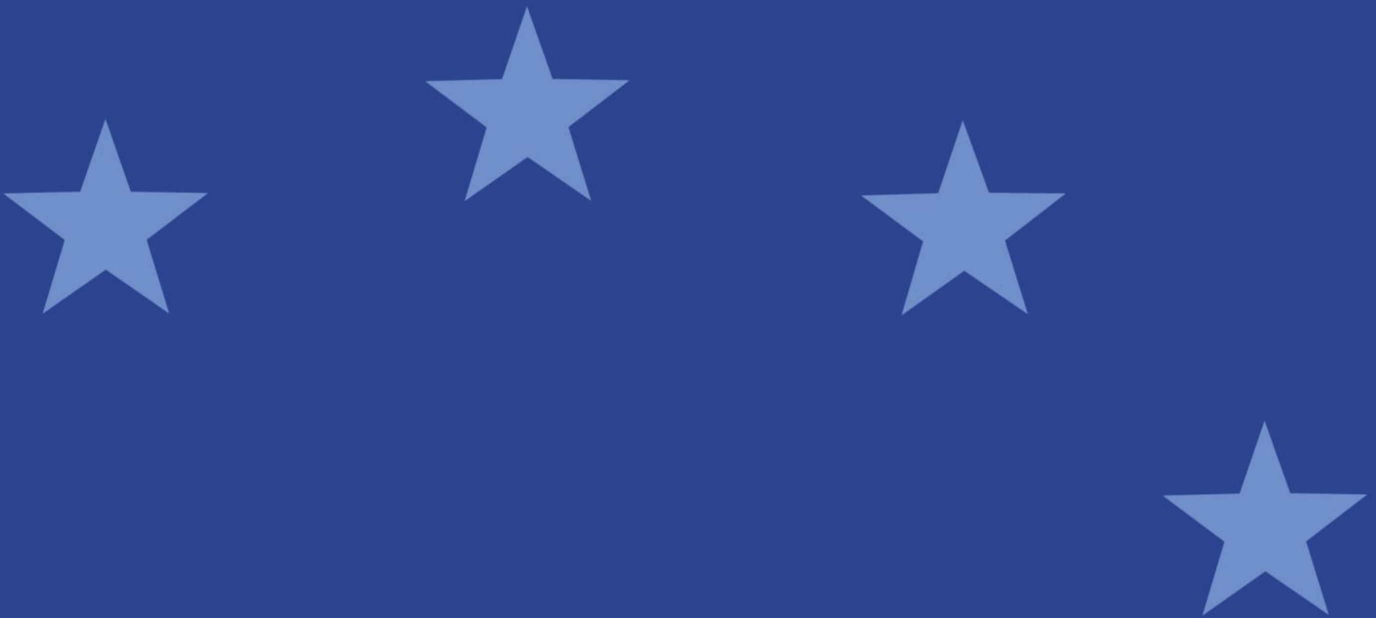
Reply form for the consultation paper on indirect clearing arrangements under EMIR and MiFIR



5 November 2015

esma

Responding to this paper

The European Securities and Markets Authority (ESMA) invites responses to the questions listed in this Consultation Paper on Indirect clearing arrangements under EMIR and MiFIR, published on the ESMA website.

Instructions

Please note that, in order to facilitate the analysis of the large number of responses expected, you are requested to use this file to send your response to ESMA so as to allow us to process it properly. Therefore, ESMA will only be able to consider responses which follow the instructions described below:

- use this form and send your responses in Word format (pdf documents will not be considered except for annexes);
- do not remove the tags of type <ESMA_QUESTION_RTS_INDIRECT_CLEARING_1> - i.e. the response to one question has to be framed by the 2 tags corresponding to the question; and
- if you do not have a response to a question, do not delete it and leave the text “TYPE YOUR TEXT HERE” between the tags.

Responses are most helpful:

- if they respond to the question stated;
- contain a clear rationale, including on any related costs and benefits; and
- describe any alternatives that ESMA should consider

Naming protocol

In order to facilitate the handling of stakeholders responses please save your document using the following format:

ESMA_ RTS_INDIRECT_CLEARING_NAMEOFCOMPANY_NAMEOFDOCUMENT.

