

Reply form

Consultation Paper on a draft RTS on the conditions and the list of documents for an application for validation of changes to models and parameters under Articles 49 and 49a of EMIR

Responding to this paper

ESMA invites comments on all matters in the Consultation Paper and in particular on the specific questions in this reply form. Comments are most helpful if they:

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

ESMA will consider all comments received by **7 April 2025**.

Instructions

In order to facilitate analysis of responses to the Consultation Paper, respondents are requested to follow the below steps when preparing and submitting their response:

- Insert your responses to the questions in the Consultation Paper in this reply form.
- Please do not remove tags of the type <ESMA_QUESTION_VALID_1>. Your response to each question has to be framed by the two tags corresponding to the question.
- If you do not wish to respond to a given question, please do not delete it but simply leave the text “TYPE YOUR TEXT HERE” between the tags.
- When you have drafted your responses, save the reply form according to the following convention: ESMA_VALID_nameofrespondent.

For example, for a respondent named ABCD, the reply form would be saved with the following name: ESMA_VALID_ABCD.

- Upload the Word reply form containing your responses to ESMA’s website (**pdf documents will not be considered except for annexes**). All contributions should be submitted online at www.esma.europa.eu under the heading ‘Your input - Consultations’.

Publication of responses

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

Data protection

Information on data protection can be found at www.esma.europa.eu under the headings 'Legal notice' and heading '[Data protection](#)'..

1. General information about respondent

Name of the company / organisation	European Association of CCP Clearing Houses
Activity	Central Counterparty
Are you representing an association?	<input checked="" type="checkbox"/>
Country/Region	Belgium

2. Questions

Q1 Do you agree with the proposed threshold for condition (a)?

<ESMA_QUESTION_VALID_1>

Introduction

Despite the fact that this section is intended for the response to Q1, we would like to take the opportunity to introduce our response to the Consultation Paper.

EACH very much welcomes ESMA's swift work to consult on the new procedures so that the industry is able to benefit and opine on the Article 49 RTS proposals as soon as possible.

We also agree with ESMA's and EMIR 3's overarching goal of having leaner and clearer approval procedures for changes to models and parameters. However, EACH respectfully believes that the draft RTS does not meet this EMIR 3 objective and, on the contrary, would make it more difficult and burdensome for CCPs' changes to models and parameters to be approved. EACH Members particularly consider that the current version of the draft RTS would unfortunately lead to the following:

- **Unnecessary increase of regulatory burden** - Given the narrow scope definition for non-significant changes, a larger number of changes will be classified as significant and therefore be subject to the Article 49 process. Changes that are currently not subject an approval procedure would be classified as non-significant and therefore be subject to the Article 49a accelerated procedure, which does not exist under the current Article 49 regime. Although the new classification or idea of an accelerated approach is welcome, it should be focused on speeding up the process for approval which today take longer and not slow down the approval process for changes which are nowadays not subject to an approval procedure.

- **Negatively impact risk incentives** - Some of the significant criteria in Articles 1 to 7 are not coherently set and may create the wrong incentives for CCP risk managers. For instance, the 5% threshold under Article 7 is inconsistent with Article 1 which is based on total pre-funded resources. The total value of the collateral required by this article is a reflection of the total pre-funded requirements, hence Article 7 condition should be aligned with Article 1 to ensure the equivalent or same risk measures are treated in a consistent manner. Article 4 requires the assessment per default fund segment. This may disincentivize CCPs from using segmentation, which is an important tool for CCPs to allocate risk to where it originates in the waterfall.
- **Unnecessary burdened governance** - Documents required from CCPs in the submission processes and governance around them (e.g. Board approvals) are from our point of view too detailed, adding unnecessary burdens on CCPs. For example, Article 12 requires Board approval. This will add unnecessary governance, which will be disproportional to the level of risk and is inconsistent with the objectives of an accelerated approach. Similarly, Article 14 asks for a fully planned timeline. A detailed implementation plan does not help the understanding of a change to a risk model or parameter. A simple high-level milestone plan would suffice. Lastly, the 12 months of testing results required by Article 17 may not be available, especially for model changes related to a new product with limited data.
- **Duplicate requirements** - The requirement to simulate its entire risk framework under a proposed model change calculated over a continuous period of 6 months for all production portfolios, in a manner that is production-parallel, is costly and may not deliver the expected outcomes. The compliance with Article 10 would require major technological change and investment at the CCPs pre-dating regulatory application, including IT infrastructure, which would in itself extend the approval timeline. Additionally, this simulation would be required for every single model change, irrespective of how immaterial or significant they might be. We consider it would be beneficial to focus the submission on what is a must have for assessing a requested change to a model or parameter.

In summary, while acknowledging ESMA's effort, EACH believes that as currently proposed the new Article 49 RTS will significantly increase the burden for changes to risk models that CCPs would like to carry out, impacting NCAs, ESMA and CCPs alike. If unchanged, this RTS will have the opposite outcome to the intended goal of EMIR 3.

