other transactions that could be centrally cleared?

	1 (strongly agree)	2 (rather agree)	3 (neutral)	4 (rather disagree)	5 (strongly disagree)	No opinion
a) Too small/not enough transactions for central clearing (costs too high per transaction)						x
b) No in-house expertise in the field/not enough volume in order to employ staff with expertise (too expensive)						x
c) Reporting costs too high						x
d) Costs too high						x
i) On-boarding costs too high (preparing necessary IT infrastructure adjustments, defining processes, clarify on treatment regarding accounting etc.)						x
ii) Recurring costs (other than reporting) too high (potential margin requirements, maintenance of IT infrastructure, employment of qualified staff, regulatory monitoring, possible posting and handling of margins etc.)						x
e) Operational burdens too						x

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high (too complicated from an IT point of view, no qualified IT staff etc.)						
f) Relevant counterparties don't do central clearing either						x
g) Conflict of interest						x
h) Legal restrictions to participation in CCPs (e.g. to participation in loss-sharing arrangements such as default funds)						x
Other						

Question 21.1 Please explain your answer to question 21 providing, where possible, quantitative evidence and examples.

No opinion.

Question 22. In what way do public entities make use of European trading venues, either Regulated Markets, MTFs or OTFs in order to trade OTC and ETD derivatives and other products?

No information available to substantiate a response.

Question 23. Is there a need to adjust the trading rules to make it more attractive for public bodies to trade on trading venues with central clearing arrangements?

No opinion.

d) Broaden the product scope of the clearing obligation

Question 1: Is the range of products currently subject to the clearing obligation wide enough while safeguarding financial stability?

- **Yes**
- **No**
- **Don't know / no opinion**

Question 1.1. Please explain your answer to question 1 providing, where possible, quantitative evidence and examples.

As a central counterparty, Euronext Clearing recognizes the financial stability benefits related to central clearing, in terms of counterparty credit risk management and reduction of exposures through multilateral netting. We would therefore positively consider an extension of the scope of the products eligible under the clearing obligation. Against this background, it should however be underlined that not all products may be suitable for central clearing, due to a lack of standardization, liquidity or materiality: in the absence

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of appropriate conditions of liquidity, standardization and materiality, for certain products an extension of the clearing obligation might be unsuitable. Competent authorities should consider these elements when assessing opportunities for a potential extension.

Question 2: Could additional products be subject to the clearing obligation?

	Yes	No	Don't know/no opinion
Equity derivatives			x
Repos			x
Other Interest Rate Derivatives (e.g. referring the new risk free rates)			x
Other credit derivatives			x
Foreign Exchange Derivatives			x
Other			x

Question 2.1: Please explain your answer to question 2 providing, where possible, quantitative evidence and examples including on potential costs and benefits. In particular, if you answered "yes" in question 2, please specify which types of derivatives you are referring to (i.e. what types of equity derivatives, e.g. 1 to 5 year Total Return Swaps on CAC40 vs. Euribor 3M). Please also provide an estimate of the typical flows that would be brought to clearing on a monthly basis. [text box]

Please refer to the statement under Question 1.1 of this section, above.

Question 3: Does EMIR allow enough products to be subject to the clearing obligation?

- **Yes**
- **No**
- **Don't know / no opinion**

Question 3.1 Please explain your answer to question 3 providing, where possible, quantitative evidence and examples.

As a central counterparty, Euronext Clearing recognizes the financial stability benefits related to central clearing. We would therefore positively consider an extension of the scope of the products eligible under the clearing obligation, it should however be underlined that not all products may be suitable for central clearing, due to a lack of standardization, liquidity or materiality. Competent authorities should consider these elements when assessing opportunities for a potential extension.

Question 4: If a product is available for clearing but not subject to an obligation are there instances where you would still choose to trade bilaterally?

- **Yes**
- **No**
- **Don't know / no opinion**

Question 4.1 If you answered yes to question 4, please specify in which cases providing, where possible, quantitative evidence and examples, and explain the rationale to do so. [text box]

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Question 5. In light of the EMIR framework for the clearing obligation, is the definition of OTC derivatives in EMIR clear enough?

- **Yes**
- **No**
- **Don't know / no opinion**

Question 5.1 If you answered yes to question 5, do you see any situation where it could have undue consequences, for example with regards to the determination of the thresholds for the clearing obligation?

- **Yes**
- **No**
- **Don't know / no opinion**

Question 5.2. If you answered yes to question 5.1, please specify the possible situations it could have undue consequences providing, where possible, quantitative evidence and examples.

Question 6. Is the procedure to determine whether a non-financial counterparty should be subject to the clearing obligation under Article 10 clear enough?

- **Yes**
- **No**
- **Don't know / no opinion**

Question 6.1 If you answered no to question 6, please explain how it should be clarified providing, where possible, quantitative evidence and examples

No opinion.

Question 6.2 How should intragroup transactions be taken into account in the procedure?

No opinion.

Question 6.3 Should the clearing thresholds be recalibrated based on cleared versus non- cleared rather than OTC versus ETD?

No opinion.

Question 7. Should the thresholds for the clearing obligation continue to be linked to the application of margin requirements?

- **Yes**
- **No**
- **Don't know / no opinion**

Question 7.1 Please explain your answer to question 7 providing, where possible, quantitative evidence and examples including on potential costs and benefits.

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2. Measures towards market participants

a) Broaden the product scope of the clearing obligation

Question 1. EMIR 2.2 introduced a difference between third-country CCPs which are Tier 1 and those that are Tier 2. How could the greater systemic importance (and associated risks) of Tier 2 third-country CCPs be reflected in the context of banking rules and supervision?

Question 2. What changes in the legal framework could translate in banks increasing their clearing activities in EU CCPs?

Question 2.1 Please explain your response to answer question 2, providing where possible quantitative evidence or examples, including on potential costs and benefits.

Question 3. How could a higher risk weight for excessive exposures to a Tier 2 CCP be designed given their systemic imprint:

[Table missing]

Question 3.1 Please explain your answer to question 3 providing, where possible quantitative evidence and examples, including on potential costs and benefits. [text box]

Question 4. In light of the Commission strategy to reduce excessive reliance on Tier 2 third-country CCPs, what level could be appropriate in your view for the risk weight, to incentivise clearing members to consider other options than a Tier 2 CCP for clearing their derivatives? [text box]

Question 5. How do you assess the risk that participants would relocate clearing to other third-country jurisdictions in case a higher capital requirement on excessive exposures to T2 CCPs is imposed?

Question 6. Do you include in your operational risk framework scenarios including limitation of access/non-recognition of a third-country CCP, or activation of the EMIR 2.2 process under Article 25.2c (i.e. possibility of de-recognition of a third-country CCP or certain clearing services)?
- Yes
- No
- Don't know, no opinion

Question 6.1 If you answered yes to question 6, could you explain how, also providing information if possible on the related cost of capital? [text box]

Question 7. When would you consider that a clearing member's exposure (initial margin

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and default fund contributions) to a CCP be "excessive"? [text box]

Question 8. Could you provide information as to the way the clearing location interplays
with the booking location in your case? What are the considerations which influence/would influence your choices in this regard? Please explain

b) Macroprudential tools

Question 1. The over-reliance on Tier 2 CCPs presents risks for the financial stability of the Union. Do you think macroprudential tools should be considered to achieve the desired policy objectives, alongside or as a substitute for the use of micro-prudential tools? Please explain your reply in as much detail as possible.

Question 2. Do you think a macroprudential buffer should be considered in light of this reliance/exposure? 27 - Yes - No - Don't know / no opinion

Question 2.1. Please explain your answer to question 2 providing, where possible, evidence and examples, including on potential costs and benefits. [text box]

b) Set exposure reduction targets

Question 1. If targets were to be set in some form or another, what do you think could be a reasonable target to achieve in terms of reduction of overall euro-denominated exposures of EU participants to Tier 2 third-country CCPs? Should exposures to systemic non-EU CCPs somehow be capped?