E.g. if the respondent were XXXX, the name of the reply form would be:

ESMA_RTS_ INDIRECT_CLEARING_XXXX_REPLYFORM or

ESMA_RTS_ INDIRECT_CLEARING_XXXX_ANNEX1

To help you navigate this document more easily, bookmarks are available in “Navigation Pane” for Word 2010 and in “Document Map” for Word 2007.

Deadline

Responses must reach ESMA by **17 December 2015**.

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

Publication of responses

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

Data protection

Information on data protection can be found at www.esma.europa.eu under the heading Legal Notice.

Introduction

Please make your introductory comments below, if any:

<ESMA_COMMENT_RTS_INDIRECT_CLEARING_1>
[**1. Introduction- General Remarks**

The European Association of Co-operative Banks (EACB)[1] welcomes the opportunity to contribute to the discussion around the draft requirements regarding indirect clearing. It does so because its smaller members in particular have serious difficulty in accessing CCPs both for reasons of (non) availability and cost, but also because some of our larger members have been considering the possibility to provide client clearing services. In the context of this reply we would like to note that the EACB had already provided some relevant comments in its to the ESMA Consultation Paper on MiFID II/MiFIR (ESMA/2014/1570) in the respective section of indirect clearing arrangements.

It should be borne in mind that smaller cooperative Banks and Building Societies need derivatives mainly in order to hedge their interest rate risk on e.g. mortgages and other retail bank products at initial fixed rates.

Should no solutions become available, small banks, building societies and financial firms will de facto not be able to keep an efficient risk management activity (particularly for the interest rate risk) by means of trading OTC derivatives to hedge their positions. This hedging is a vital part of the retail and real economy focused business of cooperative banks, providing an essential managing tool that then allows those banks to effectively finance individuals and SMEs. Due to these problems, the clearing obligation is unintentionally forcing smaller financial firms out of the derivatives markets. This reduces competition and shifts market balance. Pushing these companies out of business would deteriorate the credit conditions of SME segment even further and thus jeopardize the fragile recovery of European economies. This would be inconsistent with the Capital Market Union policy agenda aiming to remove barriers to the free flow of capital in Europe and the variety of other policy makers' positive initiatives to stimulate economic growth in Europe.

With this in mind the EACB supports the exclusion from EMIR central clearing of all non-systemically important firms – that is also smaller Financial Counterparties (FC) and not just the Non- Financial Counterparties (NFC). Indeed, small and medium-sized FCs have severe problems to enter into clearing relationship, due to both cost and availability issues. Indirect or client clearing offerings have not proven to be successful due to legal and practical challenges. Only a small number of clearing members are able to offer to clear on behalf of smaller counterparties but at a

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[1] The European Association of Co-operative Banks (EACB) is the voice of the co-operative banks in Europe. It represents, promotes and defends the common interests of its 31 member institutions and of co-operative banks in general. Co-operative banks form decentralised networks which are subject to banking as well as co-operative legislation. Democracy, transparency and proximity are the three key characteristics of the co-operative banks' business model. With 4,200 locally operating banks and 68,000 outlets co-operative banks are widely represented throughout the enlarged European Union, playing a major role in the financial and economic system. They have a long tradition in serving 205 million customers, mainly consumers, retailers and communities. The co-operative banks in Europe represent 78 million members and 860,000 employees and have a total average market share of about 20%.

For further details, please visit www.eacb.coop

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cost totally disproportionate compared to the business of smaller players. In that regard, the EACB also draws to the Commission's attention that the current EU regime under EMIR is far more burdensome for small banks than in other major jurisdictions.

To address the issue the EACB proposal is, in principle, to exempt small credit institutions from the clearing obligation in respect of hedging contracts only. In the EACB's view this principle provides the best and most proportionate trade-off between on the one hand systemic risk and financial stability considerations, and on the other hand minimising the burden and anti-competitive effect of EMIR on small institutions. This could be achieved through the on-going EMIR review process. As international comparisons indicate, there are various ways to implement this principle through specific exemption thresholds. The EACB's view is that the simplest and most satisfactory approach is to set an exemption threshold based on balance sheet size of the institution. We would propose to set this at € 8 billion – close to the equivalent exemption threshold of US$ 10 billion for small US banks. At the very least, this should be set no lower than € 5 billion.

