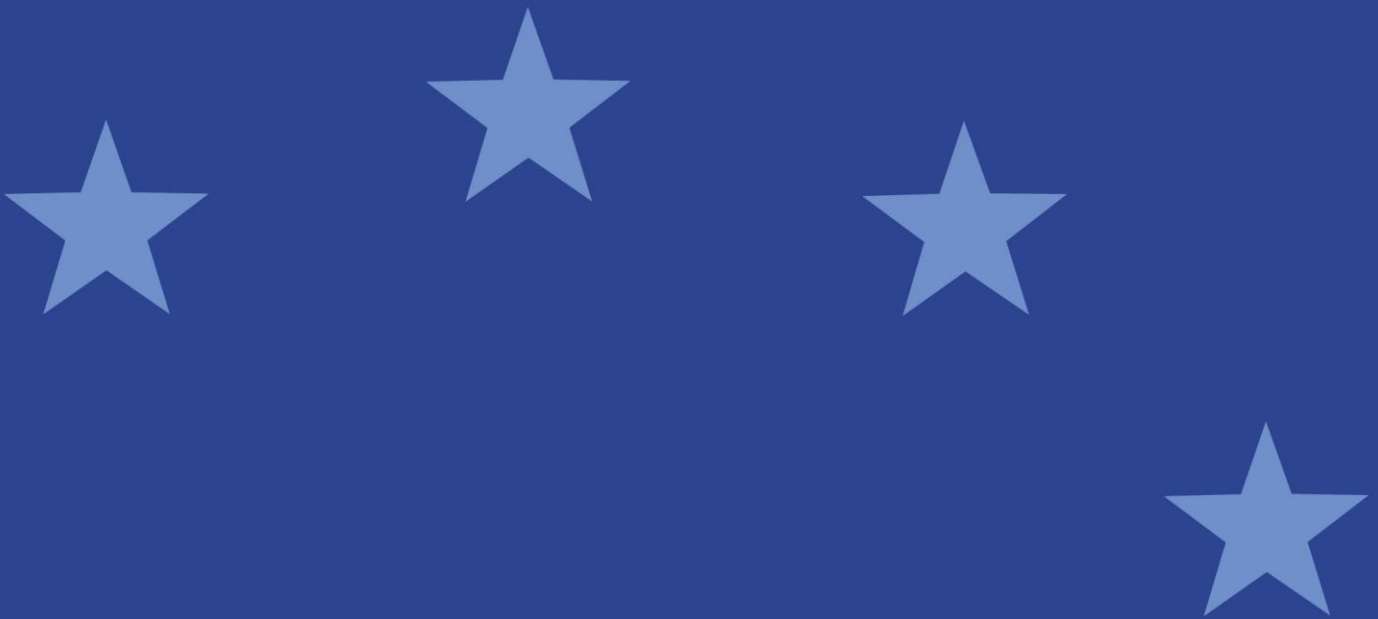




European Securities and
Markets Authority

Consultation Paper

Regulatory technical standards on conditions under which additional services or activities to which a CCP wishes to extend its business are not covered by the initial authorisation and conditions under which changes to the models and parameters are significant under EMIR



Responding to this paper

ESMA invites comments on all matters in this paper and in particular on the specific questions summarised in Annex 1. Comments are most helpful if they:

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

ESMA will consider all comments received by **16 November 2020**.

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 heading [Data Protection](#)

Who should read this paper

All interested stakeholders are invited to respond to this consultation paper. In particular, responses are sought from central counterparties (CCPs) and their clearing members.

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1 Legislative references, abbreviations and definitions

Legislative references

<i>EMIR</i>	<i>European Market Infrastructures Regulation – Regulation (EU) No 648/2012 of the European Parliament and Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p. 1)</i>
<i>EMIR 2.2</i>	<i>Regulation (EU) No 2019/2099 of the European Parliament and of the Council of 23 October 2019 as regards the procedures and authorities involved for the authorisation of CCPs and requirements for the recognition of third-country CCPs (OJ L 322, 12.12.2019, p. 1)</i>
<i>RTS on CCP requirements</i>	<i>Commission Delegated Regulation (EU) No 153/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on requirements for central counterparties (OJ L 52, 23.2.2013, p. 41)</i>
<i>MiFIR</i>	<i>Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (OJ L 173, 12.6.2014, p. 84)</i>
<i>RTS 2 of MiFIR</i>	<i>Commission Delegated Regulation (EU) 2017/583 of 14 July 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards on transparency requirements for trading venues and investment firms in respect of bonds, structured finance products, emission allowances and derivatives (OJ L 87, 31.3.2017, p. 229)</i>
<i>RTS 23 of MiFIR</i>	<i>Commission Delegated Regulation (EU) 2017/585 of 14 July 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to regulatory technical standards for the data standards and formats for financial</i>

instrument reference data and technical measures in relation to arrangements to be made by the European Securities and Markets Authority and competent authorities (OJ L 87, 31.3.2017, p. 368)

SFTR

Regulation (EU) 2015/2365 of the European Parliament and of the Council of 25 November 2015 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012; OJ L 337, 23.12.2015, p. 1–34

ESMA Opinion

ESMA Opinion on Common indicators for new products and services under Article 15 and for significant changes under Article 49 of EMIR (ESMA/2016/1574, 15 November 2016)

Abbreviations

CCP	Central Counterparty
CP	Consultation Paper
CSD	Central Securities Depository
EBA	European Banking Authority
EC	European Commission
ESCB	European System of Central Banks
ESMA	European Securities and Markets Authority
MTF	Multilateral Trading Facility
NCA	National Competent Authority
OTC	Over-the-counter
OTF	Organised Trading Facility
RTS	Regulatory Technical Standards

2 Executive Summary

Reasons for publication

Regulation (EU) 2019/2099 of the European Parliament and of the Council of 23 October 2019 amending Regulation (EU) No 648/2012 (EMIR 2.2) requires ESMA, in cooperation with the ESCB, to develop regulatory technical standards specifying the conditions under which additional services or activities to which a CCP wishes to extend its business are not covered by the initial authorisation and therefore require an extension of authorisation and also specifying the procedure for consulting the college established in accordance with Article 18 of EMIR on whether or not those conditions are met. Besides ESMA must develop regulatory technical standards, in consultation with EBA, other relevant competent authorities and the members of the ESCB, specifying the conditions under which changes to the models and parameters are significant and therefore require validation by the national competent authority (NCA) and ESMA.

Contents

This Consultation Paper (CP) covers the technical standards on conditions which require an extension of authorisation for a CCP, conditions which require validations of CCP's changes to models and parameters by the NCA and ESMA and the procedure for consulting the college on whether or not those conditions are met.