Question 1.1 Please explain your answer to question 1 providing, where possible, quantitative evidence and examples. Please also indicate over what timeframe such reduction can be achieved. [text box]

Question 1.2 Please explain whether in your view the targets should be set by law or in another form (e.g. supervisory guidance), also assessing the pros and cons

Question 2. What do you think could be a reasonable target for you to achieve in terms of reduction of euro-denominated exposure to Tier 2 third-country CCPs and over what timeframe? If you are a clearing member, please consider both house and client-related exposures. Please explain. [text box]

Question 3. Please indicate whether the targets should be set: - at a global level (all EU clearing members)- at clearing members' level - at clearing member and client levels – other

Question 3.1: Please explain your answer to question 3 providing, where possible, quantitative evidence or examples, including on potential costs and benefits. [text box]

Question 4. What could be the targets for the services identified by ESMA as being of a substantial systemic importance: - Swapclear by LCH Ltd, for both euro and Polish Zloty-denominated products. The STIR futures by ICE Clear EU for euro-denominated products. - The CDS Service by ICE Clear EU for euro-denominated products. Please explain your answer providing, where possible, quantitative evidence and examples, including on potential costs and benefits. [text box]

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Question 5. What factors should be taken into account in your view when sizing the target and setting the timeline for meeting it?
[table missing]
1 (Strongly agree) 2 (rather agree) 3 (neutral) 4 (rather disagree) 5 (strongly disagree) No opinion

Question 5.1 Please explain your answer to question 5 providing, where possible, quantitative evidence and examples including on potential costs and benefits. [text box]

Question 6. How could cooperation of all market participants be fostered to move towards the target? Please explain your answer providing, where possible, examples. [text box]

Question 7. What should happen at the end of the phase leading to reaching the target levels if targets are not met? What incentives/measures could be set? Please explain your answer providing, where possible, quantitative evidence and examples including on potential costs and benefits. [text box]

c) Level playing field

Question 1. How in your view could this issue be avoided? Please explain your answer providing, where possible, quantitative evidence and examples including on potential costs and benefits. [text box]

It should be highlighted that, in the event of a location requirement (i.e. an obligation to clear certain products only in the EU) being applied, the likelihood of creating distinct liquidity pools (i.e. one in the EU and one outside of the EU) would be high. Depending on the location of the main liquidity pool, EU clearing members may experience higher clearing costs. While EU institutions might be able to require EU clearing members to clear in the EU only, such requirements would not be applicable to non-EU Clearing members. Therefore, clients could likely choose to clear through a non-EU broker rather than switching CCPs, thus risking putting EU clearing members at a competitive disadvantage to their peers in other jurisdictions. It is therefore key that measures are aimed at incentivising clients and their clearing members to move activity to the EU rather than preventing them using third country CCPs.

Clients' decisions as to where to clear are based on multiple factors such as price, liquidity, risk, margin and operational efficiency and regulation. Therefore, to limit the drawbacks related to the splitting of liquidity pools across the EU and outside the EU the only way forward would be to provide EU CCPs with the appropriate and adequate tools to compete with their international peers and attract liquidity in the EU.

Question 2. In what ways can the clearing of Union currency-denominated derivatives be made obligatory or incentivised to take place in EU CCPs? Please explain your answer providing, where possible, quantitative evidence and examples including on potential costs and benefits. [text box]

Question 3. With specific reference to question 2, how could end clients which are not subject to the CRR be incentivised? Please explain your answer providing, where possible, quantitative evidence and examples including on potential costs and benefits. [text box]

e) Facilitate transfer of contracts from outside the EU

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Question 1. Should a permanent exemption be granted allowing for a novation of legacy trades without triggering any EMIR requirements?
- Yes - No - Don't know / no opinion

Question 1.1 Please explain your answer to question 1 providing, where possible, quantitative evidence and examples, including on potential costs and benefits. [text box]

Euronext Clearing is mindful of the financial stability benefits brought by central clearing to markets. As such, we would suggest the Commission carefully assess any waiving, on a permanent or exceptional basis, of the EMIR regime, such as in the way described by the question. From Euronext Clearing's perspective, it is necessary to maintain and increase - where feasible and appropriate - from a risk management perspective, the present level of central clearing in order to further streamline the benefits connected to risk management and multilateral netting.

Question 2. Should the legacy trades be made subject to the clearing obligation to be complied with by clearing in EU CCPs where available? - Yes - No - Don't know / no opinion

Question 2.1 Please explain your answer to question 2 providing, where possible, quantitative evidence and examples, including on potential costs and benefits. [text box]

As explained above, under Question 1.1., Euronext Clearing believes that it is necessary to maintain and even increase, to the extent it is appropriate from a risk management perspective, the present level of central clearing in order to further streamline the benefits connected to risk management and multilateral netting.

Question 3. Should compression exercises be made obligatory on these legacy trades? - Yes - No - Don't know / no opinion

Question 3.1 Please explain your answer to question 3 providing, where possible, quantitative evidence and examples, including on potential costs and benefits. Please specify the characteristics of your legacy trades (product type, remaining maturity, notional amount).[text box]

Question 4. Could intragroup transactions be used to facilitate a reduction of exposures towards Tier 2 CCPs? - Yes - No - Don't know / no opinion

Question 4.1 Please explain your answer to question 4 providing, where possible, quantitative evidence and examples, including on potential costs and benefits. If you replied yes to question 4, please also explain how this could work in your particular case.

Question 5. What are in your view/experience the difficulties around legacy portfolio transfers?

f) Obligation to clear in EU

Question 1. In your view should Article 5 be amended? - Yes, so that for new contracts the clearing obligation can only be fulfilled through authorised EU CCPs and/or recognised 'Tier 1 CCPs' - No. - Don't know.

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If you answered Yes what do you think would be the pros and cons and costs and benefits of your preferred approach? Please also specify for what asset classes and currencies. [text box]

Question 1.2 Please explain your answer to question 1 providing, where possible, quantitative evidence or examples, including on potential costs and benefits. If you answered yes to question 1, please indicate what could be an appropriate period to move towards this new regime. [text box]

g) Active account

Question 1. How would you define an active account? Please explain your answer providing, where possible, quantitative evidence or examples, including on potential costs and benefits.

Question 2. Should the level of activity be quantified?
- Yes, on annual basis
- Yes, more frequently than on an annual basis
- No
- Other
- Don't know/ no opinion

Question 2.1 Please explain your answer to question 2 providing, where possible, quantitative evidence and examples, including on potential costs and benefits. [text box]

Question 3. Should the set level of activity evolve overtime, and based on what criteria?

Question 4. How would an active account work for omnibus client accounts? Please explain your answer providing, where possible, quantitative evidence or examples, including on potential costs and benefits. [text box]

Question 5. How can client clearing service providers ensure that clients maintain an activity in EU CCPs? Please explain your answer providing, where possible, quantitative evidence or examples, including on potential costs and benefits. [text box]

Question 6. What would be the pros and cons, the costs and benefits of imposing an obligation to open an active account and setting a regulatory level of activity in it? [text box]

Question 7. In your view, would it be useful to impose requirements (e.g. having an active account at an EU CCP) on international banks having a subsidiary in the EU for retail activities?

h) Hedge accounting

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Question 1. Should a harmonisation of the hedge accounting rules be considered across Member States in order to reduce the exposure to Tier 2 third-country CCPs? - Yes - No - Don't know / no opinion

Question 1.2 Please explain your answer providing, where possible, quantitative evidence or examples, including on potential costs and benefits. [text box]

Question 2. Would other accounting rules need to be harmonised within the Union to facilitate the rebooking of transaction currently cleared in tier 2 third-country CCPs? - Yes - No - Don't know / no opinion

Question 2.1 Please explain your answer providing, where possible, quantitative evidence or examples, including on potential costs and benefits.

Question 3. What would be the pros and cons, the costs and benefits of harmonising the hedge accounting rules across Member States?

f) Transactions resulting from Post Trade Risk Reduction

Question 1. In your opinion, to what extent could the current outstanding notional amount be reduced? Could greater use of compression be done in CCPs and/or the bilateral space? Please explain your answer providing, where possible, quantitative evidence or examples, including on potential costs and benefits.

Question 2. How should risk replacement trades resulting from Post Trade Risk Reduction services be treated with regard to the clearing obligation? Please explain your answer providing, where possible, quantitative evidence or examples, including on potential costs and benefits.

Euronext Clearing is mindful of the financial stability benefits brought by central clearing to markets. As such, we would suggest the Commission carefully assesses any waiving, on a permanent or exceptional basis, of specific provisions enshrined in the EMIR regime, such as in the way described by the question.

As already indicated above, it remains of the utmost importance to maintain and even increase, to the extent it is appropriate from a risk management perspective, the present level of central clearing in order to further streamline the benefits connected to risk management and multilateral netting.

Question 3. What would be the pros and cons, the costs and benefits of subjecting the risk replacement trades to the clearing obligation? In EU CCPs? [text box]

Question 4. Are there measures that should be considered to facilitate the use of Post Trade Risk Reduction services to transfer trades to the EU, including cleared trades from Tier 2 third-country CCPs to EU CCPs? [text box]

j) Fair, reasonable, non-discriminatory and transparent (FRANDT) commercial terms for clearing services

Question 1. Should the provision of client clearing services be further regulated so that clients are consistently offered the option to clear also at one EU CCP or incentivised to do so? - Yes - No - Don't know/ no opinion

Question 1.1. Please explain your answer to question 1 providing, where possible, quantitative evidence and examples. [text box]

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Question 1.2. If you answered yes to question 1, do you think this aspect should be regulated: - in EMIR? - in regulations and directives applicable to specific types of clients? - Other Question 1.3. Please explain your answer to question 1.2 providing, where possible, quantitative evidence and examples. [text box]

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3. Measures towards CCPs

a) Measures to expand the offer by EU CCPs

Question 1. How are EU CCPs impeded or slowed down, compared to their international peers, in bringing new products to clearing? In which ways could EU CCPs be supported in expanding their range of clearing services?