In the meantime, we would propose a short term solution through Level 2 on the basis of the treatment of derivatives concluded with covered bond vehicles. In particular, Regulation 2015/2205 exempts swaps concluded with covered bond vehicles under certain conditions from the clearing requirements This approach could, we consider, be used to ease the burden of clearing for smaller FCs, where it concerns interest-rate swaps entered into for protection purposes (only). Therefore it would be clear that there was no general exemption for smaller FCs if they transact other kinds of derivatives. The Level 2 provision would cover only essential interest- rate protection where needed and used by smaller FCs.

2. Specific considerations on indirect clearing

Having said that, considering the lack of offer of indirect clearing services -at least for OTC derivatives- our members would welcome the development of indirect clearing in OTC markets provided that it adds capacity, competition and choice in clearing.

The European Institutions hoped that indirect clearing would help provide alternative access route to CCPs, but there has been no sign in that direction so far. Authoritative industry bodies such as FIA have tried to analyse this issue. FIA addressed this issue in their June 2015 paper, identifying the requirement for the "leapfrog" payment as the major technical block to indirect clearing because of the possible conflict between this requirement and local insolvency law. FIA also advocated giving indirect clients a choice as to the level of segregation, and credit protection, they wish to benefit from. However, we cannot conclude that removing the regulatory barriers will necessarily bring in a wave of indirect clearing services relevant to our smaller members. Just as with direct clearing, the business of low-volume end-clients may turn out to be inherently unprofitable. Moreover, there is always an additional and more general concern that any clearing provider could in future decide that the business is unattractive and find ways to exit. Already the direct clearing market has shrunk as a result of major firms withdrawing. This situation is likely due to:

- the distinctive role Regulation placed on the centralization of liquidity and risks via clearing;

- the lack of homogeneousness in the CCPs' worldwide mutual recognition that made a number of Clearing Brokers (CB) re-consider whether to offer such services in future, and made the few ones remaining and offering such service demand higher fees.
- other regulatory initiatives which are burdensome on the "European model" of clearing, e.g. Leverage Ratio , Financial transaction tax, net stable funding ratio.

It should also be noted, that indirect clearing (if it ever works) could provide a useful mode of access to central clearing for small FCs, for whom dealing direct with a clearing member of a CCP is not cost-effective for either side. But indirect clearing still ultimately relys on the clearing capacity of CCP members – it does not, and cannot, of itself add any overall capacity. The contribution of indirect clearing could be that a small FC's trades cleared indirectly would benefit from the CCP access, and finer transaction processing costs, available to the much larger head client. At the same time, handling the indirect clearing must be sufficiently worthwhile both to the head client and to the clearing member that the head client uses – potentially there are two lots of transaction processing costs for each trade. Nevertheless, if all other circumstance are favourable, we agree that mitigating the specific regulatory obstacles to indirect clearing would be helpful – this is, we think, a necessary, but not a sufficient , condition for indirect clearing to emerge as a meaningful alternative for small FCs.

Eventually, the lack of players offering access to clearing indirectly is already showing the potential to lead to a concentration of positions/risk within very few Clearing Member, having the opposite effect of what EMIR originally intended. Such liquidity concentration is already evidenced in the market and will further develop when the clearing requirements kicks in. This has huge consequences (among others regarding pricing and liquidity) for smaller cooperative banks and building societies as well as for NFC- as it leaves them with more difficult access to hedging possibilities in general.