In particular, section 4 regarding the extension of services and activities by a CCP describes the approach ESMA proposes to take in identifying the conditions under which additional services and activities require extension of authorisation under Article 15 of EMIR. It specifies that ESMA proposes to take a flexible and pragmatic approach and provide for a degree of discretion by dividing the conditions into criteria and into indicators. Both the criteria and indicators, in case of fulfilment, would be subject to a college consultation on whether the procedure for the purpose of Article 15 of EMIR should be triggered. However, while the criteria would be subject to a simplified college consultation procedure, the indicators would be subject to a more extensive college consultation procedure. Furthermore, this section clarifies the two procedures for the consultation of the college (one for criteria and the other for indicators).

Section 5 with regard to changes to models and parameters by a CCP outlines the proposed approach ESMA suggests to adopt to identify the conditions under which the proposed changes to the models and parameters are significant and therefore require validations by the NCA and ESMA under Article 49 of EMIR. It specifies that ESMA proposes to mirror the approach used for Article 15 of EMIR and to divide the conditions into criteria and into indicators, in order to ensure a flexible and pragmatic approach and provide for a degree of discretion. In addition, in order to achieve further consistency with Article 15 of EMIR, ESMA proposes that both the criteria and indicators, in case of fulfilment, are subject to a college consultation on whether the validation procedure under Article 49 of EMIR should be triggered. To that effect, the criteria would be subject to a

simplified college consultation procedure, while the indicators would be subject to a more extensive college consultation procedure. Moreover, this section clarifies the two procedures for the consultation of the college (one for criteria and the other for indicators).

Finally, section 6 contains all relevant appendices, including the summary of questions, legislative mandates, commentary on the cost-benefit analysis and the texts of the draft regulatory technical standards discussed in this CP.

Next Steps

ESMA will consider the feedback it received to this consultation in Q4 2020 and expects to publish the final report and submit the draft technical standards to the European Commission for endorsement in Q1 2021. ESMA Opinion on Common indicators for new products and services under Article 15 and for significant changes under Article 49 of EMIR (ESMA/2016/1574, 15 November 2016) as well as the CCP Question 6 of ESMA Q&A on the implementation of EMIR will be amended depending to the version of the technical standards upon entry into force.

3 Background

2. Regulation (EU) 2019/2099 of the European Parliament and of the Council of 23 October 2019 amending Regulation (EU) No 648/2012 (EMIR 2.2) introduces several empowerments for ESMA to develop regulatory technical standards. In particular, Article 15(3) of EMIR, as amended by EMIR 2.2 requires ESMA to develop, in cooperation with the ESCB, draft regulatory technical standards specifying the conditions under which additional services or activities to which a CCP wishes to extend its business are not covered by the initial authorisation and therefore require an extension of authorisation in accordance with paragraph 1 of Article 15 and also specifying the procedure for consulting the college established in accordance with Article 18 on whether or not those conditions are met. Article 49(5) of EMIR, as amended by EMIR 2.2 provides that ESMA should, after consulting EBA, other relevant competent authorities and the members of the ESCB, develop draft regulatory technical standards specifying the conditions under which changes to the models and parameters referred to in paragraph 1 of Article 49 itself are significant.
3. The original EMIR did not provide for a definition of what constitutes “additional services or activities not covered by the initial authorisation” or for definition of what constitutes “significant changes to the models and parameters”. Therefore, pursuant to Article 29(1)(a) of Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority)¹ (ESMA Regulation), for the purpose of building a common Union supervisory culture and consistent supervisory practices, as well as ensuring uniform procedures and consistent approaches throughout the Union, ESMA delivered the Opinion on Common indicators for new products and services under Article 15 and for significant changes under Article 49 of EMIR (ESMA/2016/1574, 15 November 2016; ESMA Opinion)².
4. In the draft RTS presented in this CP, ESMA suggests a pragmatic and flexible approach for identifying conditions under which additional services or activities to which a CCP wishes to extend its business are not covered by the initial authorisation and therefore require an extension of authorisation, and conditions under which changes to the models and parameters are significant and therefore require a validation. To this end it divides the conditions into criteria for an extension of authorisation and criteria for significant changes to the models and parameters on the one hand, and into indicators for an extension of authorisation and indicators for significant changes to the models and parameters on the other. As the presented criteria are objective, clear-cut and contain quantitative metrics, it is proposed that they are subject to a simplified college consultation procedure whereby when the CCP’s NCA assesses that one or more of the criteria have been fulfilled by the CCP’s proposed change, the college is simply

² https://www.esma.europa.eu/sites/default/files/library/2016-1574_-_opinion_on_significant_changes_for_ccps.pdf

consulted on whether it also considers that the criterion/criteria have been fulfilled. Since the indicators are less straightforward and cover a wider range of situations, it is proposed that they are subject to a more extensive college consultation procedure whereby when the CCP's NCA assesses that one or more of the indicators have been fulfilled by the CCP's proposed change, the NCA shall carry out an initial analysis of whether an extension of authorisation for the purpose of Article 15 or a validation under Article 49(1a)-(1e) should be required; the college would then be consulted on whether it agrees with the NCA's initial analysis. The procedures for the consultation of the college are also specified in the RTS. Some of these proposals and improvements take into account the ESMA Opinion and the experience within colleges.

4 Extension of activities and services by CCP

4.1 Introduction

5. Article 15(1) of EMIR provides that: “A CCP wishing to extend its business to additional services or activities not covered by the initial authorisation shall submit a request for extension to the CCP’s competent authority. The offering of clearing services for which the CCP has not already been authorised shall be considered to be an extension of that authorisation. The extension of authorisation shall be made in accordance with the procedure set out under Article 17.”
6. The original EMIR did not provide for a definition of what constitutes “additional services or activities not covered by the initial authorisation”. With the view that a common approach at Union level on the implementation of Articles 15 and 49 of EMIR would foster coherence of supervisory practices regarding CCP colleges established under EMIR and foster consistent application of the relevant provisions of EMIR, ESMA delivered the ESMA Opinion. The ESMA Opinion sets out circumstances in which services and activities should be considered additional and therefore a CCP would have to apply for an extension of its authorisation. It also provides for a non-exhaustive non-binding list of indicators that NCAs should consider when determining whether any activity or service is covered by the current authorisation for the purpose of Article 15 of EMIR. Additionally, the ESMA Opinion contains a procedure for consulting the college when any of the indicators are identified by the CCP’s competent authority.
7. In addition, ESMA published a Q&A (CCP Question 6(a) of the ESMA Q&A on the implementation of EMIR) which clarifies that an extension of authorisation would be needed where the CCP intends to undertake additional activities or services which expose the CCP to new or increased risks, e.g. on classes of financial instruments with a different risk profile or that have material differences from the CCP’s existing product set³.
8. EMIR 2.2 has amended Article 15 of EMIR and provided for a mandate to ESMA, in cooperation with the ESCB, to develop draft regulatory technical standards specifying the conditions under which additional services or activities to which a CCP wishes to extend its business are not covered by the initial authorisation and therefore require an extension of authorisation and also specifying the procedure for consulting the college on whether or not those conditions are met.