Euronext Clearing highly appreciates the Commission's commitment to developing a strong and resilient EU clearing infrastructure to support growth, recovery and stability in the Union for the future and make the EU independent from other prominent jurisdictions.

To achieve this objective, we would like to focus the attention of the Commission on a certain set of issues, currently negatively affecting the industry and putting EU CCPs at a significant disadvantage vis-à-vis non-EU competitor CCPs.

- **Inefficient approval process for new products/services and changes to risk models:** in the experience of Euronext Clearing, the processes envisaged by EMIR to approve new products and improvements to risk models under EMIR Article 15 and 49 have resulted in overly complex and cumbersome arrangements for CCPs. This creates significant drawbacks, both in terms of risk management resiliency and CCPs' ability to market new products in line with the market's needs and expectations or change risk models. Both these elements impede innovation. Please see our answer to Question 3 below for more detailed considerations regarding these processes.

- **Level playing field:** Particular consideration should be directed towards ensuring a level playing field in the industry in order to foster competition between EU CCPs and strengthen their international competitiveness and resilience. Resilient EU-based clearing infrastructures are a precondition for the finalisation of a safe and true Capital Markets Union. Therefore, a careful consideration must be applied with respect to the ties between EU CCPs and non-EU entities and their relevance for the stability of the Union's economy and independence of EU clearing infrastructures. Given the increasing pace of digitalization, we invite the Commission might want to further explore this issue also from a data governance perspective. Data governance is increasingly recognised as a topic of national and supra-national security relevance. In line with sectoral cyber-resilience legislation, which requires an enhanced scrutiny on data collection and transmission, it would be important to ensure appropriate safeguards for critical data sharing from the Union to entities based in third country jurisdictions by relying on the outsourcing or delegation of certain activities or functions to third country entities, including affiliates. It is therefore necessary to ensure that the conditions for authorisation as well as for outsourcing and delegation do not generate supervisory arbitrage risks. Please refer also to Section 5 below for further considerations related to the importance of level playing field as a key priority and policy objective.

Question 2. Would it be appropriate to envisage a faster approval process for certain types of initiatives which could support the objective of promoting clearing in the EU, such as expanding the range of currencies cleared? What would be the pros and cons of a quicker approval process? What other activities/services could be considered? Please explain.

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Euronext Clearing believes that it is critical to ensure a faster approval process for all initiatives concerning new products and improvements to risk management to support the competitiveness of the EU clearing industry.

We believe that EMIR Articles 15 and 49 covering approval processes pose challenges to European CCPs, both in terms of risk management resiliency and CCPs' ability to market new products in line with the market's needs and expectations. This in turns impedes innovation and puts the EU industry at a significant disadvantage, vis-à-vis non-EU competitors, which enjoy a material competitive advantage in respect to EU CCPs. Against this background, we propose a set of possible measures which have the potential to reduce the regulatory costs so fostering EU CCPs competitiveness. Please see further details under Question 3 below.

Question 3. Could in your view significant changes to models and parameters (Art. 49 EMIR) as well as approval of extension of activities (Art. 15 EMIR) be handled at the EU level only? For example, could ESMA be involved at an earlier stage? What other avenues would you consider to accelerate the procedures?

Euronext Clearing would like to summarize the following issues which affect the current authorization procedures under Articles 49 and 15 in EMIR. Moreover, in this context, Euronext Clearing would like to reiterate that the approach included in the ESMA Final Report on draft regulatory technical standards on EMIR Articles 15(3) and 49(5)[1] would not improve, but rather further aggravate the existing situation regarding the approval of extension of activities as well as the significant changes to models and parameters. This would only further increase the complexity and duration of the approval processes.

From Euronext Clearing's perspective, ESMA's proposed final draft RTS significantly aggravates the complexity, effort and time requested for the entire procedure, in sum duplicating the activities requested for the marketing of new products, in the context of an Article 15 procedure, or for a change to risk models and parameters, with little benefit in terms of fostering supervisory convergence. Therefore, we believe this consultation to be a fitting opportunity to reconsider the approach.

The following targeted considerations on the overall framework for authorization as depicted in Articles 15 and 49 EMIR should be considered:

- **Length of the process:** changes to risk parameters and methodologies should be approved swiftly by NCAs to ensure CCPs' resilience is maintained and/or strengthened. Moreover, the time-to-market for new products is crucial for the economic viability of new initiatives, especially in the context of an internationally competitive environment. However, the way that College/ESMA approvals are presently managed under Articles 15 and 49 may potentially lead to a fading of the momentum of demand for certain activities or products and to an increase in the risks that CCPs may face if the proposed changes are not applied in due time. In practice, it has been difficult to predict the duration of the process. For the mere sake of example, in one Article 49 instance, the confirmation of the completeness of the application was issued five months after the start of the process. On the other hand, we question the effectiveness of the current provisional adoption, foreseen in Article 49.1(e) EMIR, as it requires even in an emergency situation the engagement of both the NCAs and ESMA. Finally, the provisional nature of the emergency authorization adds further complexities to this tool, undermining its effectiveness.

[1] https://www.esma.europa.eu/sites/default/files/library/esma70-151-3373_final_report_rts_article_15_and_49_emir.pdf

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- **Complexity of the documentation requested**: in many instances the complexity of the documentation requested from CCPs (assessments, analysis, independent reviews and opinions as non-exhaustive examples) makes the process overly cumbersome. Usually, CCPs receive multiple requests for for further documentation, to complement the submission and clarifications during the whole process. Moreover, under the current framework, the information that CCPs are requested to provide appears, to a significant extent, to be redundant: in the context of the sequencing of authorization and approvals, CCPs are required to present the same information multiple times. All the above disincentivizes CCPs to activate Article 15 and 49 procedures.

- **Duplicative authorization:** today the multiple layers of authorization (from ESMA and NCAs) and the sequencing of the authorization process – pre-assessment decision, decision on completeness of application and formal authorization decision - make the whole approval procedure too onerous and complex.

- **Lack of defined timelines**: In practice, it is hard to predict a defined timeline for Article 15 and 49 procedures, due to the fact that only certain steps of these procedures are covered by a clear, defined timeline. In particular, the procedure in EMIR can broadly be divided into three main steps:
    - Step 1: Pre-assessment decision by the NCA and College whether the proposed changes require an Article 15 or 49 procedure.
    - Step 2: Assessment of the completeness of documents describing the proposed changes.
    - Step 3: Formal approval process.

  However, EMIR only describes Step 3 in detail, providing a clear timeline, while Steps 1 and 2 do not indicate any precise timeline which is needed for the process to decide whether an Article 15 or 49 EMIR procedure is triggered, as only certain steps of the procedure are regulated. This issue is of particular concern since the 'time-to-market' of new products, services and changes to risk models is increased and innovation is discouraged due to lack of timelines. As reported above, for the sake of mere example, on one occasion the conclusion of Step 2 came five months after the start of the process.

- **Duplicative engagement of authorities:** too many authorities are involved in the process, with cumbersome information exchange and duplication of roles. In addition, some authorities participate several times in the decision-making process, either in their own capacity or as members of the ESMA Supervisory Committee and the College, which causes overlaps and redundant assessments and provides no added value to the supervisory process.

The issues listed above, pose significant drawbacks, both in terms of risk management resiliency and CCPs' ability to market new products in line with the market's needs and expectations. This in turns impedes innovation and puts the EU industry at a significant disadvantage, vis-à-vis non-EU competitors, which enjoy a competitive advantage in respect to EU CCPs.

Against this background, we believe that the regulatory costs involved in the present regulatory framework are excessive and that there is potential for significant improvement, as we highlight in some proposals below.

In particular, Euronext Clearing **would suggest the Commission evaluate and further explore the following measures**, which we believe would significantly reduce the regulatory costs of the Articles 15 and 49 EMIR approval procedures and streamline CCPs' operations.

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- **Differentiation of supervisory engagement:** as a starting point, we note that not all new services, activities nor changes to risk models require the same level of supervisory scrutiny. In our view, a distinction should therefore be introduced between minor changes (notification shortly before), medium changes (notification 1-2 weeks prior) and material changes (*ex ante* approval process, with more extensive and formal supervisory engagement). In our view, and in line with proportionality principles, only certain material changes should be subject to an extensive *ex ante* approval procedure. In the other instances, the involvement of the NCA should be streamlined, while the College could be informed *ex post*, at least on an annual basis.