In the following sections of our response we detail our concerns and alternative approach.

In response to Q1 (“Do you agree with the proposed threshold for condition (a)?”):

EACH Members respectfully believe that the threshold included in the RTS is too low and would therefore capture non-material changes and deem them 'significant' even when they have no real impact on a CCP's risk profile.

This would therefore lead to a higher number of full authorisation requests unnecessarily needing to be analysed by authorities and to the creation of additional burden for CCPs, given the resources that would need to be deployed to comply with the Article 49 requirements (i.e. independent model validations, full suite of documentation, EMIR Risk Committee involvement, etc.). All of that without delivering a clear benefit to risk management or overall CCP's resilience.

Given that the CCP functioning depends to a large extent on significant changes, CCPs adapt their behaviour to the way that significant model changes operate. Further to the proposals in the ESMA RTS, EACH Members are either:

- Considering not to implement risk improvements;
- Delay risk improvements to bucket several changes into one, partly due to the low proposed general threshold of 15%.

Some EACH Members have also identified some cases of changes that they would consider 'business-as-usual' but which would go beyond the 15% threshold, such as the following:

- During the 2022 high-volatility episodes in energy markets, some CCPS saw excessive volatility which led to cases where either model, parameters and calibrations needed to be adjusted to protect the market and member community. We could then see changes that should be exempted larger than 15%.
- During March 2025 the fixed income parameters at some CCPs were reduced beyond 15% for certain portfolios, overall the impact was ~10% as CCPs have floors in place. The reason however was that the market volatility surrounding the Silicon Valley Bank collapse of March 2023 left the 2 year lookback window. |

<ESMA_QUESTION_VALID_1>

Q2 Do you agree with the proposed threshold for condition (c)?

<ESMA_QUESTION_VALID_2>

EACH Members respectfully believe that the threshold included in the RTS is too low and would trigger changes that are not significant to fall within that category. As indicated in our response to question 1, such a low threshold would result in an unnecessary burden for CCPs given the resources that would need to be deployed to address independent model validations, full suite of documentation, EMIR Risk Committee involvement, etc. All of that without delivering a clear benefit to risk management or overall CCP's resilience.

To ensure a more proportionate approach in line with the goals of EMIR 3 we would suggest a threshold of 20%. |

<ESMA_QUESTION_VALID_2>

Q3 Do you agree with the proposed threshold for condition (d)?

<ESMA_QUESTION_VALID_3>

[Yes, EACH agrees with the proposed threshold of 20% included for condition (d).]

<ESMA_QUESTION_VALID_3>

Q4 Do you agree with the proposed thresholds for condition (e)?

<ESMA_QUESTION_VALID_4>

Article 4(b) – The thresholds introduced in points a and b create an unlevel playing field between CCPs with multiple default funds and CCPs with a single default fund. Specifically, for CCPs with a single default fund the threshold related to segment or liquidation group is more stringent than that applied for CCPs with multiple default funds. As such, EACH notes that this distinction:

- (a) Has no clear basis in the Regulation, as EMIR does not refer to liquidation groups, segments or compartmentalised of the default fund.
- (b) The use of default fund segmentation or liquidation group is a risk tool used by CCPs to appropriately allocate risk exposure to clearing members that generate them. This can be exercised, for instance, via seniorisation or juniorisation of losses. Applying a threshold in this case could disincentivise the CCPs to use such risk management tool.
- (c) Is not connected in any way to the risk that the default fund will not be sufficiently sized because of a model change. The entirety of the CCP's default fund stands ready to cover potential losses beyond margins, irrespective of any compartmentalisation, segmentation or liquidation groups that CCPs introduced for other purposes (e.g. grouping of products to be liquidated jointly).
- (d) The segmentation or liquidation group impact might be impractical to measure as the default fund is calculated at a clearing member group level (considering two largest exposures) following multiple aggregation layers. Thus, it is impossible to simply decompose by liquidation groups due to lack of additivity between portfolios of individual clients and the exposure at a clearing member group level.

For the reasons outlined above, EACH Members suggest removing point b and make the threshold outlined in point a (i.e. 20% of any of the default funds) apply in all cases.

Article 4(c) - EACH very much welcomes ESMA's proposal for a dual condition under Article 4(c). We, however, believe that the condition of 5% under Article 4(c)(ii) is too low as it could depend for example on months of calculations. The challenge here lies in the cumulative conditions of (i) and (ii). Given that (i) is applied at the individual contribution level, for most CCPs with a large number of Clearing Members per segment, experts anticipate that even minor or non-material changes will often result in at least one Clearing Member exhibiting outlier behaviour (small or atypical exposure), frequently triggering condition (i). Consequently, the entire Article 49 (4)(c) will

often default to the second condition (ii). In this context, the 5% threshold is very low, and would result in far more approval procedures with this threshold % level.