4.2 ESMA Proposal

9. In the draft RTS presented in this CP, ESMA proposes to take into account the ESMA Opinion. As it would be difficult to provide for an exhaustive list of conditions that would cover every situation and, at the same time, in order to prevent false positives, ESMA proposes to develop a pragmatic approach that would provide a degree of flexibility and

³ https://www.esma.europa.eu/sites/default/files/library/esma70-1861941480-52_qa_on_emir_implementation.pdf

discretion for competent authorities, and divide the conditions into criteria and indicators. As the presented criteria are objective and clear-cut, it is proposed they are subject to a simplified college consultation on whether an extension of authorisation under Article 15 of EMIR should be triggered: it is proposed that when the CCP's NCA assesses that one or more of the criteria have been fulfilled by the CCP's proposed extension of its activities or services, the college is simply consulted on whether it also considers that the criterion/criteria have been fulfilled; if the college considers that the criterion/criteria have been fulfilled, an extension of authorisation in accordance with Article 15 of EMIR will be required. On the other hand, as the indicators are less straightforward and cover a wider range of situations, it is proposed that they are subject to a more extensive college consultation on whether the extension of authorisation under Article 15 of EMIR should be triggered: it is proposed that when the CCP's NCA assesses that one or more of the indicators have been fulfilled by the CCP's proposed extension of its activities or services, the NCA shall carry out an initial analysis of whether an extension of authorisation for the purpose of Article 15 should be required; the college would then be consulted on whether it agrees with the NCA's initial analysis; while the NCA would be required to take the views of the college into account when finalising its decision of whether an extension of authorisation in accordance with Article 15 should be required, the final decision (of whether an extension of authorisation is required) would remain with the NCA. If the NCA assesses that both a criterion/criteria and an indicator/indicators have been fulfilled by the CCP's proposed extension of its activities and services, only the college consultation in respect of the criteria shall be conducted (i.e. there will not be two separate college consultations).

4.2.1 Criteria for an extension of authorisation

10. ESMA proposes the following criteria for an extension of authorisation under Article 15 of EMIR:

- a. The CCP intends to offer a service or activity relating to a new category of financial instruments or a new type of products or a new type of transactions, all collectively referred to as "contracts".

For this purpose, categories of financial instruments shall be defined as:

- i. Equities
- ii. Bonds
- iii. Interest rate derivatives
- iv. Equity derivatives
- v. FX derivatives
- vi. Credit derivatives
- vii. For commodity derivatives, as the Base products as per Table 2 of the Annex of RTS 23 of MiFIR except for Energy and

Environmental derivatives, for which sub products (as per Table 2 of the Annex of RTS 23 of MiFIR) shall apply.

For this purpose, types of products are defined as any non-financial instruments for which the CCP provides a service or activity (e.g. energy spot contracts).

For this purpose, types of transactions are securities financing transactions as defined in Article 3(11) of Regulation (EU) 2015/2365 of the European Parliament and of the Council of 25 November 2015 (SFTR)⁴.

- b. The CCP intends to offer a service or activity for contracts, as defined in point (a), traded on a trading venue (a regulated market, an MTF or an OTF) where the CCP was previously providing a service or performing an activity for these contracts traded on a bilateral basis only; or the opposite.
- c. The CCP intends to offer a new settlement and/or delivery mechanism/service which involves establishing links with a different securities settlement system, CSD, payment system which the CCP did not previously use.
- d. The CCP intends to offer a service or activity for contracts referencing a new currency or involving a payment in a new currency, when the CCP did not previously clear any contracts in the new currency or when the CCP was previously clearing the same contracts in a single currency.

4.2.2 Indicators for an extension of authorisation

11. In addition, ESMA proposes to provide for a degree of flexibility and discretion and to complement the criteria with a set of indicators that would trigger a more extensive college consultation to determine whether the extension of authorisation procedure for the purpose of Article 15 should be launched.
12. In particular, these indicators aim to capture any new service or activity with a different risk profile or with material differences from the contracts cleared by a CCP, or which would expose the CCP to new or different risks.
13. Taking into account the ESMA Opinion, ESMA proposes to define the following set of indicators:
 - a. The CCP will need to adapt its risk management framework to take into account the specific features of the contracts (for example, new risk factors, new add-on or dedicated stress scenarios will be introduced);

⁴ Regulation (EU) 2015/2365 of the European Parliament and of the Council of 25 November 2015 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012; OJ L 337, 23.12.2015, p. 1–34

- b. The CCP will need to adapt its operational or organisational structure (at any point in the contract cycle, to default management, settlement, etc.), including for example:
 - i. The extension of any service or activity to different time zones outside the Union,
 - ii. The material extension of a clearing service working hours (e.g. extending clearing hours to a 24/7 cycle);
 - iii. The implementation of a new structure of margin accounts not already offered by another business line of the CCP.
- c. The CCP intends to offer contracts which cannot be liquidated in the same manner or together with the other existing contracts cleared by the CCP;
- d. New or different methods for obtaining prices will have to be adopted as compared with existing methods used by the CCP;
- e. New contract specifications will need to be taken into account, including:
 - i. The extension of the range of maturities, by 50% or more of the longest maturity;
 - ii. The introduction of new option exercise styles (as defined in field 33 of Table 3 of Annex of RTS 23 of MiFIR);
- f. The new service or activity will introduce new risks, linked to the different characteristics of the assets referenced, including:
 - i. The introduction of derivatives of a similar profile but referencing a new index or benchmark when the CCP previously only cleared derivatives all referencing a single index or benchmark (i.e. only the first added index would trigger the indicator), or the introduction of derivatives referencing the single names components where the CCP only cleared the index (or opposite);
 - ii. The introduction of contracts referencing underlyings that have materially different types of issuers, such as a different credit worthiness, issues in jurisdictions with different levels of legal certainty, currencies with different levels of transferability or different pegging regimes.
 - iii. The introduction of contracts referencing securities with different seniority or (un)secured characteristics (covered, collateralized, secured/unsecured, etc.).
 - iv. The introduction of contracts more significantly impacted by a given risk factor than the contracts already cleared. For example, where a CCP clears a range of contracts with different maturities and vanilla options on these products, the introduction of an option on the price difference between two maturities would expose the CCP to the specifics of the dynamics of the way the maturities evolve when compared to each other.