- **Materiality criteria:** We believe that the criteria to determine materiality should be assessed taking primarily into account the CCP and the specific business model.

    - In respect of Article 15 EMIR, the materiality assessment of any new product should be performed against the set of products cleared by the CCP pursuant to its authorization. This broader perspective is especially relevant with respect to small incremental additions of the CCPs product offering: new products to be launched which are within the class of products/services already covered by the CCP's authorisation should be subject to an ex-post information to the NCA, while annual information to the College would be proportionate.

    - Regarding Article 49 EMIR, the main criterion for materiality should be whether the change poses the risk of being incompatible with, or undermining of, the CCPs overall risk management framework: however, outside of these issues the change should be classified as minor or medium and requiring more streamlined supervisory engagement.

- **Emergency process for article 49:** regulatory processes should not limit the ability of CCPs to enact, in a swift manner, the changes which are deemed necessary: the ability for CCPs to swiftly adjust margin parameters is paramount to proper risk management by CCPs, particularly in times of stress, when CCPs needed to react swiftly to fast-changing market conditions in the event vulnerabilities are identified. We believe that the possibility for CCPs to implement changes in such an environment should remain explicitly guaranteed and not subordinated to specific approvals, which might come too late in the process. Against this background, we believe that the present provisional emergency adoption foreseen in Article 49.1(e) EMIR is not effective to serve its intended purpose.

We believe that these set of proposals would significantly raise the effectiveness of the framework and further unlock the capacity of the EU domestic industry.

Clearly, these proposals should be accompanied by a reconsideration of the present framework of interactions between authorities involved in the supervision of the CCP: while being mindful that the involvement of the College should be maintained, we believe that its engagement should be further streamlined, leveraging more on ex post involvement and information sharing. In this context, we note that ESMA should play a crucial role in ensuring the uniform application of EU law and requirements, leveraging on its recently scaled-up governance structure. Further supervisory convergence is needed to preserve and guarantee a level playing field across the EU.

Question 4. How could an ex-post approval process for extension of services, similar to other jurisdictions, be designed in your view, so as to balance the need

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for a smooth process and for ensuring adequate supervisory checks and control of risks?

As a point of principle, we believe that the complexities, hurdles and ensuing costs related to the current regulatory framework should be addressed, as more extensively described under the previous question 3. We note, most importantly, that there is significant potential for improvements, especially in terms of time-to-market of new products.

However, we question whether an ex post approval process would be the right tool to for making the approval process more efficient. We highlight that, for this tool to be effective, certain conditions should be met, particularly in terms of legal certainty.

From our perspective, the potential for an ex-post denial of approval adds a significant degree of uncertainty to the whole framework and therefore to the marketing of new initiatives. This added uncertainty would seem to outweigh any benefit, that could be obtained with an ex post approval. Therefore, as a starting point of a technical discussion, the consequences of a potential ex post negative approval should be understood and clearly defined: it should remain clear and predictable how an ex post denial would impact the provision of the new service by the CCP, taking into account also the broader interest of all parties involved (interconnected venues, FMIs, participants).

For the sake of example, we note that the lack of legal predictability of the present exceptional approval process foreseen in Article 49.1(e) EMIR, related to the provisional nature of this tool is perceived as an impeding factor in respect to its effectiveness.

Question 5. If the criteria for extension of authorisation and significant changes to models and parameters were to be introduced in the level 1 (i.e. in EMIR), so as to be objective and clear for everybody, what could the criteria be?

As more extensively mentioned under question 3 above, we believe that the current architecture of the Articles 15 and 49 authorization procedures should be amended. Under this assumption, we propose that, for the sake of maximum legal clarity and predictability, the following elements should be clarified within EMIR level 1 text:

- **Materiality criteria:** we believe that the criteria to determine materiality should be assessed taking primarily into account the CCP and the specific business model. In respect of Article 15 EMIR, the materiality assessment of any new product should be performed against the set of products cleared by the CCP pursuant to its authorization. This broader perspective is especially relevant with respect to small incremental additions of the CCPs product offering: the launch of new products which are within the class of products/services already covered by the CCP's authorization, should be subject to a notification to the NCA shortly before, while annual information to the College would be proportionate. Regarding Article 49 EMIR, the main criterion for materiality should be whether the change poses the risk of being incompatible with, or undermining, the CCPs overall risk management framework: however, apart from these issues, the change should be classified as minor or medium and thus require a more streamlined supervisory engagement. This distinction would determine the timeline of the procedure, differentiating between minor changes (notification shortly before), medium changes (notification 1-2 weeks prior) and material changes (ex ante approval process, with more extensive and formal supervisory engagement).

- **Emergency process for Article 49:** regulatory processes should not limit the ability of CCPs to enact, in a swift manner, the changes which are deemed necessary: the ability for CCPs to swiftly adjust margin parameters is paramount to proper risk management by CCPs, particularly in times of stress, when CCPs

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needed to react swiftly to fast-changing market conditions in the event vulnerabilities are identified. We believe that the possibility for CCPs to implement changes in such an environment should remain explicitly guaranteed and not subordinated to specific approvals, which might come too late. Against this background, we believe that the current provisional emergency adoption procedure foreseen in Article 49.1(e) EMIR is not effective to serve its intended purpose.

- **Timeline of approval procedures:** Euronext Clearing believes that, due to the sensitivity of these approvals for CCPs, the **Level 1 text should specify the maximum timeline of the entire procedure**, including the individual steps to be taken by authorities in these procedures. A more granular specification of the various steps and iterations embedded in the EMIR timeline would raise the legal certainty and predictability of the framework.

b) Payment/settlement arrangements for central clearing

Question 1. What problems do EU CCPs and clearing participants encounter with the current setup of payment and settlement arrangements available to them in the EU?

The CSDR Settlement Discipline Regime (SDR) provides for two separate processes for the collection and distribution of cash penalties, depending on whether one of the participants is a CCP (Article 19 SDR) or not (Article 17 SDR). This duality in the SDR RTS text leads to contradictions and unnecessary complications with regards to cash penalties involving CCPs. In our opinion, this set-up has already demonstrated to be complex, costly, inefficient and unnecessarily duplicative for CCPs, CSDs and the members and participants of both. The coexistence of CSDR RTS Articles 17 and Article 19 effectively results in the existence of two parallel, non-perfectly synchronised systems for the collection and distribution of penalties for failed settlements to which CSDs, CCPs and their users have to subscribe, when a single standardised system would achieve the same result in a much simpler and more efficient manner.

We believe that the present SDR RTS Article 19 is neither contributing to, nor achieving the objective of ensuring that no undue risk is placed on the CCP. Therefore, we argue that the removal of the duplicative penalties system provided for by Article 19 would resolve many issues of operational risk, legal risk and compliance costs. We would therefore welcome a change to the CSDR legislation that removes this unnecessarily duplicative system so that market participants can use one single system through CSDs, rather than two parallel systems through CSDs and CCPs.

Question 1.2. What changes to the current payment and settlement options could be envisaged that would enhance attractiveness of EU CCPs and support the growth of EU- based clearing?

- **Review of settlement discipline:** as widely highlighted by industry associations, the CSDR settlement discipline regime has added significant complexities to the settlement landscape, by creating a duplicative collection and redistribution mechanism between CSDs and CCPs in cleared markets. Euronext Clearing strongly believes that the CCP industry and the broader settlement landscape would highly benefit from an exclusion of CCPs from managing the collection and redistribution of penalties in case of settlement fails. Please also refer to Question 1.1 above.

- **Concerning the landscape of EU payment infrastructures:** the current Target-2 (T2) infrastructure has remarkably increased the prompt and efficient processing of cross-border payments in Euro, at the same time significantly reducing the

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related costs and risks. Against this positive background, an extension of the current functionalities of the T2 infrastructure would bring further significant benefits to the post-trade landscape. An extension of the infrastructure's cut-off times would particularly benefit CCPs, especially in the processing of late margin calls. In the same vein, consideration should be brought towards a potential extension of the eligible currencies: as a multicurrency payment infrastructure, T2 would further streamline payment processing for EU CCPs, in turn raising the attractiveness of EU clearing.

- **Concerning the European settlement landscape:** similarly, as above, Target 2 Securities (T2S) infrastructure has improved the efficiency and safety of cross-border securities settlement in the EU. Moreover, we believe that further extending T2S functionalities would highly benefit the settlement landscape, and in turn raise the attractiveness of EU CCPs. We would, in addition, suggest exploring an extension of cut-off times. Moreover, an extension of the catalogue of eligible securities also to securities not denominated in Euro would benefit the settlement landscape.

c) Require segregated default funds

Question 1. If EMIR were to impose the establishment of segregated default funds to certain EU CCPs to improve their attractiveness, what should be the criteria for establishing which CCPs would need to have this segregated model?

