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EC Consultation on Future of European Clearing – SIX x-clear Key Messages

SIX operates the financial market infrastructure for the Swiss and Spanish financial centres, catering to a broad international client base. As such SIX encompasses the two Central Counterparties ('CCP') SIX x-clear AG (SIX x-clear) and BME Clearing SA. SIX x-clear is incorporated in Zürich Switzerland, operates a branch in Oslo, Norway, and is a fully owned subsidiary of the SIX Group. It is regulated by the Swiss Financial Regulator, FINMA, as well as the Swiss National Bank (SNB), and is recognised by ESMA to provide services into the EU/EEA. In order for SIX x-clear to be able to continue offering its services in the UK after the UK left the European Union, SIX x-clear applied for third country recognition to the BoE. As a result, SIX x-clear is taken to be eligible for temporary deemed recognition in the UK by virtue of the Temporary Recognition Regime established by the Central Counterparties (Amendments, etc., and Transitional Provision) (EU Exit) Regulations 2018 as amended (TRR) and pursuant to Article 25 of the European Market Infrastructure Regulation (as amended) (UK EMIR).

SIX x-clear offers CCP clearing services covering an extensive number of European instruments across a large range of European trading venues. SIX x-clear has interoperability arrangements with two other CCPs: LCH Ltd (UK) and EuroCCP (NL). This provides users with a choice of CCP and enables competitive conditions for clearing services. This has led to lower clearing costs, market dynamism and enhanced financial market resilience.

As you state in your press release post trade infrastructures, such as CCPs, are the backbone of capital markets. CCPs help strengthen the utilisation of liquidity and reduce credit risk. We agree therefore that efficient, competitive post-trade markets will help create deeper, more liquid markets in the EU, which in turn will be the basis for a robust and vibrant economy. In this sense, SIX x-clear

would like to stress the importance of fostering a **competitive environment** for CCPs in order to make CCPs more innovative and attractive for market participants within the EU.

SIX x-clear supports any **measure** that would enhance the attractiveness of CCPs in the EU by **positive** means, in turn attracting liquidity to the EU market and so make CCPs more competitive. SIX x-clear therefore welcomes measures such as broadening the scope of clearing participants or products cleared, measures to expand the services by CCPs, payment and settlement arrangements for central clearing and enhancing funding and liquidity management conditions. SIX x-clear however cautions of using negative incentives (such as capital increase or a clearing obligation) to force a shift from third country CCPs to EU CCPs, as this may force clearing activities into other jurisdictions, completely outside the EU's remit and unduly discriminate against EU domiciled market participants.

Regarding the measures outlined in the consultation, SIX x-clear would like to make the following general statements which, in SIX x-clear's view, may be most effective to achieve the ultimate objective of increasing the attractiveness and volumes of CCPs active in the EU:

- We would urge the EU to adopt a **holistic view through the whole value chain**. Clearing typically needs a market. If liquidity in the markets remain outside of the EU, clearing activity will not shift into the EU. In this sense the open access clause would allow clearing across multiple markets thus increasing liquidity and netting options for Members, significantly raising the attractiveness of EU Markets.
- In our opinion, a more **integrated supervisory framework** and more homogenous application of the rules would provide an enhanced level playing field for CCPs within the EU increasing competition and benefiting both CCPs and other market participants.
- Similarly, SIX x-clear sees the importance of a **unified application of CCP regulation** as a whole, within and outside the EMIR framework. The EU CCP regulatory framework should avoid, as much as possible, regulating topics twice; as this may lead to legal uncertainty and diverging application depending on the implementing authority. SIX x-clear therefore welcomes the Commission's aim to clarify the interaction of other legislation with EMIR and vice versa.
- We understand and support the aim that **financial stability risks** need to be appropriately addressed. However, we believe this should be done cautiously and should avoid excessive granularity which removes valuable flexibility. More concretely, regulation should not restrict the possibility for CCPs to exercise their independent risk management ability. To the contrary, CCPs need to be able to tailor the risk management approach to the products and markets within the discretion provided for in EMIR and within international standards.

- As an interoperable CCP for cash equity clearing, SIX x-clear would like to reiterate the benefits of **interoperability** for cash equity. Interoperability has seen prices for clearing of cash equities tumble, it has contributed to market integration and liquidity, it has increased netting, further diminishing costs for Members and brought competition and transparency to clearing markets. These benefits may not be as pronounced for the clearing of derivatives. We would none the less like to stress that regulation supporting or even encouraging interoperability in general may promote further interoperability arrangements in the European clearing space, also for derivatives, bringing more transparency, liquidity, netting and cost benefits for Members and making the EU clearing market more attractive.
- SIX x-clear is also in favour of **broadening the scope of clearing participants**. A wider Member base might decrease fragmentation in the market and increase the liquidity of cleared products. This in turn may attract further liquidity providing an incentive for Members to clear their flow via CCPs active in the EU.
- SIX x-clear has observed the wish for Members to clear all of their assets through one, multi-asset CCP. Providing an enabling environment in which CCPs can offer **multiple asset classes** for clearing and offer their Members the corresponding benefits with regard to netting, default fund contribution or collateral placement is therefore welcomed by SIX x-clear. Depending on the asset class, incentives may be more beneficial than outright clearing obligations.
- With regard to **new technologies**, SIX x-clear recognises these as opportunities for CCPs to expand their business potential and find more efficient ways of operating. While rules need to allow for experimentation, we would like to stress the importance of same activities being regulated in a same manner, to ensure level playing field conditions, and that regulation should be technology agnostic.
- We welcome less burdensome rules to rapidly enhance the clearing offer provided by CCPs. As such a **simplification of EMIR Articles 15 and 49** as proposed by EACH and as supported by BME Clearing would also be welcomed by SIX x-clear.
- SIX x-clear agrees with EACH's view that general restrictions on the design of **default funds** by CCPs would not increase the attractiveness of CCPs active in the EU. The choice of the number of default funds needs to be made by the CCP in consultation with Members and NCAs based on their own risk assessment and may depend on a variety of criteria.
- SIX x-clear is very much in favour of CCPs being granted **access to central bank money** via direct participation in EU central banks. Such access may reduce CCP's dependency on commercial banks and repo markets for liquidity, providing added security in stressed market conditions and thereby enhancing financial stability.

- Finally, as a **third country CCP**, SIX x-clear would like to stress the importance of continued access to the EU market for third country CCPs based on a transparent, predictable proportionate and risk-based approach. Financial markets are integrated across borders. Therefore, the market infrastructures that support those financial market participants also often operate across borders. This leads to significant stability benefits in terms of deeper pools of liquidity or reduced concentration risks. The alignment of regulation and supervision can further contribute to a reduction of global systemic risk. In this sense, SIX x-clear would appreciate the continued deference to other regulatory regimes in order to minimise the administrative burden on CCPs active across multiple jurisdictions.

As an active participant in the EU financial market, SIX x-clear has a sincere interest in a robust and competitive clearing framework within the EU. We would therefore like to express our appreciation for the work the European Commission has dedicated to the current consultation, and the clear desire to implement a solid operating framework for CCPs and their users. We thank you for the opportunity to contribute to this by offering our views on how these measures can be further strengthened and remain open to engage with you on any of these topics.