4.2.3 Consultation with the College

14. As described above, ESMA is of the view that since the criteria are defined in an objective and clear-cut manner, they should be subject only to a simplified college consultation on whether the extension of authorisation for the purpose of Article 15 of EMIR should be triggered: it is proposed that when the CCP's NCA assesses that one or more of the criteria have been fulfilled by the CCP's proposed extension of its activities or services, the college is simply consulted on whether it also considers that the criterion/criteria have been fulfilled; if the college considers that the criterion/criteria have been fulfilled, an extension of authorisation in accordance with Article 15 of EMIR will be required. On the other hand, since the indicators aim at capturing a wider range of situations, they are less straightforward, and should therefore be subject to a more extensive college consultation on whether the extension of authorisation for the purpose of Article 15 of EMIR should be triggered: it is proposed that when the CCP's NCA assesses that one or more of the indicators have been fulfilled by the CCP's proposed extension of its activities or services, the NCA shall carry out an initial analysis of whether an extension of authorisation for the purpose of Article 15 should be required; the college would then be consulted on whether it agrees with the NCA's initial analysis; while the NCA would be required to take the views of the college into account when finalising its decision of whether an extension of authorisation in accordance with Article 15 should be required, the final decision (of whether an extension of authorisation is required) would remain with the NCA..
15. When a CCP proposes to provide any new services or carry out any new activities, it shall inform its NCA of its proposed extension of its activities and services. The NCA shall then assess whether the CCP's proposed extension of its activities and services fulfils any of the criteria or indicators for an extension of authorisation. If the NCA considers that the CCP's proposed extension of its activities and services fulfils both a criterion/criteria and an indicator/indicators, only the college consultation in respect of the criteria (para 16 below) shall be conducted (i.e. there will not be two separate college consultations).
16. If the NCA considers that one or more of the criteria for an extension of authorisation have been fulfilled by the CCP's proposed extension of its activities and services, ESMA proposes the following consultation with the college:
 - a. Where the NCA identifies the fulfilment of one or more of the criteria, the NCA should inform the college of the proposed extension of the activities and services of the CCP and provide the college members with a detailed description of the initiative.
 - b. The members of the college may express their views on whether the CCP's proposed extension of its activities and services fulfils any of the criteria.

- c. Unless the majority of the college members disagrees that one or more of the criteria have been fulfilled, the conditions for an extension of authorisation shall be considered met. The NCA shall inform the CCP thereof. The CCP must then apply for an extension of authorisation in accordance with Article 15 of EMIR.
 - d. Where the majority of college members disagrees that one or more of the criteria have been fulfilled, they may request that a college discussion be organised. Sufficient time for discussions between college members should be provided. The NCA should consider the views expressed by the college members when finalising its assessment of whether one or more of the criteria have been fulfilled. If the NCA's final assessment concludes that one or more of the criteria have been fulfilled, the conditions for an extension of authorisation shall be considered met. The NCA shall inform the CCP thereof. The CCP must then apply for an extension of authorisation in accordance with Article 15 of EMIR.
17. If the NCA considers that one or more of the indicators for an extension of authorisation have been fulfilled by the CCP's proposed extension of its activities and services (and at the same time none of the criteria for an extension of authorisation have been fulfilled), ESMA suggests taking into account the ESMA Opinion and proposes the following procedure for the consultation with the college:
- a. Where the NCA identifies the fulfilment of one or more of the indicators, the NCA should i) inform the college of the proposed extension of the activities and services of the CCP and ii) as soon as possible, share with the college its initial analysis of whether the conditions for an extension of authorisation have been met and an extension of authorisation in accordance with Article 15 should be required. For this purpose, it is essential that the college members receive a detailed description of the initiative.
 - b. The members of the college may express their view on the NCA's initial analysis. Where at least one member of the college disagrees with the NCA's initial analysis, any college member may request that a college discussion be organised. Sufficient time for discussions between college members should be provided. College members and ESMA, if they disagree with the qualification presented by the NCA, should explain their views in detail. The NCA should consider the views expressed when finalising its analysis of whether the conditions for an extension of authorisation have been met and an extension of authorisation in accordance with Article 15 should be required.
 - c. If the NCA's final analysis concludes that the conditions for an extension of authorisation have been met, it shall inform the CCP thereof. The CCP must then apply for an extension of authorisation in accordance with Article 15 of EMIR.

Q1: Do you agree with ESMA's proposed approach to divide conditions under which additional services or activities to which a CCP wishes to extend its business are not covered by the initial authorisation (under Article 15 of EMIR) into criteria, which would be subject to a more simplified college consultation procedure, and into indicators, which would be subject to a more extensive college consultation procedure, or would you propose a different approach? Please provide reasons for your answer.

Q2: Do you agree with ESMA's proposed list of criteria for an extension of authorisation (under Article 15 of EMIR) or would you propose to change/add/delete any of the criteria or specify certain criteria further? Please provide reasons for your answer.

Q3: Do you agree with ESMA's proposed list of indicators for an extension of authorisation (under Article 15 of EMIR) or would you propose to change/add/delete any of the indicators or specify certain indicators further? Please provide reasons for your answer.

Q4: Would you change certain criteria into indicators or vice-versa (under Article 15 of EMIR)? Please provide reasons for your answer.

Q5: Do you agree with ESMA's proposed procedures for consulting the college (under Article 15 of EMIR) or would you propose different procedures? Please provide reasons for your answer.

5 Changes to models and parameters by CCP

5.1 Introduction

18. Article 49(1) of EMIR as amended by EMIR 2.2 provides that: “A CCP shall regularly review the models and parameters adopted to calculate its margin requirements, default fund contributions, collateral requirements and other risk control mechanisms. It shall subject the models to rigorous and frequent stress tests to assess their resilience in extreme but plausible market conditions and shall perform back tests to assess the reliability of the methodology adopted. The CCP shall obtain independent validation, shall inform its competent authority and ESMA of the results of the tests performed and shall obtain their validation in accordance with paragraphs 1a, 1b, 1c, 1d and 1e before adopting any significant change to the models and parameters.”
19. The original version of EMIR did not provide for a definition of what constitutes “significant change to the models and parameters”. With the view that a common approach at Union level on the implementation of Articles 15 and 49 of EMIR would foster coherence of supervisory practices regarding CCP colleges established under EMIR and foster consistent application of the relevant provisions of EMIR, ESMA delivered the ESMA Opinion. The ESMA Opinion sets out a non-exhaustive non-binding list of indicators that NCAs should consider when determining whether any change to the models and parameters is considered significant for the purpose of Article 49 of EMIR. Additionally, the ESMA Opinion contains a procedure for consulting the college when any of the indicators are identified by the CCP’s competent authority.
20. EMIR 2.2 has amended Article 49 of EMIR and provided for a mandate to ESMA, after consulting EBA, other relevant competent authorities and the members of the ESCB, to develop draft regulatory technical standards specifying the conditions under which changes to the models and parameters are significant and therefore require a validation by the NCA and ESMA.