- **Number of asset classes cleared – what number?**
- **All CCPs clearing derivatives alongside other products.**
- **Other.**

Question 1.1 Please explain your reply to question 1, also assessing the costs related to such a requirement.

Question 2 If EMIR or other pieces of EU legislation (e.g. the CRR) were to incentivise the establishment of segregated default funds by CCPs, how could that be achieved?

Question 3. In your view, could a segregated default fund be established for interest rate swap/interest rate derivatives clearing only? Would that be attractive? What could be the costs and benefits of such an approach?

d) Enhancing funding and liquidity management conditions

Question 1. Is the current range of options for funding, liquidity, collateral safekeeping/management, investment sufficient to support the growth of EU-based clearing?

- **Yes**
- **No**
- **Don't know/no opinion**

Question 1.1 Please explain your answer to question 1 providing examples and, where possible and relevant, quantitative evidence.

While remaining in principle supportive of the framework embedded in EMIR, Euronext Clearing wishes to highlight certain targeted enhancements, which could improve the safety and resilience of European CCPs, alongside their competitiveness on the international stage. These enhancements, which we propose in the following answer, relate to CCPs investment options, as described in Annex II of the Commission's Delegated Regulation (EU) 153/2013 and to the current services provided by central banks to CCP,

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which we believe would significantly improve the available set of options for liquidity and investment management available to CCPs. They are listed below, under Question 2.

Question 2. What enhancements to the existing options could be envisaged, and what would be the rationale?

As anticipated in our preceding answer, we would suggest the following enhancements:

- **Expanding the list of eligible issuers**: Euronext Clearing would strongly favour the explicit inclusion of EU Institutions, as well as other relevant international organisations, to the list of international organisations already mentioned in Annex II of Commission's Delegated Regulation 153/2013. The EU is raising funds in the context of targeted initiatives addressing the consequences of the Covid-19 pandemic and it is therefore likely that the EU will become one of the largest issuer of debt in the Eurozone.

- **Expanding the list of eligible highly liquid financial instruments:** although it is important to maintain a cautious approach when considering expanding the list of eligible instruments, technical work on potential new products could be initiated. This would logically cover highly liquid investment options, i.e. those with minimal credit and market risk. While recognizing that applicable EMIR requirements for investments of CCP's liquid resources play a pivotal role in ensuring that CCPs manage their resources carefully, Euronext Clearing believes that an extension of the list of CCP's eligible investments, as described in Annex II of Delegated Regulation (EU) 153/2013, within the conditions mentioned above, could be beneficial for the industry.

- **Possibility to use multicurrency standing Central Banks' deposits:** CCPs do not usually have access to deposits in foreign currencies at central banks. This reduces the possibility for CCPs to offer clearing in different currencies or receive margin calls in different currencies when needed (e.g. when the Euro market is closed). From a technical and operational perspective, the ability to deposit reference liquidity in currencies other than Euro into the standing deposit facilities of the relevant Central Bank, would provide a significant support to the clearing landscape and hence foster the development of EU CCPs' business offer.

e) Interoperability

Question 1. Do you think EMIR should explicitly cover interoperability arrangements for derivatives? Only for Exchange Traded Derivatives or also OTCs? Please explain your answer to question 1 providing, where possible, quantitative evidence and examples.

Euronext Clearing currently operates one of the largest and most sophisticated interoperability links between EU CCPs (Euronext Clearing and LCH SA). The interoperability link mentioned is active for cleared trades on Italian government bonds, both cash and repo traded on MTS market and BrokerTec.

While this interoperability model has been a success, Euronext Clearing would caution the Commission on any extension of the scope of interoperability arrangements to ETD and OTC derivatives, in light of the following considerations.

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As stated by the ESRB in a 2019 report[2], interoperability arrangements are complex, with distinguishing features depending also on the type of asset class cleared through the link. Interoperability links have the potential to bring efficiencies to a particular market structure, but on the other hand also imply the set-up of a potential channel for financial contagion amongst CCPs. Against this background, interoperability for ETDs, and even more for OTC, would pose unprecedented challenges from an operational, risk management and default management standpoint, which would need to be addressed by the relevant actors involved (and which might de facto emerge as blocking points).
Furthermore, it should be stressed that an interoperability arrangement represents a market initiative, which responds to the interest of a particular set of market participants and market infrastructure, that interact in a specific geographical market context. As such, the support of all market actors involved is a precondition to the set-up of an interoperability link: without a strong consensus, in terms of risks, costs and opportunities, on the business case, the likelihood of a successful interoperability would be minimal to none. The need for this consensus element (at least, for FMIs and Trading Venues involved), is also recognized by applicable regulatory provisions (EMIR article 7 and MIFIR articles 35 and 36).

Taking this into account, the inherent risks and complexities of an interoperability link for ETDs or OTC derivatives, and ensuing costs for participants and infrastructures, would significantly outweigh any potential benefit for participants. From a supervisory standpoint, giving the potential for inter-CCP contagion, these considerations should also be assessed in light of broader financial stability concerns.

Question 2. In light of efforts to enhance the clearing capacity in the EU and the overall attractiveness of EU CCPs, do you think there would be benefits of developing interoperability links between EU CCPs? If yes, which ones? What do you think would be the costs?

As stated under the previous question of this section, interoperability arrangements are complex, with distinguishing features depending also on the type of asset class cleared through the link. Interoperability links have the potential to bring efficiencies to a particular market structure, but on the other hand also imply the set-up of a potential channel for financial contagion amongst CCPs.

Furthermore, it should be stressed that interoperability arrangements represent market initiatives, which respond to the interest of a particular set of market participants and market infrastructure, while an overreaching consensus is needed from all the actors involved.

Against this background, interoperability for ETDs, and even more for OTC, raises unprecedented challenges from an operational, risk management and default management standpoint, which would need to be addressed by the relevant actors involved (and which might de facto emerge as blocking points).

Question 3. Do you think interoperability arrangements for derivatives between EU CCPs could contribute to enhancing the overall liquidity at EU CCPs? Why?

The information available to Euronext Clearing is not sufficient to provide such an assessment. Nevertheless, as stated throughout this section, we are of the opinion that the inherent risk and complexities of an interoperability link for ETDs or OTC derivatives,

[2] See ESRB, January 2019, Report on CCP interoperability arrangements ("CCP interoperability arrangements (europa.eu)"), In particular, ESRB highlights that depending on the asset class cleared through the link, interoperability links present important differences in terms of payment flow architectures, default management arrangements, which determine the risk profile of the link.

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and ensuing costs for participants and infrastructures, would significantly outweigh any potential benefit for participants, thus undermining any potential economic rationale. From a supervisory standpoint, giving the potential for inter-CCP contagion, these considerations strongly question the opportunity of such hypothetical scenario.

Question 4. How would you assess a situation in which Interest Rate Swap clearing happens at more than one EU CCP (e.g. at 2 CCPs) and there is an interoperability link between the two concerning such products? Would this be more convenient for market participants?

No response.

Question 5. In the situation described under question 4, how should the risks related to the arrangement be properly dealt with? What kind of safeguards should be there in terms of proper risk management?

No response

Question 6. In the context of CCP links, what are in your view the costs and benefits of cross-margining arrangements?

No response

Question 7. Would allowing for cross-margining arrangements in the EU be useful/desirable?

- **Yes**
- **No**
- **Don't know, no opinion**

Question 7.1. Please explain your answer to question 7 providing, where possible, quantitative evidence and examples.

f) Other measures

Question 1. Are there other measures which could potentially help improve the competitiveness of EU CCPs both in terms of the products they offer and the services they provide?

- **Yes**
- **No**

Question 1.1 If your answer to question 1 is yes, please explain and provide supporting evidence of the potential costs and benefits

- **Disproportionate requirements for EU CCPs' own resources**: the EU is the only jurisdiction mandating the adoption of a second tranche of Skin in the Game by CCPs to be used in case of default and non-default event prior to any recovery measure, as introduced By Regulation (EU) 2021/23. However, CCPs are risk managers, reducing and mitigating the overall risk, that participants – the risk takers – bring within the clearing environment. We would like to reiterate that disproportionate requirements have a direct impact in terms of competitiveness of European CCPs and in respect to their appeal and attractiveness for investors.