Below we provide two examples to better substantiate our point above:

- **Example #1** - A CCP is launching a new clearing service in April 2025 with a Default fund size of EUR 10 mn and with the highest individual default fund contribution being EUR 3 mn. The 30% threshold for individual member contribution change would be equal to EUR 0.9 mn and the 5% materiality threshold based on default fund size would therefore correspond to EUR 0.5 mn which remain non-material amounts compared to the CCP capital level of EUR 500 mn.
- **Example #2** - In equity, CCPs have some days with triple expiries (expiries on monthly, quarterly and yearly) futures and options. Those days are very specific and not always representative of the true risk that a CCP manage, but represent a typical example of when the condition (ii) could be met very quickly. Consequently, it may be the case that the threshold in condition Article 4 (c)(ii) is the only aspect which may safeguard against unnecessarily triggering review of the material model change despite the change having little impact on CCP resilience.

EACH Members therefore propose to either:

1. Modify the conditions in Article 4(c) to:
 - i. more than **50%** of the size of the clearing member's contribution, and
 - ii. more than **15%** of the size of the default fund;

Or

2. Amend condition (c) to:
 - Concern only the top-tier Clearing Member. For example, this could involve any of the ten largest individual Clearing Members' contributions to a default fund decreasing; or
 - Alternatively, apply to at least three distinct Clearing Members for it to be triggered.

And in addition to the two above:

3. Add an absolute threshold. EACH considers that it would be also adequate to add a third condition under Article 4(c) to include an absolute threshold to cater for new services that may take some time to pick up. This additional condition under 4(c) may refer to the CCPs' skin in the game level as absolute materiality threshold to trigger an Article 49 submission as follows:

iii. more than the size of the CCP's dedicated own resources used in the default waterfall as referred to in Article 45(4) of Regulation (EU) 648/2012, and in Article 9(14) of Regulation (EU) 2021/23;

<ESMA_QUESTION_VALID_4>

Q5 Do you believe that sub-condition (c) of condition (e) on individual default fund contributions should also take into account the difference between CCPs with a single default fund and CCPs with multiple default funds? If so, how?

<ESMA_QUESTION_VALID_5>

No, we do not believe that sub-condition (c) of condition (e) on individual default fund contributions should also take into account the difference between CCPs with a single default fund and CCPs with multiple default funds. Segmentation or compartmentalisation of default fund does not affect the resources available against the stress scenario. The entirety of the default fund is available to be utilised against losses, even if those losses crystallise in a specific liquidation group or segment.

As mentioned in our response to question 4, we suggest as an alternative to:

1. Modify the conditions in Article 4(c) to:
 - i. more than **50%** of the size of the clearing member's contribution, and
 - ii. more than **15%** of the size of the default fund;

Or

2. Amend condition (c) to:
 - Concern only the top-tier Clearing Member. For example, this could involve any of the ten largest individual Clearing Members' contributions to a default fund decreasing; or
 - Alternatively, apply to at least three distinct Clearing Members for it to be triggered.

And in addition to the two above:

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iii. more than the size of the CCP's dedicated own resources used in the default waterfall as referred to in Article 45(4) of Regulation (EU) 648/2012, and in Article 9(14) of Regulation (EU) 2021/23;

<ESMA_QUESTION_VALID_5>

Q6 Do you agree with the proposed thresholds for condition (f)?

<ESMA_QUESTION_VALID_6>

EACH Members would like here to highlight the same concern as we have expressed in the answer to question 4. For CCPs with a large set of clearing members and products across currencies, it is very likely that the materiality of the liquidity needs across various single currencies might be vastly different. Without further specifying the set of single currencies for example to major or material currencies, it appears very likely that even smaller model changes might regularly breach the threshold in Article 5(b)(i) for at least one single currency. The relative thresholds for individual minor currencies may be easily breached, e.g. for a minor currency with only single source of liquidity need on a given date.

Therefore, consistent with our response to questions 4 and 5, the EACH recommendation regarding the threshold for condition b(ii) is to:

1. Modify the conditions in Article 4(c) to:
 - o i. more than **50%** of the size of the clearing member's contribution, and
 - o ii. more than **15%** of the size of the default fund;

Or

2. Amend condition (c) to:
 - o concern only the top-tier Clearing Member. For example, this could involve any of the ten largest individual Clearing Members' contributions to a default fund decreasing; or
 - o Alternatively, apply to at least three distinct Clearing Members for it to be triggered.

<ESMA_QUESTION_VALID_6>

Q7 Do you agree with the proposed threshold for condition (g)?

<ESMA_QUESTION_VALID_7>

EACH Members respectfully believe that the threshold included in point a. represents an unnecessary detailed in the legislation, especially given the fact that there is already a threshold referring to the total CCP liquidity in Article 5 and condition (g) refers to the overall exposure and not any exposure as it is the case in other Articles.