Please find below our responses to a set of selected questions of the consultation paper. The EACB has responded to the consultation bearing in mind that in its view, indirect clearing is not an end in itself, but a means to an end aiming at widening clearing access for clients in general and - in particular - small FCs, where this is economically feasible. We are positive towards the efforts of ESMA to try to solve the problems connected to indirect clearing. However, we fear that these proposals will not ensure the provision of clearing at an acceptable cost to very small FCs whose business -tiny volumes of trades - are likely to remain inherently unprofitable for clearing members and head clients, and for whom the clearing obligation imposes an unnecessary and disproportionate burden.]
<ESMA_COMMENT_ RTS_ INDIRECT_CLEARING_1>

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Questions from the consultation paper

Q1. Do you agree with the proposed approach to require the choice between an omnibus indirect account and a gross omnibus indirect account with margin at the level of the CCP?

<ESMA_QUESTION_RTS_INDIRECT_CLEARING_1>
[When it comes to account segregation, the EACB is of the view that the requirement for clearing members to offer individually segregated accounts to clients is not suited to the retail market. Retail clients do not put enough business through to justify the cost of maintaining these accounts.

In general, the members of EACB consider that a minimum choice between two proposed models i.e. 1) for an omnibus indirect account or 2) a gross omnibus indirect account with additional protection features should be offered. At the same time other possible hybrid models should also permitted provided that they provide adequate protection seems sensible.

Furthermore, we understand that collateral transformation is possible. According to the wording of Art. 4(4) of the two draft RTS, the clearing member "shall transfer to the CCP the collateral value … it received from its client". We understand that this only requires that the collateral which the clearing member transfers to the CCP must have the same value as the collateral which the clearing member receives from the client, but such collateral must not be the same type of collateral. We understand that the same should apply further down the chain of intermediaries, i.e. that the client does not have to transfer to the clearing member the same type of collateral which it receives from the indirect client, but only collateral having the same value. We would suggest to clarify this in Art. 5 of the draft RTS. We would also suggest that the draft RTS clarify that in the omnibus indirect account structure, collateral transformation is also possible.

Finally, we would appreciate if the RTS could clarify that a daily settlement of calls for variation margin would comply with the requirements of Art. 41 para 3 of EMIR (and, thus, MiFIR).]
<ESMA_QUESTION_RTS_INDIRECT_CLEARING_1>

Q2. Do you agree with the proposed approach for the requirements related to default management? Do you think there are alternative level 2 requirements (compatible with the relevant insolvency regime situations and the level 1 mandate) that would achieve better protections?

<ESMA_QUESTION_RTS_INDIRECT_CLEARING_2>
[The members of EACB consider that the removal of the leapfrog payment obligation for one account structure represents a move in the right direction, within the confines of the Level 1 text. However, we have reservations on whether they will entirely take away the problem identified.

In addition, for the ETD market, it should not be required to make an effort to effect porting before liquidating the position. As ESMA acknowledges, porting will hardly be possible in the ETD market. We do not think that Level 1 requires ESMA to implement a porting requirement. Art. 30(1) MiFIR only requires "protection with equivalent effect" to that provided for in Art. 39 and Art. 48 EMIR. The

term “equivalent effect” does not require implementing identical mechanisms. In particular, given the differences between the OTC and the ETD market – mainly being that the ETD market is far more liquid and, thus, replacement transactions being easily at hand - and that porting (as ESMA also notices) will hardly be possible in the ETD market, it would in our view be justified to provide for a different default management approach in the ETD market, i.e. to move directly to liquidation. This would also be in the interest of the (indirect) clients, because making a formalistic effort to effect porting (even though it is quite clear that porting cannot be effected) before liquidating the positions of a defaulting client would not be in the interest of the indirect client.]
<ESMA_QUESTION_RTS_INDIRECT_CLEARING_2>

Q3. Do you agree that the proposed approach adequately addresses counterparty risk throughout the longer chain by ensuring an appropriate level of protection to indirect clients? If not, are there alternative approaches compatible with Level 1?