- **Recovery requirements:** for the sake of completeness, we would also like to recall that the recovery requirements recently introduced by Regulation (EU) 2021/23, concerning recovery plans and recovery planning and related implementing regulations, are in some respects excessively prescriptive and do not

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reflect an appropriate risk-based perspective. This in turns raises compliance costs with little to no added value in terms of risk management. We would like to note that these concerns have already been shared by the CCP industry in the context of ESMA's consultations related to the implementation of Recovery provisions included in Regulation (EU) 2021/23, and namely draft guidelines on recovery plans scenarios and indicators. We note that, in this context, the concerns mentioned above have been to some extent acknowledged by ESMA. While appreciating ESMA's commitment on the dossiers, we would nonetheless like to highlight that the EU is the only jurisdiction applying such an extensive set of recovery requirement

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5. Supervision of CCPs

a) Identifying costs related to current supervisory framework and benefits with a stronger role for EU-level supervision

Question 1. Please identify the regulatory compliance costs involved in today's supervisory framework for EU CCPs (high – medium – low – don't know / no opinion):

a. **Procedures for applications for authorisation to provide central clearing services and to perform activities;** High
b. **Procedure to notify the national competent authority and apply for relevant additional authorisations (e.g. to extend the scope of services or products offered or activities performed in the EU);** High
c. **Validations of risk models and parameters;** high
d. **Supervisory approvals, e.g. with regard to outsourcing;** high
e. **Involvement and consultations of different bodies (e.g. colleges), supervisors, central banks, and further authorities in supervisory decisions;** high
f. **Ongoing compliance with Regulation (EU) No 648/2012, including reports and contacts with bodies (e.g. colleges), supervisors and authorities;** medium
g. **Lack of consistent processes (e.g. different actors involved) across different supervisory procedures;** high
h. **Legal uncertainties arising from different implementation or interpretations of EU Regulations in different Member States or between Member State authorities and ESMA;** high
i. **Duplicative or conflicting instructions from national supervisory authorities and ESMA;** medium
j. **Other (please specify in reply to the next question).**

For each of the points, options to choose from: High – medium – low – don't know / no opinion

Question 1.1. Please explain your answer providing, where possible, quantitative evidence or examples. If you indicated 'Other', please specify what was intended.

We believe the costs related to the present supervisory framework to be sufficiently high to deliver a negative impact on the overall competitiveness of EU CCPs. In our view, the promotion of competitiveness of EU CCPs, is directly linked with the key objective of ensuring a regulatory level playing field in the Union. We argue, that the principle of level playing field, upon which the entire EMIR framework is built on, and related enforcement represents a precondition for ensuring the competitiveness of EU CCPs: in fact, without uniform requirements, equally applied upon all competitors, competition might be seriously discouraged and in the end hampered. Therefore, as already underlined in the context of Section 3, we strongly suggest the Commission to consider the enforcement and maintenance of level playing field across the Union as a key policy objective, also in the context of this EMIR review. On the other hand, we also recognize that there are multiple ways pursuant to which this objective might be reached (through centralization of supervision or by further strengthening ESMA's present competences in terms of fostering a coherent application of EMIR).

Apart from the relevance of the principle of level playing field, we also argue that the present EMIR supervisory framework involves high costs for supervised entities. Below we portray the various costs, and related root causes, which in our view are connected to

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the present supervisory framework. As more extensively detailed above, in Section 3 under Question 3, the following considerations relate in particular to the approval procedures foreseen within EMIR.

We would highlight the following issues that represent added costs related to the supervisory framework applicable to CCPs. As more extensively illustrated under Question 3 of Section 3 above, we note that the present framework of approval procedures under EMIR Articles 15 and 49 is highly complex for authorities and burdensome for CCPs. For the sake of the present questions, we would highlight the following issues:

- **Duplicative sequencing of authorisations:**

  On the one hand, EMIR procedures all share the same structure based on the sequencing of a multiple set of decisions by the competent authority and ESMA, requiring moreover, for every layer of the process, an engagement of the relevant EMIR College. The sequencing of the processes required to come to a final decision (pre-assessment on Articles 15/49 applicability, assessment on completeness of application, formal authorization decision), makes the whole procedure clearly redundant in practice. NCAs and ESMA are required to formalise a position on the same subject multiple times. The same applies to the College, which is requested to provide non-objections, then opinions, always on the same underlying subject.

- **Duplicative engagement of authorities:**

  On the other hand, many different actors are involved in these processes, always on an *ex ante* basis, which makes costs and efforts related to information exchange very significant. This also increases the interdependencies between decisions and the risk that a delay in the activities of one authority may impact and ultimately halt the entire procedure. Moreover, we would highlight the fact that multiple authorities participate in the supervision of EU CCPs from different angles and sometimes in different capacities: as part of the EMIR College, as Members of ESMA's CCP supervisory committee and as NCAs. It is questionable whether this duplicative participation is appropriate. Specifically relevant for the processes envisaged under Article 49 EMIR, we note that there is a partially overlapping involvement of ESMA and the NCA, which are both awarded with the power to authorize the change.

The costs ensuing from the considerations listed above, both direct and indirect, are prohibitive and pose a significant obstacle to the competitiveness of the EU industry. Against this background, significant possibilities for improvements appear clearly available. For the sake of example, we would like to highlight the following avenues for improvements:

- **Reconsidering the present framework of interactions between authorities involved in the supervision of CCPs:** we believe that the EMIR College's engagement should be further streamlined, leveraging more on *ex post* involvement and information sharing. Most importantly, we believe that *ex ante* engagement of the College, in the form of an Opinion, should be requested only for material new services, such as the clearing of a new asset class, and material changes to the risk models and not for the business-as-usual activities of the CCP, as is sometimes under the current regulatory framework . Outside of these areas, College involvement in the CCP's supervision should happen only in limited circumstances and at predetermined intervals, e.g. annually. This would significantly streamline the present workflow.

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- **Reconsidering the workflow of approval procedures:** we urge the Commission to consider removing some of the procedural layers presently foreseen in EMIR approval procedures, which is articulated in three different sub-procedures (i. pre-assessment decision; ii. decision on completeness of application; and iii. final authorization decision). These processes should be streamlined, so that the swift adoption of a decision, in the context of a predictable timeframe, is promoted. As noted earlier, a diversification of the approval procedures, between minor and material changes, should be introduced, but also the framework should, to the extent possible, concentrate the various decisions presently foreseen to avoid duplications.

- **Further leveraging on ESMA's role in fostering supervisory convergence**: we believe that ESMA's role in fostering supervisory convergence should be further leveraged upon, in the context of ensuring a level playing field across the Union and the uniformity of supervisory outcomes. We believe that, also in light of the new tools and competences awarded to ESMA by EMIR 2.2, ESMA possesses the right tools to further promote the uniform application of European requirements applicable to CCPs. As mentioned at the beginning of this Section, in our opinion, enforcement and maintenance of a true level playing field should be regarded as a key priority and policy objective.
- **Further leveraging on NCAs level of expertise, competence and experience:** NCAs hold the final responsibility for the supervision of CCPs and this architecture has so far not proven to be flawed, creating a culture and practice of real time supervision. Due to their proximity to the supervised entities, NCAs possess expertise, knowledge and experience on respective CCPs which should be maintained and further promoted.

We believe that the measures proposed will significantly address the costs related to the present supervisory framework, further streamlining supervisory procedures and supervisory involvement of authorities in general. This in turn will add to the overall competitiveness of the EU CCP's industry. We believe that measures aimed at addressing the present shortcomings of the supervisory framework represent the way forward.

For our considerations related to the potential issue of centralization of supervision, please refer to our answer under letter b) below.

b) How should EU-level supervision be given a stronger role?

Please choose from: 1 (strongly agree), 2 (rather agree), 3 (neutral), 4 (rather disagree), 5 (strongly disagree), 6 (no opinion)

Neutral

Question 1.1. Please explain your answer providing, where possible, quantitative evidence or examples, including on potential costs and benefits.
In our view, competitiveness of EU CCPs should be promoted, while taking into account the key objective of ensuring a regulatory level playing field in the Union. We argue, that the principle of level playing field, upon which the entire EMIR framework is built on, and related enforcement represents a precondition for ensuring the competitiveness of EU CCPs: in fact, without uniform requirements, equally applied to all competitors, competition might be seriously discouraged and, in the end, hampered.

Moreover, under Question 1a above, we also highlight that the main issues related to the present supervisory framework, which characterize it in negative terms are related to: the inefficient structure of approval procedures, the duplicative sequencing of authorization and redundant engagement of authorities involved in the supervision of CCPs. These

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elements all contribute to creating costs and hurdles to European CCPs, thus posing a significant challenge in terms of competitiveness vis-à-vis other non-EU competitors providers

However, we argue that these costs and hurdles are not explicitly correlated to the level of supervision, specifically the distribution of competences between national and European levels. On one hand it can be argued that supervisory responsibilities concerning CCPs are efficiently allocated to NCAs, which perform their activities with the support of ESMA and the relevant EMIR College. This should ensure effective information sharing across supervisors and enable NCAs to supervise domestic CCPs, due to their experience, knowledge and expertise of CCPs and their financial environment, which comes from the closer proximity to the supervised entity. This architecture also keeps supervisory and fiscal responsibilities aligned at the national level, providing in sum the right incentives to the relevant actors involved. However, as illustrated above, the current EMIR supervisory framework presents several shortcomings related to the multiplication of interactions between regulators, the uncertainty of supervisory timeframes and the inherent rigidity of the procedure which prevents CCPs from adopting changes within appropriate time-to-market timeframes.