We respectfully believe that the threshold included in point b related to the aggregate liquid resources of the CCP is far too low and would trigger changes that are not significant to fall within that category. An example of that would again be along the same lines as what we included in our responses to Q4 and Q6: the relative threshold for the CCP's liquidity exposure towards an individual counterparty might very likely for at least one individual counterparty trigger condition (a),

resulting from a large set of individual counterparties including clearing members with very different strategies both structurally as over time. Consequently, not triggering condition (b) is the only aspect to safeguard from unnecessary triggering a review of a material model change despite the change having very little impact in CCP's aggregate liquidity resources. EACH therefore suggests increasing the threshold of Article 6 b. to 15%.

In addition, we would appreciate clarity on the category of changes which may be relevant for monitoring this condition. Reading Article 49(1i)(g) leads to the conclusion that there should not be any methodology change, e.g. margin model change would not be relevant for conditions in Article 6. On the other hand, it would be beneficial to provide clarity by re-formulating Article 6 to e.g., 'For the purpose of Article 49(1i), point (g), of Regulation (EU) 648/2012, where a change of CCP's liquidity exposure concentration risk methodology results in the CCP's liquidity exposure towards an individual counterparty, including the entities listed in Article 32(4) of Delegated Regulation 153/2013, decreasing or increasing by an amount corresponding to both: (...)'. |

<ESMA_QUESTION_VALID_7>

Q8 Do you agree with the proposed threshold for condition (h)?

<ESMA_QUESTION_VALID_8>

EACH Members respectfully believe that the threshold included in the RTS regarding the total collateral value of the CCP is too low and would trigger changes that are not significant to fall within that category. In particular, this is inconsistent with Article 1 which is based on total pre-funded resources. The total value of the collateral required by Article 7 is a reflection of the total pre-funded requirements, hence the two conditions should be aligned to ensure the equivalent or same risk measures are treated in a consistent way. Additionally, if the threshold remains at 5%, this would practically mean almost all changes to collateral haircut models will be considered significant. This will create unnecessary additional workload for NCAs, ESMA and CCPs for potentially non-material changes.

Therefore, consistent with our previous responses, we suggest increasing the threshold to 20%. |

<ESMA_QUESTION_VALID_8>

Q9 Do you agree with proposed lookback period to assess whether conditions (a), (c), (d), (e), (f), (g) and (h) are met? Should the lookback period be extended to account for the potential seasonal behaviour of some instruments?

<ESMA_QUESTION_VALID_9>

Lookback period

EACH Members welcome that the RTS sets clear expectations for the assessment period. However, we note that the proposed lookback period might not be feasible to implement. In particular, it

takes quite some time and resources to work on a proposed change, including governance processes, approvals, consultations, validations, implementing changes and the corresponding documentation. These processes compress the available time for the significance criteria in conditions (a), (c), (d), (e), (f), (g) and (h) to be assessed. In practice, data analysis and review may need to be completed well in advance to meet submission deadlines. If products exhibit seasonality, the challenges are augmented, as different times may render substantially different results.¹ Additionally, 6 months of continuous data for assessing the significance criteria may not be available specially for model changes related to a new product with limited data.

Against the above, EACH kindly asks ESMA to reconsider the need for continuous (presumably daily) assessment. We believe that ESMA's objective can be met by ensuring the CCP complies with one of the two options below:

- Option #1 - Performing an assessment over a period of 6 months with at least 10 observations that the CCP consider relevant within the last 24 months. To mitigate the potential concern about the CCPs cherry-picking convenient dates in a manner that avoids unnecessary increasing regulatory burden, we suggest including a requirement for the CCPs to justify that the chosen dates are representative.
- Option #2 – Performing an assessment during dates at regular intervals (i.e. always the same amount of time between two observations) and for the CCP to explain in case it deviates from these frequencies (e.g. in case it does so to coincide with roll-over dates for IRS).

Conditions for a change being considered as 'significant'

We have major concerns about the elements to be considered when assessing whether one of the conditions referred to in Article 49 paragraph 1(i) is met. Article 10 requires the CCP to perform a simulation of its entire risk framework under a proposed model change calculated for all productive portfolios in a manner that is production-parallel. Such a simulation will likely require major technological changes at the CCPs pre-dating the regulatory application, with significant investment in IT infrastructure, which would extend the timeline. Note that the CCP would need to perform these calculations for all model changes, irrespective of how immaterial they might be. While we understand the motivation of ESMA to consider all possibilities, and the aim to eliminate the risk of potentially allowing model change which is actually material to be validated using the accelerated procedure, we believe that the methods used are disproportionate and to a large extent go against the objectives of EMIR 3.

¹ To use a commodities example, on a future or options on milling Wheat, due to seasonality, the major crops dates are December and September of each year (which are linked), while May and April are relatively small. Lastly, if further questions arise during the approval process, reassessment may be necessary, further extending timelines.

