European Association of CCP Clearing Houses

EACH response to the ESMA consultation on the clearing and derivative trading obligations in view of the 2022 status of the benchmark transition

September 2022

Introduction

The European Association of CCP Clearing Houses (EACH) represents the interests of Central Counterparties (CCPs) in Europe since 1992. CCPs are financial market infrastructures that significantly contribute to safer, more efficient and transparent global financial markets. EACH currently has 19 members from 15 different European countries. EACH is registered in the European Union Transparency Register with number 36897011311-96.

EACH appreciates the opportunity to provide feedback to the ESMA Consultation Paper on the clearing and derivative trading obligations in view of the 2022 status of the benchmark transition[1] (hereinafter called "The consultation").

Section 2 – Introduction

Q1: Are there any general comments you would like to raise?

EACH welcomes ESMA's consultation paper on the clearing and derivative trading obligations in view of the 2022 status of the benchmark transition. We support ESMA's proposal to extend the scope of the EU Clearing Obligation to certain Overnight Index Swaps (OIS) that reference SOFR and TONA and subsequently removing contracts referencing USD LIBOR. We have no objections with regards to the timing proposed for the entry into force of such requirement.

We believe that the proposed modification reflects the latest developments in the market, which has observed a significant increase in USD SOFR and TONA liquidity as well as in the portion of SOFR risk traded and cleared by market participants ahead of the USD LIBOR cessation. In addition, the proposed modification is consistent with the objectives of EMIR and the G20 programme initiated in 2009, both aiming at reducing systemic risk through the requirement to clear standardised OTC derivatives contracts through CCPs. By reducing systemic risk, this in turn helps to achieve the financial stability objective of protecting and enhancing the stability of the financial system of the European Union.

With the US move from USD LIBOR to SOFR in June of next year, only Euribor will remain of the major currency term rates. Any clarity that can be provided regarding the future of Euribor, including information on the next renewal of the mandate to panel banks compelling their continued submission to Euribor, would be greatly appreciated.

[1] https://www.esma.europa.eu/sites/default/files/library/esma70-446
369_consultation_paper_on_co_and_dto_referencing_estr.pdf

Section 3 – Analysis of the transition in OTC interest rate derivatives denominated in the G4 currencies

Q2: Are there any other aspects of the transition that need to be taken into account? Please share any data that would help qualify further the progress with the transition or any other aspects that you think should be considered.

EACH Members consider that all the aspects of the transition stated in Section 3 cover the status of the progress of the transition in G4 OTC derivatives. We especially appreciate the assessment by currency and notional outstanding per tenor. This shows how liquidity have moved from the "old" benchmarks to the new risk-free rates (RFR) ones.

Furthermore, we believe that the ESMA's proposal is consistent with similar changes proposed in other major jurisdictions. The UK has now extended the scope of the UK Clearing Obligation to TONA and SOFR and the US CFTC final rule to implement similar requirements will soon be effective. We believe international alignment is key in supporting a successful benchmark transition and provide certainty to market participants.

Section 5 – Clearing obligation

Q3: Do you agree with the assessment of the EMIR criteria and with the proposed classes? Do you also agree that the maturities for SOFR OIS could be extended, including up to 50 years? If not, please detail how the assessment could differ and please also provide data and information to justify a different assessment.

EACH Members believe that the assessment of the EMIR criteria is correct and that no underlying foundations of the clearing obligation have changed, beyond the inherent to the RFR change. Degree of standardisation, availability of the pricing information and Liquidity remain good indicators of the clearing obligation's scope. Contracts linked to the new RFR should be subject to clearing obligation.

Q4: Do you agree with the proposed implementation of the changes? if not please provide details that could justify a different implementation.

EACH has no objections with the proposed dates for when the modifications will come into force. We believe that there is no need to introduce an additional phase-in order to ensure an orderly and timely implementation of the changes to the scope of the clearing obligation, as several CCPs already clear these kinds of contract.

However, we note that as much notice as possible should be given to market participants for the implementation of these changes in their systems and that an implementation period of less than 3 months might be challenging for some market participants.

Cost-benefit analysis

Q10: Are there other elements that should be taken into account and that would impact the outcome of the cost-benefit analysis? Please provide quantitative and qualitative details.

EACH Members agree with the ESMA's assessment for the cost-benefit analysis, as the most relevant elements of potential impact are taken into account.

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