5.2 ESMA Proposal

21. In the draft RTS, presented in this CP, ESMA proposes to take a slightly different approach with regard to the conditions than in the ESMA Opinion, as the ESMA Opinion contained only indicators. As it would be difficult to provide for an exhaustive list of conditions that would cover every situation and, on the other hand, in order to prevent false positives, ESMA proposes to mirror the approach suggested for Article 15 of EMIR and divide the conditions into criteria and indicators. As the presented criteria are objective and contain quantitative metrics, it is proposed they are subject to a simplified college consultation on whether the validation under Article 49(1a)-(1e) of EMIR should be triggered: it is proposed that when the CCP’s NCA assesses that one or more of the criteria have been fulfilled by the CCP’s proposed change to its model and parameters, the college is simply consulted on whether it considers that the criterion/criteria have been fulfilled by the CCP’s proposed change; if the college considers that the

criterion/criteria have been fulfilled, the change will be considered significant and a validation in accordance with Article 49(1a)-(1e) of EMIR will be required. On the other hand, as the indicators are less straightforward, and cover a wider range of situations, it is proposed they are subject to a more extensive college consultation on whether the validation under Article 49(1a)-(1e) of EMIR should be triggered: it is proposed that when the CCP's NCA assesses that one or more of the indicators have been fulfilled by the CCP's proposed change to its models and parameters, the NCA shall carry out an initial analysis of whether the change is significant and a validation in accordance with Article 49(1a)-(1e) should be required; the college would then be consulted on whether it agrees with the NCA's initial analysis; while the NCA would be required to take the views of the college into account when finalising its decision of whether the change is indeed significant, the final decision of whether the change is significant (and a validation of that change in accordance with Article 49(1a)-(1e) is required) would remain with the NCA. If the NCA assesses that both a criterion/criteria and an indicator/indicators have been fulfilled by the CCP's proposed change to its models and parameters, only the college consultation in respect of the criteria shall be conducted (i.e. there will not be two separate college consultations). This approach would provide a degree of flexibility and discretion for competent authorities.

5.2.1 Criteria for significant changes to the models and parameters

22. While the ESMA Opinion only contained indicators with regard to Article 49 of EMIR, ESMA believes it is pragmatic to use the same approach as for Article 15 of EMIR, and therefore to also provide for criteria. Many of the proposed criteria refer to the requirements contained in the RTS on CCP requirements.
23. The criteria include a quantitative threshold to assess the impact of the change or relate to the core elements of models and parameters. In order to avoid any circumvention and ensure meaningful assessment, ESMA suggests assessing the impact of each change using the maximum impact observed over a lookback period of at least six months. Calculations should be run at CCP, CM or margin account level where relevant, and based on actual historical production portfolios.
24. ESMA proposes the following criteria in the context of Article 49 of EMIR:
 - a. The change leads to a decrease/increase of the total pre-funded financial resources (including margin requirements, default fund and skin-in-the-game), greater than +/-10%⁵;
 - b. The structure or structural elements of the margin model are changed (e.g. moving from a SPAN to a VaR model);
 - c. A new margin module, such as an add-on developed to capture a risk or set of risks, is introduced, removed, or amended in a manner which leads to a decrease/increase of this margin module of greater than +/- 10% at CCP level;

⁵ This does not apply in the case of other risk mitigating techniques, that are different from the margins and default fund contributions as described and required by EMIR, such as spot market pre-trade trading limit possibilities, that involves collecting funds in order to fully cover the risk of trades ahead of accepting the novation applied and operated by the CCP.

- d. Any change in the calibration of one of the core EMIR margin parameters, namely:
 - i. The confidence level (percentage) of the margin model (Article 24 of the RTS on CCP requirements);
 - ii. The look-back period of the model (Article 25 of the RTS on CCP requirements);
 - iii. The number of days used for the margin period of risk (Article 26 of the RTS on CCP requirements);
- e. The methodology used to compute portfolio offsets is changed (e.g. by introducing new offsets between instruments, or removing the 80% cap between different instruments), leading to a decrease/increase of margin requirements for any clearing member greater than +/- 10%;
- f. A different option to satisfy the anti-procyclicality requirement is applied (out of the 3 proposed under Article 28 of the RTS on CCP requirements);
- g. Stress test scenarios applied for the purpose of determining default fund exposures are introduced, changed or removed, leading to the increase/decrease greater than +/-10% of a default fund, or greater than +/- 50% of any individual default fund contribution. (Article 30 of the RTS on CCP requirements);
- h. The methodology applied to assess liquidity risk and monitor concentration risk is changed (Articles 32 to 34 of the RTS on CCP requirements), leading to an increase/decrease of the estimated liquidity needs in any currency, or the total liquidity needs, greater than +/- 10%;
- i. The list of eligible collateral is extended to accept collateral with a different risk profile, i.e. either:
 - i. New asset class (equities, bonds, bank guarantees);
 - ii. New category of issuer (e.g. corporate, sovereign) or level of credit risk;
 - iii. Material differences in the liquidity of the market for the new asset(s);
- j. The methodology applied to value collateral, calibrate collateral haircut or set concentration limits is changed (Articles 40 to 42 of the RTS on CCP requirements), such that either:
 - i. The total value of non-cash collateral decreases/increases by more than +/- 10%;
 - ii. Haircuts on one or more securities accepted as collateral decrease/increase by more than +/- 10 percentage points;

provided that these changes do not fulfil any the criteria for the extension of the CCP's service or activity (as described in paragraph 9 above).