We propose that for the purposes of assessing whether conditions are met, the simulation should, at a minimum, consider the elements that are directly affected and thus:

- For changes to margin models: conditions laid down in Article 2 and Article 3 would need to be analysed.
- For changes to stress testing models: conditions laid down in Article 1 and Article 4 would need to be analysed.
- For changes to liquidity stress testing models: conditions laid down in Article 5 and Article 6 would need to be analysed.
- For changes to collateral haircut models: conditions laid down in Article 7 would need to be analysed.

For an easier overview of the above, we have prepared the following table:

Changes to:	Check (1). Change in:	Check (2), Change in:
Margin models	Total margin requirements for a specific clearing service or default fund (Article 2 RTS)	Total margin requirements for the financial instruments subject to portfolio offsets (Article 3 RTS)
Stress Testing models	CCP's total pre-funded financial resources (Article 1 RTS)	Size of any of the default funds or of any individual default fund contribution (Article 4 RTS)
Liquidity Stress Testing models	Estimated liquidity needs in any currency or the total liquidity needs (Article 5. RTS)	CCP's overall liquidity exposure to a counterparty (Article 6 RTS)
Collateral haircut models	Total value of collateral (Article 7 RTS)	

The above standards should also allow that a CCP performs a qualitative assessment where it can robustly demonstrate in its application that the impact of the change is minimal and running quantitative simulation would not add value to that assessment. The approach would also avoid the case where any of the significant conditions are triggered only in one day leading to the change being considered significant. Triggering on a particular day may be due to exceptional circumstances and seasonal effects which may be unrelated to the model change. If NCAs or ESMA disagree with the CCP's assessment (i.e. impact being demonstrably minor without quantitative assessment), they would have the opportunity to reject the application because of incompleteness.

EACH also has concerns regarding the requirement to consider a change significant if any condition is met at any point in time. As outlined before, it is not feasible to provide a continuous impact assessment and the condition 'at any time in the period' is nearly impossible to evaluate. We propose to allow a certain amount of breaches within the specified period to avoid outliers triggering a full procedure and, therefore, suggest changing the language in Article 10 to "if one condition is triggered for the majority of times".

<ESMA_QUESTION_VALID_9>

Q10 Do you agree with the proposed elements to be considered when assessing whether condition (b) is met?

<ESMA_QUESTION_VALID_10>

We agree it makes sense to consider a new type of model including moving from or to a parametric model, historical simulation and Monte Carlo simulation.

However, noting that elements in Article 8 points a) through d) are model features listed in EMIR, we observe that these are minimum requirements already outlined in the regulation. As long as a CCP is above the minimum requirement, any model change can be fully assessed using other proposed significance criteria already established in Articles 1 to 7. As such, these criteria may lead to some unintended behaviour, as they can disincentivize CCPs from changing the parameters (within regulatory requirements) to better manage the risk. In addition to the points above, we specifically note that:

a) Article 8 a

- **Agree with proposal** - We agree that the implementation of a new type of model including moving from or to a parametric model, historical simulation and Monte Carlo simulation, would represent a structural change to the margin model.
- **Volatility filtering** - We agree with the existing elements but note that volatility filtering logically better belongs in point a., rather than it being currently mentioned alongside lookback period in point b. The refined point a. could then read as follows: '*Implementation of a new type of model including moving from/to a parametric model, historical simulation and Monte Carlo simulation or introduction of (volatility) filtering scheme where one was not previously used*'. Alternatively, the introduction of filtering could be provided as a stand-alone point.

b) Article 8 b – Lookback period: Acknowledging the importance of the lookback period, with it being a parameter of the model and Article 25 of the RTS specifying its minimum value, we do not believe this should be included. This is because we view the change of the lookback period as not being a change to 'the structure or the structural elements of the margin model'. The regulatory validation of compliance of the parameter used by the CCP

model against the mentioned Article of regulatory standards is trivial and should fit well within the timelines of accelerated procedures.

- c) Article 8 c – Confidence interval:** We do not agree with including the confidence interval as an element for condition (b), as similarly to the lookback period, changes to confidence level are not changes to the structure or structural elements. Similarly to the lookback period, it should fit well within the timelines of accelerated procedures. A case could be made that a CCP changing between use of value-at-risk (VaR) and expected shortfall (ES) or vice versa be interpreted as a change to a structural element of the model, but that does not extend to the change of the parameter itself within chosen risk metric. In addition, we do believe that the percentile parameter per-se should be included. While we recognize the confidence level parameter is important for the model outputs, significant change would manifest, for instance, in triggering condition(c) of the Regulation as proposed in Article 2 of these standards. Furthermore, the regulatory validation of the value chosen by the CCP against Article 24 of the RTS should fit well within the timelines of accelerated procedures (in case none of the other conditions is met).
- d) Article 8 d – Liquidation horizon:** In line with our feedback above, we emphasise that changes to the liquidation horizon are not structural changes and should therefore not be reflected in this condition. The change of liquidation period does not affect the model's property in any way, and its resilience remains unaffected provided that the liquidation horizon is adequate for the real liquidation process of the CCP. This is continuously validated, during the EMIR-mandated Firedrills. Obstacles to a CCP's ability to adapt its liquidation horizon to its actual liquidation process (beyond reasonable evidence of the length of such process) may likely discourage CCPs from investing in improving the Default Management Process or other components of this period (such as porting).
- e) Article 8 e -** We agree that the Changes to anti-procyclicality options represent a structural change to the margin model, but do not think changes within scope of EMIR should need an approval. |