<ESMA_QUESTION_RTS_INDIRECT_CLEARING_3>
[We do not think that the proposed approach is necessary to comply with Level 1. Art. 4(3) EMIR refers to an indirect client as the client of the client of a clearing member. Accordingly, Art. 1(a) of Commission Delegated Regulation (EU) No 149/2013 clearly defines an indirect client as “the client of a client of a clearing member”. Art. 30(2) MiFIR refers to such definition of “indirect client” and requires the RTS to be consistent with Commission Delegated Regulation (EU) No 149/2013. Neither EMIR nor MIFIR require that the level of protection for the client of an indirect client (let alone the client of a client of an indirect client etc.) be equivalent to the protection of the indirect client. Therefore, in the December 2014 Consultation Paper, ESMA has correctly concluded that: “In the ETD case, a requirement similar to the one of Article 4(3) of EMIR does not exist. The mandate under MiFIR does not require ESMA to address the additional layers of clients beyond the indirect client with the draft RTS. In summary, the draft RTS for ETD applies to all clearing arrangements including an indirect client, i.e. a client of a client of a clearing member, but these requirements are not applicable to clients of indirect clients and other entities below”. This means that longer chains are permissible, and that the indirect client does not have to provide for an equivalent level of protection to its clients. This lower level of protection can be justified by the fact that the further down the chain an intermediaries is located, the lower the risk for the financial system in case of a default by such intermediary, because such intermediaries are smaller market participants. We would therefore suggest that the requirements set out in the draft RTS only apply to a chain of four participants and that longer chains are permissible.

Furthermore, we would like ESMA to consider, that two legal entities forming part of the same group (as defined in Art. 2 no. 16 EMIR) should not count as separate members in the chain of intermediaries within the meaning of this RTS. For example, the clearing member and the clearing broker may be separate legal entities but belong to the same group. We suggest that in such case, the clearing broker should not qualify as the “client” of the clearing member within the meaning of this RTS. This would be in line with the general approach taken by EMIR to provide for the possibility of exemptions form the clearing requirements for groups of companies (as defined in Art. 2 no. 16 EMIR). Rather, the entire group is a service provider for its external clients (i.e. clients that do not belong to the group).]
<ESMA_QUESTION_RTS_INDIRECT_CLEARING_3>

Q4. For longer chains, what other details (liquidation trigger and steps, flow and content of information, other) should be taken into account or what additional requirements or clarification should be provided in order to avoid potential difficulties when handling the default of a client or an indirect client facilitating clearing services?

<ESMA_QUESTION_RTS_INDIRECT_CLEARING_4>
[No response for the moment.]
<ESMA_QUESTION_RTS_INDIRECT_CLEARING_4>

Q5. Do you consider that the new provision assigning by default to the indirect client the choice of an omnibus indirect account following reasonable efforts from the client to receive an instruction is appropriate? If not, what other considerations should be taken into account?

<ESMA_QUESTION_RTS_INDIRECT_CLEARING_5>
[No response for the moment.]
<ESMA_QUESTION_RTS_INDIRECT_CLEARING_5>

Q6. Do you consider appropriate that the collateral provided on top of the amount of margin the indirect client is called for is treated in accordance with the contractual arrangements?

<ESMA_QUESTION_RTS_INDIRECT_CLEARING_6>
[We agree with ESMA's proposal that the direct client and the indirect client may agree that the direct client call collateral on top of the amount called for by the CCP/clearing member. There is no need to further regulate such collateral, i.e. it should be up to the contractual arrangement between the client and the indirect client to agree on the amount of additional collateral and further details such as the account on which such collateral will be booked.]
<ESMA_QUESTION_RTS_INDIRECT_CLEARING_6>

Q7. In view of the different amendments described above, do you consider that this set of requirements ensures a level of protection with equivalent effect as referred to in Articles 39 and 48 of EMIR for indirect clients?

<ESMA_QUESTION_RTS_INDIRECT_CLEARING_7>
[We do not think that ESMA's proposal ensures a level of protection with equivalent effect as referred to in Articles 39 and 48 of EMIR. It is essential that the RTS contain a provision which clearly states that the provisions on porting and the liquidation of assets will prevail over any otherwise applicable laws, including insolvency laws. We note that such provision was contained in recital 5 of draft RTS 38 of the December 2014 Consultation Paper. We agree with the view of many participants in the December 2014 consultation, that such provision should be included in the articles of the RTS, not only in a recital, since a recital is not directly applicable law. We were surprised that in the latest draft RTS, such provision is not even mentioned in the recitals, let alone in the articles. We understand from ESMA's explanations, that the focus is not on guaranteeing outcomes (i.e. that porting and the leapfrog payment would actually be enforceable in the insolvency of a client), but on implementing the relevant contractual agreement. However, this is not in line with