5.2.2 Indicators for significant changes to the models and parameters

25. As for Article 15, ESMA proposes to provide for a degree of flexibility and discretion and to complement the criteria (which should be subject to a simplified college consultation) with a set of indicators which would be subject to a more extensive college consultation to determine whether the validation procedure in accordance with Article 49(1a) to (1e) should be launched.
26. ESMA has simplified and streamlined the list of indicators contained in the ESMA Opinion and proposes the following set of indicators (to be calculated in accordance with paragraph 23):
- a. The change leads to an adjustment of the pre-funded financial resources (calculated as described in paragraph 23), as detailed below:
 - i. decrease/increase of the total pre-funded financial resources (including margin requirements, default fund and skin-in-the-game), greater than +/-5%;
 - ii. decrease/increase of a default fund greater than +/- 5%;
 - iii. decrease/increase of the margin requirements and/or stress test exposures on an individual underlying, a class of financial instruments, greater than +/-10%;
 - iv. decrease/increase of the margin requirements and/or stress test exposures of any clearing member, greater than +/-10%;
 - b. The change leads to a decrease/ increase of the haircut due to a change in the methodology, on one or more securities accepted as collateral, greater than 5 percentage points;
 - c. The change leads to a decrease/increase of the estimated liquidity needs in any currency, or of the total liquidity needs greater than +/- 5%,
 - d. The change leads to the introduction or modification of:
 - i. The method used to calibrate the parameters, the set of risk factors, or other assumptions of the risk model;
 - ii. A pricing model;
 - iii. Pricing histories or the methodology to address missing or incompleting time series;
 - iv. Procedures detecting pricing uncertainties or ensuring reliable settlement prices;
 - v. Data used as input to risk models, operational or organizational developments linked to the change.
 - e. The changes imply the development of new stress scenarios, including either historical or hypothetical scenarios or both, or the modification of the calibration or definition of the existing scenarios, for the purpose of

determining default fund exposures, collateral haircut, liquidity risk, credit and counterparty risk or operational risk.

- f. The CCP intends to offer a new access model, or to offer clearing services to a new type of clearing members with different risk profile and characteristics than the current ones.

5.2.3 Consultation with the College

27. While the mandate for the RTS under Article 49(5) of EMIR does not explicitly provide for a consultation with the college, ESMA nevertheless believes that a college consultation is practical and useful also in relation to Article 49 of EMIR in order to i) ensure convergence, ii) ensure that colleges are duly informed and iii) eliminate false positives while at the same time providing for a comprehensive set of situations which may indicate significant changes to CCP's models and parameters . Furthermore, such an approach ensures consistency with the current practice and the approach under Article 15 of EMIR.
28. As described above, ESMA is of the view that since the criteria are defined in an objective manner and/or contain quantitative metrics, they should be subject only to a simplified college consultation on whether the validation procedure under Article 49(1a)-(1e) of EMIR should be triggered: it is proposed that when the CCP's NCA assesses that one or more of the criteria have been fulfilled by the CCP's proposed change to its model and parameters, the college is simply consulted on whether it considers that the criterion/criteria have been fulfilled by the CCP's proposed change; if the college considers that the criterion/criteria have been fulfilled, the change will be considered significant and a validation in accordance with Article 49(1a)-(1e) of EMIR will be required. On the other hand, since the indicators aim at capturing a wider range of situations, they are less straightforward, and should therefore be subject to a more extensive college consultation on whether the validation procedure under Article 49(1a)-(1e) of EMIR should be triggered: it is proposed that when the CCP's NCA assesses that one or more of the indicators have been fulfilled by the CCP's proposed change to its models and parameters, the NCA shall carry out an initial analysis of whether the change is significant and a validation in accordance with Article 49(1a)-(1e) should be required; the college would then be consulted on whether it agrees with the NCA's initial analysis; while the NCA would be required to take the views of the college into account when finalising its decision of whether the change is indeed significant, the final decision of whether the change is significant (and a validation of that change in accordance with Article 49(1a)-(1e) is required) would remain with the NCA..
29. When a CCP proposes a change to its models and parameters, it shall inform its NCA of the proposed change. The NCA shall then assess whether a CCP's proposed change fulfils any of the criteria or indicators for significant changes to the models and parameters. If the NCA considers that the CCP's proposed change fulfils both a criterion/criteria and an indicator/indicators, only the college consultation in respect of

the criteria (para 30 below) shall be conducted (i.e. there will not be two separate college consultations).

30. If the NCA considers that one or more of the criteria have been fulfilled by the CCP's proposed change, ESMA proposes the following consultation with the college:

- a. Where the NCA considers that one or more of the criteria have been fulfilled, the NCA should inform the college of the proposed change and provide the college members with a detailed description of the initiative.
- b. The members of the college may express their views on whether the CCP's proposed change fulfils any of the criteria.
- c. Unless the majority of the college members disagrees that one or more of the criteria have been fulfilled, the conditions under which changes to the models and parameters are significant shall be considered met. The NCA shall inform the CCP thereof. The CCP must then apply for a validation in accordance with Article 491(a)-1(e) of EMIR.
- d. Where the majority of college members disagrees that one or more of the criteria have been fulfilled by the CCP's proposed change, they may request that a college discussion be organised. Sufficient time for discussions between college members should be provided.
- e. The NCA should consider the views expressed by the college members when finalising its assessment of whether one or more of the criteria have been fulfilled. If the NCA's final assessment concludes that one or more of the criteria have been fulfilled, the conditions under which changes to the models and parameters are significant shall be considered met. The NCA shall inform the CCP thereof. The CCP must then apply for a validation in accordance with Article 49(1a)-(1e) of EMIR.

31. If the NCA considers that one or more of the indicators have been fulfilled by the CCP's proposed change (and at the same time none of the criteria have been fulfilled), ESMA suggests taking into account the ESMA Opinion and proposes the following procedure for the consultation with the college:

- a. Where the NCA considers that one or more of the indicators have been fulfilled, the NCA should i) inform the CCP college of the CCP's proposed change and ii) as soon as possible, share with the college its initial analysis of whether the conditions under which changes to the models and parameters are significant have been met and a validation in accordance with Article 49(1a)-(1e) of EMIR should be required. For this purpose, it is essential that the college members receive a detailed description of the initiative.
- b. The college members should be provided with any independent validation in relation to the proposed initiative if it has been provided.

- c. The members of the college may express their views on the NCA's initial analysis. Where at least one member of the college disagrees with the initial analysis of the NCA, any college member may request that a college discussion be organised. Sufficient time for discussions between college members should be provided. College members and ESMA, if they disagree with the qualification presented by the NCA, should explain their views in detail.
- d. The NCA should consider the views expressed when finalising its analysis of whether the conditions under which changes to the models and parameters are significant have been met and a validation in accordance with Article 49(1a)-(1e) of EMIR should be required.
- e. If the NCA's final analysis concludes that the conditions under which changes to the models and parameters are significant have been met, it shall inform the CCP thereof. The CCP must then apply for a validation in accordance with Article 49(1a)-1(e) of EMIR.

Q6: Do you agree with ESMA's proposed approach to divide conditions under which changes to the models and parameters are significant (under Article 49 of EMIR) into criteria, which would be subject to a more simplified college consultation procedure, and indicators, which would be subject to a more extensive college consultation procedure, or would you propose a different approach? Please provide reasons for your answer.