<ESMA_QUESTION_VALID_10>

Q11 Do you agree with the proposed elements to be considered when assessing whether condition (i) is met?

<ESMA_QUESTION_VALID_11>

EACH notes that Article 49(1i), point (i) is already captured by other proposed criteria under Articles 1 to 7. Additionally, there could be multiple other reasons for a model change, hence the focus of the significance assessment should be based on the outcome and not the reason for the change. Notwithstanding the above, if points a) and b) were to be maintained, EACH observes respectively that:

- **Article 9 a – New Participant or new clearing access model** - We believe it would be better to reflect point Article 9 a) in the standards for extension of activities rather than in the standards relating to model changes as we strongly believe this is not a model change.
- **Article 9 b – List of eligible collateral** - We respectfully disagree with the ESMA proposal regarding the extension of eligible collateral. Adding a new type of eligible collateral is not a change in risk models or parameters. The proposed text risks giving that impression and should be clarified to be in line with the Level 1 text. New collateral will be subject to internal CCP review in accordance with the requirements in EMIR but if the new collateral does not necessitate a model change it should not be subject to the Article 49 validations. We therefore suggest the following wording instead: "The CCP intends to change its risk models related to collateral, i.e. collateral haircut and collateral valuation models, in order to accommodate an extension of the list of eligible collateral." |

<ESMA_QUESTION_VALID_11>

Q12 Do you agree with the proposed change to models that can be considered as already covered by the approved model?

<ESMA_QUESTION_VALID_12>

|EACH Members very much welcome and appreciate the clarification under Article 11 of the RTS, where recommendations from the CCP's competent authority or ESMA that meet the conditions in such Article should be considered covered by the approved model and, therefore, not deemed a model change and not subject to the procedures established in Article 49 or Article 49a of Regulation (EU) 648/2012. |

<ESMA_QUESTION_VALID_12>

Q13 In your view, are there any other changes that should be considered as already covered by the approved model?

<ESMA_QUESTION_VALID_13>

|EACH Members believe that Article 49 (a)1h of EMIR 3 is clear regarding changes to parameters that are part of a validated model and that no further clarification is needed in the RTS in this regard. |

<ESMA_QUESTION_VALID_13>

Q14 Question for CCPs: Based on the proposals presented in this Consultation Paper, could you provide an estimate of the number of changes to models and parameters, implemented/applied for by your CCP over the past three years, that would

have qualified for i) the standard procedure under Article 49 of EMIR, ii) the accelerated procedure under Article 49a of EMIR, iii) changes to models that can be considered as already covered by the approved model (Article 49(5)(c) of EMIR)?

<ESMA_QUESTION_VALID_14>

We estimate that the current draft RTS proposal result in a significantly increased burden for changes to risk models that would affect NCAs, ESMA and CCPs. This outcome would have the impact opposite to the intended goal of EU Commission, when originally proposing changes which materialized in EMIR 3. EACH proposes in this answer an alternative approach, believing that while being more proportional, the proposed approach still delivers the rigor to assess risk model changes compared to the status quo. It avoids leading to an exacerbation of efforts that would be required by the NCAs, ESMA and CCPs for each and every model change.

As highlighted in Q13, we believe that the ESMA proposal is extremely narrow in its scope, i.e. we expect that all changes to models and parameters, even if immaterial, would be subject to the Article 49 process. Specifically, it is expected that a larger number of changes will be classified as significant, as it is likely that at least one of the significance criteria will be triggered. Moreover, a number of exempted changes are likely to be part of the accelerated process, and unnecessarily incur the workload of the Article 49 submission.

To reach an outcome more aligned with the intended goal of the EU Commission, we have proposed in Q13 an alternative approach for the conditions of Article 49 1(i) in Q1-Q11 and for the classification of minor changes.

The outcome of classifications for this alternative approach would still extend the number of model changes subject to the Article 49 procedure, when compared to the legislative Article 49 procedure prior to the EMIR 3 review. Nevertheless, we believe the alternatively proposed approach would lead to a more meaningful classification of changes, consistent with the proportionality principle based on a risk-based approach. As a result, the classification of risk model changes would be more balanced across the classification categories and recognize the need for minor adaptations to models. Consequently, this outcome would significantly ease the burden for changes to risk models for the affected NCAs, ESMA and CCP – while still resulting in a broader and more robust approach to risk model changes compared to the Article 49 procedures prior to the EMIR 3 review.