Against this background, we believe that the measures proposed above, under letter a) represent the way forward, in a short to medium-term perspective, in order to proactively address these issues and ensuing costs. Moreover, as more extensively depicted below, under letter d), we are of the opinion that the current framework should further leverage on ESMA's role in promoting convergence of supervisory practices and outcomes, in order to strengthen the current level playing field within the Union.

That being said, Euronext Clearing does not, as a point of principle, oppose assessing the merits of a potential centralization of supervision at the European level. This could be as an alternative, or as a further avenue of intervention, besides the measures listed above, to address the issues currently underpinning the EMIR supervisory framework. Necessarily from a medium to longer-term perspective, we note that a centralization of supervisory competences could bring benefits to the overall framework, both in terms of efficiency and effectiveness and in particular:

- Delivering benefits in terms of uniformity of supervisory practices and outcomes.
- Creating the preconditions to overcome the current structure of approval processes, which presently requires the interaction of three different constituencies and leverage more on single decision-making.
- Delivering economies of scale in the context of CCP supervision, with the potential to reduce the costs associated with supervision on a EU level.
- Aligning the extent of direct supervisory competences on EU and non-EU CCPs at the European level.

We encourage the Commission to consider that, in order to implement a European single supervisor for CCPs, amendments far beyond EMIR level 1 would be required as this new European competence should find explicit justification in the context of the Union's founding Treaties. To embark on such a task, a very strong and cross-sectorial political consensus would be required beforehand and, as already mentioned, this initiative should be framed as a medium to long-term perspective.

Furthermore, we note that the benefits related to a centralization of supervisory competences at EU level will depend to a large extent, on the specific proposals and solutions ultimately adopted. We note that the concept of centralisation of supervision, while clear on a theoretical standpoint, might be implemented very differently in practical terms, especially in the context of the present EMIR architecture, which is already complex.

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Most importantly, and against this background, we would subordinate our support for any option for centralization of supervisory competences at EU level, to the following pre-conditions being assured:

- **Governance structures**: it would be necessary that the governance arrangements underpinning the centralization of competences in a single EU level supervisory are adequately structured so as to address the risk of conflicts between diverging national and European interests. If not adequately addressed, potential conflicts amongst diverging interests, and ensuing discussions of political rather than technical nature, would negatively impact the effectiveness of the framework, in sum jeopardizing the supervisor's ability to take appropriate actions. This would in turn also deliver a negative impact in terms of level playing field and broader competitiveness of the EU CCP industry. Against this background, we invite the Commission to explore possible mitigation strategies related to this potential risk of conflicts of interests, e.g. also by drawing useful evidences from the current framework and practices of banking supervision performed by ECB, and including related governance arrangements.

- **Supervisory approach**: it would be necessary to replicate NCAs' current level of practice and culture of "real time supervision" and their acquired knowledge and expertise concerning reference CCPs. Outside the context of formal interactions, NCAs are generally easy to reach out to and this type of contribution has proven very helpful to Euronext Clearing's experience, especially in situations that required prompt decisions and swift actions to be taken. This performance level, which we believe to be highly valuable, should necessarily be maintained also under a centralized framework. Moreover, the knowledge and expertise of NCAs in respect to their reference CCP, which derives from their proximity to the supervised entity, should not be sacrificed in light of centralization of supervisory competences. This is also a source of added value which should be preserved in a potential debate concerning centralization of supervision at EU level.

Furthermore, a centralization of supervision opens new possibilities for the current structure of EMIR approval processes, in particular in terms of decision-making procedures, which should be pursued. Even with supervision at a different level, it would still be necessary to further streamline the present procedural rules which govern the approval process, such as by concentrating the decision-making at one level, in one single instance. Without a rethinking of present architecture, this would only create further complexities, costs and hurdles for CCPs.We believe that the above conditions should be met under any possible scenario of centralization of supervision at EU level. Otherwise, the status quo would still remain by far preferrable.

One other necessary point, which should be carefully considered relates to level of fiscal responsibility in the event of a CCP crisis. As we argued before, supervisory responsibility and fiscal responsibility should remain linked in order to provide the right incentives to relevant actors. Since fiscal responsibility now lies at national level, supervisory responsibilities should remain at the national level as well. To relocate supervisory competences at European level would also require a mechanism to realign fiscal responsibility accordingly. However, we note that potential mechanisms to maintain an alignment between supervisory and fiscal responsibility at EU level had already been explored in the context of the debate preceding the introduction of CCPRR (Regulation (EU) 2021/23), such e.g. a resolution fund in line with the experience from the banking sector.In this context, we highlight that the CCP industry is profoundly different from the banking sector and it is doubtful that such requirements would be effective or proportionate, given the different business models and functions of the CCP (as a risk manager not as risk taker). Furthermore, we point out that these additional funding

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requirements, and related costs, which would be in the end allocated on clients, could significantly discourage the use of central clearing and instead push counterparties towards riskier and more opaque bilateral clearing.

Question 4. If a distinction between EU CCPs were to be made under the EU supervisory framework as per point (b) of question 2, please indicate if you agree that the following criteria are relevant:

a. **Volume and value of central clearing activity;** neutral
b. **Interconnectedness with other CCPs;** neutral
c. **Scope of products centrally cleared;** neutral
d. **Geographical scope of trading venues connected;** neutral
e. **Geographical scope of clearing members and clients;** neutral
f. **Other (please specify, in reply to the next question).**

For each point, options to choose from: 1 (strongly agree), 2 (rather agree), 3 (neutral), 4 (rather disagree), 5 (strongly disagree), 6 (no opinion)

Question 4.1 Please explain your answer providing, where possible, quantitative evidence and examples. If you replied 'Other', please indicate what was intended.

Euronext Clearing suggests the Commission should carefully consider the costs and benefits related to the introduction of a potential tiering regime for EU CCPs. There is a significant risk that such a proposal might be misinterpreted by the different stakeholders negatively affecting the overall trust within the European financial system, both within and outside the Union. Also, further elements of differentiation between CCPs would be introduced and we question whether such a direction would be in line with the principle of level playing field and uniformity of supervisory outcomes.

c) Areas for a stronger role of EU-level supervision

Question 1. Please identify the most important areas where EU-level supervision should have a stronger role: 1 current situation satisfactory

1. **Access to CCPs (Article 7 of EMIR);**
2. **Access to a trading venue (Article 8 of EMIR);**
3. **Reporting obligation (Article 9 of EMIR);**
4. **Authorisation of a CCP (Article 14 of EMIR);**
5. **Extension of activities and services (Article 15 of EMIR);**
6. **Capital requirements (Article 16 of EMIR);**
7. **Withdrawal of authorisation (Article 20 of EMIR);**
8. **Review and evaluation (Article 21 of EMIR);**
9. **Emergency situations (Article 24 of EMIR);**
10. **Senior management of the board (Article 27 of EMIR);**
11. **Risk committee (Article 28 of EMIR);**
12. **Record keeping (Article 29 of EMIR);**
13. **Shareholders and members with qualifying holdings (Articles 30-32 of EMIR);**
14. **Conflicts of interest (Article 33 of EMIR);**
15. **Business continuity – general provisions (Article 34 of EMIR);**
16. **Outsourcing (Article 35 of EMIR);**
17. **General conduct of business rules (Article 36 of EMIR);**
18. **Participation requirements (Article 37 of EMIR);**
19. **Transparency (Article 38 of EMIR);**
20. **Segregation and portability (Article 39 of EMIR);**

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21. **Prudential requirements (Entire Chapter 3 of Title IV of EMIR);**
22. **Margin requirements (Article 41 of EMIR);**
23. **Default fund (Article 42 of EMIR);**
24. **Other financial resources (Article 43 of EMIR);**
25. **Liquidity risk controls (Article 44 of EMIR);**
26. **Default waterfall (Article 45 of EMIR);**
27. **Collateral requirements (Article 46 of EMIR);**
28. **Investment policy (Article 47 of EMIR);**
29. **Default procedures (Article 48 of EMIR);**
30. **Review of models, stress testing and back testing (Article 49 of EMIR);**
31. **Settlement (Article 50 of EMIR);**
32. **Calculations and reporting for the purposes of Regulation (EU) No 575/2013 (Chapter 4 of Title IV of EMIR);**
33. **Interoperability arrangements (Article 51 of EMIR);**
34. **Risk management (Article 52 of EMIR);**
35. **Provisions of margins among CCPs (Article 53 of EMIR);**
36. **Approval of interoperability arrangements (Article 54 of EMIR);**
37. **Investigations into infringements of Title IV of EMIR;**
38. **Imposition of supervisory measures for infringements of EMIR;**
39. **Other (please specify, in reply to the next question**

For each point; options to choose from: 1 = Current situation satisfactory; 2 = Stronger EU-level supervision is needed/desirable; 3 = Supervision by a single EU supervisor is needed/desirable); 4 = No opinion.