Q7: Do you agree with ESMA's proposed list of criteria for significant changes to the models and parameters (under Article 49 of EMIR) or would you propose to change/add/delete any of the criteria or specify certain criteria further? Please provide reasons for your answer.

Q8: Do you agree with ESMA's proposed list of indicators for significant changes to the models and parameters (under Article 49 of EMIR) or would you propose to change/add/delete any of the indicators or specify certain indicators further? Please provide reasons for your answer.

Q9: Would you change certain criteria into indicators or vice-versa (under Article 49 of EMIR)? Please provide reasons for your answer.

Q10: Do you agree with ESMA's proposal to extend the consultation with the college also to Article 49? Do you agree with the proposed procedures for consulting the college or would you propose different procedures? Please provide reasons for your answer.

6 Annexes

6.1 Annex I - Summary of questions

Q1: Do you agree with ESMA's proposed approach to divide conditions under which additional services or activities to which a CCP wishes to extend its business are not covered by the initial authorisation (under Article 15 of EMIR) into criteria, which would be subject to a more simplified college consultation procedure, and into indicators, which would be subject to a more extensive college consultation procedure, or would you propose a different approach? Please provide reasons for your answer.

Q2: Do you agree with ESMA's proposed list of criteria for an extension of authorisation (under Article 15 of EMIR) or would you propose to change/add/delete any of the criteria or specify certain criteria further? Please provide reasons for your answer.

Q3: Do you agree with ESMA's proposed list of indicators for an extension of authorisation (under Article 15 of EMIR) or would you propose to change/add/delete any of the indicators or specify certain indicators further? Please provide reasons for your answer.

Q4: Would you change certain criteria into indicators or vice-versa (under Article 15 of EMIR)? Please provide reasons for your answer.

Q5: Do you agree with ESMA's proposed procedures for consulting the college (under Article 15 of EMIR) or would you propose different procedures? Please provide reasons for your answer.

Q6: Do you agree with ESMA's proposed approach to divide conditions under which changes to the models and parameters are significant (under Article 49 of EMIR) into criteria, which would be subject to a more simplified college consultation procedure, and indicators, which would be subject to a more extensive college consultation procedure, or would you propose a different approach? Please provide reasons for your answer.

Q7: Do you agree with ESMA's proposed list of criteria for significant changes to the models and parameters (under Article 49 of EMIR) or would you propose to change/add/delete any of the criteria or specify certain criteria further? Please provide reasons for your answer.

Q8: Do you agree with ESMA's proposed list of indicators for significant changes to the models and parameters (under Article 49 of EMIR) or would you propose to change/add/delete any of the indicators or specify certain indicators further? Please provide reasons for your answer.

Q9: Would you change certain criteria into indicators or vice-versa (under Article 49 of EMIR)? Please provide reasons for your answer.

Q10: Do you agree with ESMA's proposal to extend the consultation with the college also to Article 49? Do you agree with the proposed procedures for consulting the



college or would you propose different procedures? Please provide reasons for your answer.

6.2 Annex II - Legislative mandate to develop technical standards

Article 15(3) of EMIR 2.2 states:

“In order to ensure consistent application of this Article, ESMA shall, in cooperation with the ESCB, develop draft regulatory technical standards specifying the conditions under which additional services or activities to which a CCP wishes to extend its business are not covered by the initial authorisation and therefore require an extension of authorisation in accordance with paragraph 1 of this Article and also specifying the procedure for consulting the college established in accordance with Article 18 on whether or not those conditions are met.

ESMA shall submit those draft regulatory technical standards to the Commission by 2 January 2021.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.”

Article 49(5) of EMIR 2.2 provides:

“To ensure uniform conditions of application of this Article, ESMA shall, after consulting EBA, other relevant competent authorities and the members of the ESCB, develop draft regulatory technical standards specifying the conditions under which changes to the models and parameters referred to in paragraph 1 are significant.

ESMA shall submit those draft regulatory technical standards to the Commission by 2 January 2021.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.”

6.3 Annex III - Cost-benefit analysis

ESMA is looking forward to the information provided in response to this Consultation Paper to further inform its cost-benefit analysis which will accompany the submission of the technical standards to the European Commission.

6.4 Annex IV - Draft RTS on the conditions under which additional services or activities to which a CCP wishes to extend its business are not covered by the initial authorisation, conditions under which CCP's changes to the models and parameters are significant, and the procedure for consulting the college on whether or not those conditions are met (Articles 15(3) and 49(5) EMIR)

COMMISSION DELEGATED REGULATION (EU) No .../..

supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards specifying the conditions under which additional services or activities to which a CCP wishes to extend its business are not covered by the initial authorisation, conditions under which CCP's changes to the models and parameters are significant, and the procedure for consulting the college on whether or not those conditions are met

of []

(text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories, and in particular Articles 15(3) and 49(5) thereof,

Whereas:

- (1) In order to ensure convergence and predictability while preserving a certain degree of flexibility and discretion for the competent authorities, the conditions under which additional services or activities to which a CCP wishes to extend its business are not covered by the initial authorisation and therefore require an extension of authorisation should be divided into criteria and into indicators both requiring different college consultation processes.
- (2) The criteria for the extension of authorisation should be clear and objective, they should therefore cover only new types of contracts, new types of trading platforms, new delivery and settlement mechanisms and new currencies. As the indicators for the extension of authorisation should be subject to a more

discretionary approach, they can be less robust and should therefore capture any new service or activity with a different risk profile or with material differences from the contracts already cleared by a CCP or which would expose the CCP to new or different risks.