<ESMA_QUESTION_VALID_14>

Q15 Are the general provisions in Chapter I (of Title II of the draft RTS) (language, certification, fees) appropriate and clear?

<ESMA_QUESTION_VALID_15>

Yes, EACH agrees that the general provisions are broadly clear although some concerns remain, as presented below.

Board Certification Requirement

EACH Members respectfully disagree with the requirement for the CCP's board to certify the accuracy and veracity of all the documents submitted in any application for the validation of model changes.

By including a proposal for a board certification requirement, ESMA is overstepping the mandate it was given in EMIR Level 1. The concerns ESMA seeks to address are already addressed in both EMIR and local corporate law frameworks. EMIR contains detailed governance requirements for CCPs in both Level 1 and Level 2 (e.g., Articles 27 to 33 of EMIR, Articles 3 to 7 of RTS 153), which are approved at the time of a CCP's initial authorisation and are subject to ongoing oversight. Respective jurisdictional corporate law frameworks already designate a body with responsibility and liability for the legal entity. In other words, adequate governance and responsibility for the extensions proposed by CCPs are already in place. The proposed requirement to have the responsible body make a specific certification for each and every application is therefore duplicative, disproportionate and unnecessarily burdensome.

EACH Members therefore strongly support the removal of Article 12 paragraph 4 of the draft RTS as it creates from our point of view an unnecessary regulatory burden, and additionally in those jurisdictions that require or allow legal entities to have two boards (i.e. a Management Board and a Supervisory Board) would be simply problematic.

Understanding ESMA's objective to ensure adequate governance and responsibility for the extensions proposed CCPs, as an alternative, EACH Members propose including a requirement that any application contain language to the effect that the CCP completed its internal governance in respect of the application and the date on which that occurred. CCP governance arrangements are approved as part of their initial authorisation and are subject to annual and ongoing oversight. Such a confirmation should provide adequate comfort that those governance arrangements have been followed.

Language for the application

EACH Members agree with the proposal for using a language customary in the sphere of international finance. |

<ESMA_QUESTION_VALID_15>

Q16 Is the requirement to submit an index and a correspondence table appropriate and clear?

<ESMA_QUESTION_VALID_16>

|EACH Members believe that such requirement is clear. |

<ESMA_QUESTION_VALID_16>

Q17 Does the required documentation in relation to the general information provide sufficient detail? Please differentiate between significant and non-significant model changes where relevant in your answer.

<ESMA_QUESTION_VALID_17>

We would like to outline our thoughts and concerns on the granularity of requested information on the change implementation (Article 14 d.) and the scope requirements for the assessment of the model change against the relevant requirements of the regulations (Article 14 f):

- **Article 14 d – Forecasted timeline of the change implementation:** We believe that NCAs and ESMA want to understand the planned timeline and uncertainties of the change implementation. Yet, while we agree with providing high-level milestones on the change implementation, in our view it remains the responsibility of the CCP to continuously identify, assess and manage project risks and mitigations of the change implementation. This process begins prior to the official application date and continues thereafter so that at the application date only a snapshot could be provided anyway. Therefore, we propose providing only high-level milestones of the change implementation.
- **Article 14 e - Significance criteria:** Clause e) requires all criteria to be assessed in all significant model changes. However, as not all criteria listed in Articles 1 to 10 would be pertinent to all changes, we suggest the text changed to ensure that only 'applicable' significance criteria are considered.
- **Article 14 f – Assessment of the model change:** We are concerned that the requirements to assess the model change against the relevant requirements of the regulation lead to a duplication of work for NCAs, ESMA and the CCP as EMIR Article 21 already requires a full review and evaluation of the CCP complying with regulation at an annual frequency. Instead, we propose that only the relevant aspects of the regulation that are affected by the model change are assessed by the CCP at the point of the model change application. The remaining aspects can be reviewed by the NCA as part of the annual review and evaluation according to EMIR Article 21.

Finally, we agree with ESMA's proposal that non-significant model changes are not required to provide an assessment of the model change against relevant regulatory requirements (point f.) in line with the general objective to accelerate the approval procedure for non-significant model changes.

<ESMA_QUESTION_VALID_17>

Q18 Does the required documentation in relation to the description of the model change for both significant and non-significant model changes provide sufficient detail for assessing the impact on CCP risk management? Are additional elements needed to improve clarity?

<ESMA_QUESTION_VALID_18>

EACH agrees with the required documentation proposed by ESMA, with the following additional feedback on a few items in Article 15:

- **Article 15 c – Detailed description:** This requirement appears to confuse the purpose of model description and model change description. We believe the role of model change document is to document the model change and not to repeat the model description, especially in the context of requirement under point i. In our view the proposed point c should only include the first sentence as the remainder is simply the role of model description, which should not be duplicated in model change documentation.