the requirements set out in the draft RTS. In particular, Art. 5(7) of the draft RTS requires that “the client that provides indirect clearing services shall include, in its contractual arrangement with indirect clients, terms to facilitate the prompt return”. Moreover, Art. 5(8) of the draft RTS provides that the “client shall have the necessary arrangements in place to ensure that any liquidation proceeds received by the client for the account of one or more indirect clients does not form part of the client’s insolvency estate”. If these requirements are provided for in the RTS, the client must have at least a high degree of confidence that the contractual provisions will actually prevail over applicable insolvency law. In practical terms, this will require the client to provide a “clean” legal opinion on the enforceability of the relevant contractual provisions in case of an insolvency of the client. Absent a clear provision in the RTS according to which the provisions of the RTS prevail, it is, under the insolvency laws of many member states, at least highly unlikely that the relevant provisions on porting and leapfrog payments (or payment to the defaulting client for the account of the indirect client), as required under the RTS, will be enforceable.]
<ESMA_QUESTION_RTS_INDIRECT_CLEARING_7>

Q8. Please indicate your answers to the cost-benefit survey?

<ESMA_QUESTION_RTS_INDIRECT_CLEARING_8>
[No response for the moment.]
<ESMA_QUESTION_RTS_INDIRECT_CLEARING_8>

Q9. Do you have any comments on the draft RTS under EMIR not already covered in the previous questions?

<ESMA_QUESTION_RTS_INDIRECT_CLEARING_9>
[The experience developed during of the last 3 years (i.e. since the entry into force of the EMIR Regulation) and the recent size reached by the clearing of OTC derivatives (80% of new IRS contracts and 80% of new CDS contracts are brought to clearing – Source: ISDA and LCH recent newsletters and publications) lead to infer that those parties who wished to bring contracts to central clearing, have already done so. The residual indicative 20% of derivative contracts is most likely composed of

i. contracts not eligible for central clearing and/or
ii. contracts signed by parties not subject to the clearing obligation, or
iii. among those parties which will be subject to such obligation, contracts of counterparties with residual (in relative terms) outstanding.

The recent figures above (i.e. 80% of new IRS contracts and 80% of new CDS contracts already being brought to clearing) mean one of EMIR’s main goal can be considered substantially achieved. Aiming to centrally clear the indicatively-residual 15-20% of contracts not-yet-cleared may lead to drawbacks outweighting the marginal benefits achieved by central clearing, i.e. lead smaller banks and financial intermediaries not to hedge some of the risks faced in their business to the cost associated to that.

In general terms, in order to be compliant with the clearing obligation, based on our data, small and medium sized banks face a currently estimated cost at around Eur 40.000 per annum per bank in order to indirectly clearing their derivatives, although this expense realistically represents the lower

bound of such amount (i.e. “a floor”), and comprises fees payable to (i) the CCP, (ii) the CCP’s direct member and (iii) the direct client. Please, note that such fees are independent of the size of the notional amount outstanding and of the number of the trades potentially brought to clearing (i.e. they represent a fixed invoiced amount, which turns to be particularly costly when dealing in very few contracts per year).

As mentioned before in particular cooperative banks and building societies (some 250 banks), have difficulties getting access to clearing as indirect clearing services are not developing and clearing members that could offer to clear on behalf of smaller counterparties seem to be withdrawing from the market. At the same time the costs of those services that available are prohibitive in the sense that they are disproportionate compared to the business of smaller players. This cost is very burdensome for small banks, in light of two distinctive features of their OTC derivatives’ activity:

- the exclusively-hedging nature of the derivatives contracts they enter into (in certain case due to law or tatutory provisions / By-Laws of some of them), for risks (especially Interest Rate risk) arising from mortgages and funding (e.g. bonds issued), and
- the (consequent) small volume of derivatives dealt with.