Question 2.1 Please explain your answers providing, where possible, quantitative evidence and examples. If you replied 'Other', please indicate what was intended.

As mentioned in the previous answer, Euronext Clearing does not, as a point of principle, oppose centralised EU supervision of CCPs. We note that a centralisation of supervisory competences could potentially bring certain benefits to the overall framework, both in terms of efficiency and effectiveness, taking however into account a medium to long-term perspective. Furthermore, from Euronext Clearing's perspective, support for a proposal for centralization is conditioned upon certain necessary minimum preconditions being met and namely:

- That the governance arrangements underpinning the centralization of competences at EU level are adequately structured so as to address the risk of conflicts between diverging national and European interests. Against this background, we invite the Commission to explore possible mitigation strategies, e.g. also by drawing useful evidences from the current framework and practices of banking supervision performed by ECB, including related governance arrangements.
- The transfer of NCAs' practices and culture of "real time supervision" and their acquired knowledge and expertise concerning reference CCPs within the EU Supervisory Body.
- That centralization of competences is linked to further efficiencies in the current procedural rules which govern the EMIR approval procedures and related of decision-making process.

We believe that these conditions should be met under any possible scenario of centralization of supervision at EU level. Otherwise, the *status quo* would still remain by far the most preferrable option.

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One other necessary point to carefully consider relates to level of fiscal responsibility in the event of a CCP crisis. As we argue above, we are of the opinion that supervisory responsibility and fiscal responsibility should remain linked to provide the right incentives to relevant actors.

d) ESMA's role in fostering a coherent application of EMIR

a. **Coordination of direct contacts between Member State authorities responsible for CCP supervision;** strongly disagree
b. **Coordination of direct contacts between Member State authorities responsible for supervision of a wider set of financial market actors (CCPs, banks, investment firms etc.) or policies (e.g. central banks);** strongly disagree
c. **Coordination of discussions in CCP colleges;** strongly disagree
d. **Strengthening of the ESMA CCP Supervisory Committee and the areas where it should be consulted by national competent authorities;** agree
e. **Widening the scope for opinions by the ESMA CCP Supervisory Committee to the ESMA Board of Supervisors;** rather agree
f. **Increased use of obligation for national competent authorities to comply or explain deviations from opinions issued by ESMA or CCP colleges;** rather agree
g. **Increased use of ESMA regulatory technical standards and implementing technical standards;** rather agree
h. **Increased use of ESMA recommendations;** rather agree
i. **Increased use of ESMA guidelines;** rather agree
j. **Increased use of ESMA Questions & Answers;** rather agree
k. **Other (please specify in reply to the net question).**

For each point, options to choose from: 1 (strongly agree), 2 (rather agree), 3 (neutral), 4 (rather disagree), 5 (strongly disagree), 6 (no opinion)

Question 1.1. Please explain your answer and provide, where possible, examples to illustrate your views. If you indicated 'Other', please specify what was intended

We believe that substantial improvements can be achieved in the current framework by further consolidating ESMA's role and competencies in terms of supervisory convergence. We believe that ESMA currently plays an important role in enforcing and ensuring supervisory convergence and a true level playing field within the Union, which, as we argue throughout this Section, should be regarded as a priority and a key policy objective. We note that this role performed by ESMA, which is not an expression of direct supervisory competencies and does not require EU level supervision, should not be disrupted, but rather further stimulated and enhanced.

From Euronext's Clearing experience, we note that in many instances ESMA's tools listed under letter e-j above, have provided useful inputs to CCPs and participants, adding to the overall legal clarity and predictability of the regulatory framework. We believe that the use of these tools is a valuable solution to target areas of uncertainty or diverging practices, with ensuing benefits for CCPs and participants. These tools do support the convergent application of EMIR across EU and should therefore be further strengthened.

Moreover, we would like to note, that ESMA's contribution to the supervision of European CCPs, holds unique value and significancy in regard to the following two objectives

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i. **Enforcement of a true level playing field**, both from an international and European perspective. Given its coordination role, ESMA is in a perfect position to ensure that EU CCPs are all subject to the same set of requirements, applied in a consistent fashion by national authorities throughout the Union, in line with the Capital Market Union objectives. Moreover, as an influential player in international standards setting fora, ESMA is well positioned to further promote international consistency at proportionate costs for market participants, in line with the commitment of the global G20 reform of financial markets and the CCPs that sustain them.

i. **Promotion of competitiveness of EU CCPs,** in our view ESMA should proactively contribute to ensuring that the appropriate regulatory conditions are in place to support competitiveness of European CCPs, across the EU and globally. ESMA should focus particularly on the application of supervisory approval processes across the Union, particularly from an efficiency standpoint to identify and address weaknesses or inefficiencies that might emerge between NCAs practices.

In the current context, we would like to underline that ESMA's contribution appears particularly critical to address potential cases of different or non harmonised supervisory approaches undertaken by domestic authorities which in certain jurisdictions may adopt a less stringent approach than in other Member States. It should be stressed, that divergence from the level playing field directly undermines competition amongst CCPs, by penalizing or favoring certain competitors in respect to others. This negatively impacts clients and end users and in the worst case might also raise financial stability concerns.

Lastly, we would like to underline that fostering a level playing field should not result in unreasonable costs on CCPs or market participants: supervisory convergence should be promoted in an effective as well as efficient fashion. On this behalf, we underline the importance of consultative procedures for ensuring that legislations, regulations and other non-binding instruments are developed taking also into account the contribution from the CCP's industry and market participants.

5. EMIR and other Regulations/Directives

Question 1: Should amendments be introduced to the following legal instruments to better harmonize the requirements applicable to entities active in OTC derivatives

	1 (strongly agree)	2 (rather agree)	3 (neutral)	4 (rather disagree)	5 (strongly disagree)	6 no opinion
Link between EMIR and MiFID with regards to the definition of OTC derivatives, central clearing requirement, DTO determination						x
CRR and CRD						x
UCITSD						x
AIFMD						x
MMFR						x

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Solvency						x
Other amendments to EMIR in relation to non-centrally cleared derivatives						x

Question 1.2. Please explain your answer to question 1. If you think that amendments are required, please clearly indicate which amendments should be introduced, their rationale as well as their potential costs and benefits

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EURONEXT CLEARING

5. EMIR and other Regulations/Directives

a) Blockchain and Distributed Ledger Technology (DLT)

Question 1. Could blockchain and DLT be used in the field of clearing to improve the attractiveness and efficiency of EU CCPs and clearing markets?

- **Yes**
- **No**
- **Don't know / no opinion**

Question 1.2. If you answered yes to question 1, please detail your response.

Euronext Clearing understands the potential opportunities that DLT technologies may introduce to the central clearing industry. As a group, Euronext is engaged in initiatives to encourage its development and explore the application of such technologies. Most notably, from our understanding, DLT technologies may provide positive benefits in terms of reconciliation processes and related costs. Furthermore, DLT technology could support data reporting regimes, especially those related to derivatives which are subject to reconciliation. Lastly, DLT technology may be used for collateral management solutions so that a single ledger may hold the entire collateral.

On the other hand, Euronext Clearing also recognizes that DLT technology will not render central clearing obsolete in either the near or long term. Central clearing, as presently performed by CCPs, provides certain functions to the market that DLT technology cannot replicate, particularly in terms of counterparty credit risk management : CCPs also take on and mitigate the counterparty credit risk in cleared market and are equipped with procedures that ensure the timely default management in case of default.

These features cannot be replaced by DLT technology. Against this background, it is foreseeable that DLT technology will adapt and, into a longer term perspective, become eligible to support the processes of the current market infrastructures.

b) Other issues

Please provide any further suggestions to improve the attractiveness and competitiveness of EU CCPs and clearing markets, as well as the robustness of EU supervisory arrangements in order of impact and priority. Please provide supporting evidence.

For further information, please refer to the following contacts: Paola Fico (Paola.Fico@euronext.com) and Isabella Tirri (Isabella.Tirri@euronext.com)