We therefore suggest Article 15 point c. to read as follows: 'A detailed description of the model change, including mathematical specifications, such as details of the calculations, logical steps and mathematical and statistical details.'

- **Article 15 f & g – List of all parameters and model assumptions:** Point f. and g.: Consistent with point c., within the model change description the list of parameters (point f.) and list of assumptions (point g.) should be limited to those affected by the model change only. SPAN model alone has over 1,200 parameters. An obligation to provide all parameters would be unnecessarily disproportionate.
- **Article 15 point i – Policies, procedures and documentation:** We note that the term technical documentation is ambiguous and could be interpreted as either (i) model description documented to a standard sufficient to enable the reader to replicate the model or (ii) technical documentation concerning implementation of the model in CCP IT systems, e.g. system specifications, functional and non-functional requirements, etc. We believe that (i) is more appropriate for a regulatory validation of a model change and thus recommend using the term '*model description documented to a standard sufficient to enable the reader to replicate the model*'.

<ESMA_QUESTION_VALID_18>

Q19 Are the requirements on documentation in relation to governance of the model change, including independent validation and risk committee advice, clear and adequate to ensure that reliable information on the governance of a review of significant model change is provided? Should ESMA consider requesting additional information on the validation process or clarifying any aspects of the information provided?

<ESMA_QUESTION_VALID_19>

EACH agrees with ESMA's proposal, although we have some concerns about the level of granularity and scope in Article 16 c, and specifically the use of word 'processes' which could then include operational processes for daily operation of the model. Typically, the regulatory governance and IT implementation run in parallel which means that at the time of the application the CCP does not yet have the operational-level procedures governing daily operations of its systems with regard to new functionalities. Moreover, consistent with our feedback to Q18 above, the detailed

description of the processes that the applicant CCP will use to analyse and monitor of the model performance following the model change should be limited to those affected by the model change only.

We believe it is more feasible that at the time of the application the CCP can provide a high-level description on the planned analysis and monitoring of model performance following the model change that are affected by the model change. The full operational-level procedures governing daily operations of its systems with regard to new functionalities and full model scope can be assessed subsequently as part of the ongoing supervision. |

<ESMA_QUESTION_VALID_19>

Q20 Do you agree with the need to submit all policies and procedures with relevance to the model even if these are not amended?

<ESMA_QUESTION_VALID_20>

|While there is an administrative burden involved for CCPs in submitting the full set of policies and procedures relevant to the model which is changed, we also recognise the ESMA rationale to understand how the model change fits into the overall risk framework. Having said that, it would be helpful to add wording that validation of the model change should not be confused with re-validation of existing model or re-assessment of existing risk framework to ensure that the regulatory authorities stay within the clear scope of application according to Article 49 and Article 49(1) respectively. We believe that such a phrasing may limit unrelated, often duplicating enquiries. |

<ESMA_QUESTION_VALID_20>

Q21 Is the information related to testing methodologies (e.g., back-testing, stress testing) comprehensive enough to evaluate the robustness of model changes? Should any of the information required in this regard be further detailed or clarified (e.g. in relation to procyclicality)?

<ESMA_QUESTION_VALID_21>

|The information relating to testing methodologies is helpful but we have concerns regarding:

- **Article 17 a – Comprehensive test results:** The analysis performed for the purposes of Article 17 may be inconsistent with that required by Article 10. For instance, Article 10 requires only real member portfolios and Article 17 expands to hypothetical. Additionally, while providing analysis of the impact of hypothetical portfolios in the context of aggregate metrics (e.g. Cover-2 or Default Fund) is not only extremely difficult to implement, but results might not necessarily contribute to the impact assessment. Such metrics are not built based on individual portfolios but rather of combination of those, ordered in hierarchical structures reflecting legal segregation. Also, the comprehensive coverage of relevant hypothetical portfolios is hard to achieve, triggering re-submission if deemed incomplete by

the regulators. For these reasons, EACH suggests that hypothetical portfolios be optional, as opposed to mandatory.

- **Article 17 c – Testing results:** We would welcome additional details on how ESMA would like the CCP to evaluate model changes that relate to procyclicality and periods of stress and suggest considering the on-going by BCBS-CPMI-IOSCO and discussions with the industry.]

<ESMA_QUESTION_VALID_21>

Q22 Is the 12-month period for credit and liquidity stress tests commensurate?

<ESMA_QUESTION_VALID_22>

[The 12-month period for credit and liquidity stress tests deviates from the generally applicable 6-month period laid out in Article 10. This approach generates excessive efforts for the CCP needing to perform this simulation and to harmonize assessment approaches. Additionally, any dissimilar behaviour observed within the 12-months period, when compared with the 6-months significance assessment, may lead to further questioning from authorities lengthening the approval process.

To address the above, we recommend consistently amending the period used in points d and e to 6 months.]

<ESMA_QUESTION_VALID_22>