The extent of the impact of the cost(s) mentioned above is demonstrating to have the potential to lead very small (cooperative) banks and small-and-medium financial intermediaries to consider leaving the derivatives market and dismissing the relevant business units/desks. Should this occur (not unlikely) these entities will not be able to preserve an efficient and effective risk management activity (particularly in relation to the interest rate risk) by means of trading OTC derivatives to hedge their positions. This would translate in small financial intermediaries, cooperative banks and building societies active in fixed rate mortgages or savings products, having to decide either not to offer fixed rate loans (reducing the choices offered to consumers), or to provide these services without being able to hedge against that risk, which would in turn lead to an increase in the overall interest rate riskiness, which is opposite to the one of the main goals of EMIR.

For the purpose of providing an overall view of the OTC derivatives activity of small cooperative banks we take the example of Italy whereas at October 2015, there were 149 banks active in such financial instruments, exhibiting a total of 3.877 trades, and an outstanding amount of Eur 3.4 bn. From such values, it follows that, on average, each bank had executed 26 trades summing up to an overall notional of Eur 22,6 m, which amounted to circa Eur 0,87 m per trade. To better frame the above, please, consider that:

- the vast majority of the cooperative banks shows a number of trades lower than 50;
- the bank with the largest notional outstanding reported Eur 270m (corresponding to for 51 trades);
- the bank with the lowest notional outstanding reported Eur 500 euro (which corresponds to 1 trade).

The situation is similar for the Building Societies in the UK. While the largest building society has total assets exceeding € 200 billion, many are small. Nearly 30 fall below € 1 billion total assets, and more than 20 fall below € 500 million total assets. We take the example of a small building society with total assets of around £140 million, with total mortgage loans of around £80 million. The society advanced over £20 million in 2014. If, say, 60% of that was fixed rate lending, its hedging

requirement for the whole of 2014 would have been a gross nominal amount of £12 million – probably transacted in three tranches of £4 million spread over the year.
To provide context for the expected cost of derivative clearing, the society's retained profits for 2014 were around £500,000. The society has 22 employees, and the average salary (excluding the two executive directors) is £36,000. The society's total non-staff overhead costs are £800,000.
One clearing provider is still prepared to deal with small societies individually, but the minimum annual fee will be between £45,000 and £65,000. If the society takes part in the collective negotiations (by 15-20 small societies and some small banks) with another clearing provider, this cost could come down to £25,000 per annum (initially) – leaving aside up front set-up and legal costs. That is the cost of clearing the three or four derivative trades the society is likely to need each year. It is comparable with the cost of employing another junior member of staff.

For these reasons, as already stated above, our proposal is to exempt in principle small credit institutions from the clearing obligation in respect of hedging / protection contracts only. In the EACB's view this principle provides the best and most proportionate trade-off between on the one hand systemic risk and financial stability considerations, and on the other hand minimising the burden and anti-competitive effect of EMIR on such small institutions. This could be achieved through the on-going EMIR review process. As international comparisons indicate, there are various ways to implement this principle through specific exemption thresholds. The EACB's view is that the simplest and most satisfactory approach is to set an exemption threshold based on balance sheet size of the institution. We would propose to set this at € 8 billion – close to the equivalent exemption threshold of US$ 10 billion for small US banks. At the very least, this should be set no lower than € 5 billion.

In the meantime, we would propose a short term solution through Level 2 on the basis of the treatment of derivatives concluded with covered bond vehicles. In particular, Regulation 2015/2205 exempts swaps concluded with covered bond vehicles under certain conditions from the clearing requirements. This approach could, be used to ease the burden of clearing for smaller FCs, where they enter into interest swaps for protection purposes (only). This way, it would be clear that there was no general exemption for smaller FCs – if they transact other kinds of derivatives. The Level 2 provision would cover only essential interest- rate protection where needed and used by smaller FCs.]
<ESMA_QUESTION_RTS_INDIRECT_CLEARING_9>

Q10. Do you have any comments on the draft RTS under MiFIR not already covered in the previous questions?

<ESMA_QUESTION_RTS_INDIRECT_CLEARING_10>
[No response for the moment.]
<ESMA_QUESTION_RTS_INDIRECT_CLEARING_10>