- (3) While both the criteria and indicators for the extension of authorisation need to be subject to a college consultation on whether the conditions, under which additional services or activities to which a CCP wishes to extend its business require an extension of authorisation in accordance with Article 15 of Regulation (EU) No 648/2012, are met, in order to ensure a high degree of convergence and predictability, the criteria should be subject only to a simplified college consultation procedure. The indicators, on the other hand, should be subject to a more extensive college consultation procedure.
- (4) As it would be too limitative to provide for an exhaustive list of conditions which would automatically trigger the validation procedure under Article 49 of Regulation (EU) No 648/2012, and in order to preserve a certain degree of flexibility and discretion for the competent authorities, the conditions under which CCP's changes to its models and parameters are significant should be divided into criteria, which should be subject to a stricter approach, and into indicators, which should be subject to a more flexible approach. Consequently, both the criteria and indicators should also be subject to a college consultation on whether the CCP's changes to its models and parameters are significant. However, in order to ensure a high degree of convergence and predictability, the criteria should be subject only to a simplified college consultation procedure, while the indicators should be subject to a more extensive college consultation procedure.
- (5) The criteria for significant changes to the models and parameters should be clear and objective, they should therefore contain robust quantitative thresholds or other qualifications, while the indicators for significant changes to the models and parameters, because they are less straightforward, should contain less robust qualifications.
- (6) In order to ensure coherence between the provisions in respect of Article 15 and the provisions in respect of Article 49 of Regulation (EU) No 648/2012, which should enter into force at the same, and in order to facilitate a comprehensive view and efficient access to information for CCP colleges, it is appropriate to include these regulatory technical standards in a single Regulation.
- (7) This Regulation is based on the draft regulatory technical standards submitted by the European Securities and Markets Authority (ESMA) to the Commission.
- (8) In accordance with Regulation (EU) No 648/2012, ESMA has developed the draft technical standards on which this Regulation is based, where relevant, in cooperation with European System of Central Banks (ESCB) or after consulting the European Banking Authority (EBA), other relevant competent authorities and the members of the European System of Central Banks (ESCB). ESMA has conducted open public consultations on such draft regulatory technical standards, analysed the potential related costs and benefits and requested the advice of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010,

HAS ADOPTED THIS REGULATION:

Article 1

Conditions for extension of CCP's authorisation

1. A CCP shall apply for an extension of authorisation in accordance with Article 15 of Regulation (EU) No 648/2012 in the following cases:
 - (a) the CCP's proposed extension of its activities or services fulfils one or more of the criteria for extension of CCP's authorisation specified in Article 2 and following a consultation with the college in accordance with Article 4, the conditions for an extension of authorisation are considered met in accordance with Article 4(2) or Article 4(3); or
 - (b) the CCP's proposed extension of its activities or services fulfils one or more of the indicators for extension of CCP's authorisation specified in Article 3 and following a consultation with the college in accordance with Article 5, the CCP's competent authority's final analysis concludes that the conditions for an extension of authorisation are met in accordance with Article 5(4).
2. The CCP's competent authority shall assess whether any of the criteria set out in Article 2 or indicators set out in Article 3 are fulfilled by the CCP's proposed extension of its activities or services.

Article 2

Criteria for extension of CCP's authorisation

The criteria for extension of CCP's authorisation shall be as follows:

- (a) the CCP intends to offer a service or perform an activity relating to a new category of financial instruments or a new type of products or a new type of transactions, all collectively referred to as "contracts";

For the purpose of this Regulation, categories of financial instruments shall be understood as:

- i. Equities
- ii. Bonds
- iii. Interest rate derivatives
- iv. Equity derivatives
- v. FX derivatives
- vi. Credit derivatives
- vii. For commodity derivatives, as the Base products as per Table 2 of the Annex of Commission Delegated Regulation (EU) 2017/585 except for Energy and Environmental derivatives, for which sub

products as per Table 2 of the Annex of that Delegated Regulation shall apply;

For the purpose of this Regulation, types of products shall be understood as any non-financial instruments for which the CCP provides a service or performs an activity, such as energy spot contracts;

For the purpose of this Regulation, types of transactions shall be understood as securities financing transactions as defined in Article 3(11) of Regulation (EU) 2015/2365 of the European Parliament and of the Council of 25 November 2015⁶;

- (b) the CCP intends to offer a service or perform an activity for contracts traded on a trading venue, where the CCP was previously providing a service or performing an activity for thesef contracts traded on a bilateral basis only; or the CCP intends to offer a service or perform an activity for contracts traded on a bilateral basis, where the CCP was previously providing a service or performing an activity for these contracts traded on a trading venue only;
- (c) the CCP intends to offer a new settlement or delivery mechanism or service which involves establishing link with a different securities settlement system, CSD or payment system which the CCP did not previously use;
- (d) the CCP intends to offer a service or perform an activity for contracts referencing a new currency or involving a payment in a new currency, when the CCP did not previously clear any contracts in the new currency or when the CCP was previously clearing the same contracts in a single currency.

Article 3

Indicators for extension of CCP's authorisation

The indicators for extension of CCP's authorisation shall be as follows:

- (a) the CCP's proposed new activity or service will result in the CCP needing to adapt its risk management framework to take into account the specific features of the contracts, such as when new risk factors, new add-on or dedicated stress scenarios need to be introduced;
- (b) the CCP's proposed new activity or service will result in the CCP needing to adapt its operational or organisational structure, at any point in the contract cycle, to default management, settlement, etc., including:
 - i. the extension of any service or activity to different time zones outside the Union;
 - ii. the material extension of clearing service working hours;
 - iii. the implementation of a new structure of margin accounts not already offered by another business line of the CCP;

⁶ Regulation (EU) 2015/2365 of the European Parliament and of the Council of 25 November 2015 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012; OJ L 337, 23.12.2015, p. 1–34

- (c) the CCP intends to offer contracts which cannot be liquidated in the same manner or together with the other existing contracts cleared by the CCP;
- (d) the CCP's proposed new activity or service will result in the CCP needing to adopt new or different methods for obtaining prices as compared with existing methods used by the CCP;
- (e) the CCP's proposed new activity or service will result in the CCP needing to take into account new contract specifications, including:
 - i. the extension of the range of maturities, by 50% or more of the longest maturity;
 - ii. the introduction of new option exercise styles, as defined in field 33 of Table 3 of Annex of Commission Delegated Regulation (EU) 2017/585;
- (f) the CCP's proposed new activity or service will result in the introduction of new risks, linked to the different characteristics of the assets referenced, including:
 - i. the introduction of derivatives of a similar profile but referencing a new index or benchmark when the CCP previously only cleared derivatives all referencing a single index or benchmark; or the introduction of derivatives referencing the single names components where the CCP only cleared the index or the introduction of derivatives referencing the index where the CCP only cleared derivatives referencing the single names components;
 - ii. the introduction of contracts referencing underlyings that have materially different types of issuers, including issuers with a different credit worthiness and issuers in jurisdictions with different levels of legal certainty, currencies with different levels of transferability or different pegging regimes;
 - iii. the introduction of contracts referencing securities with different seniority or secured or unsecured characteristics, including covered, collateralized, secured or unsecured;
 - iv. the introduction of contracts more significantly impacted by a given risk factor than the contracts already cleared.

Article 4

College consultation on criteria for extension of CCP's authorisation

1. Where, following the assessment in accordance with Article 1(2), the CCP's competent authority considers that one or more of the criteria set out in Article 2 are fulfilled by the CCP's proposed extension of its activities or services, the CCP's competent authority shall inform the college and provide the college with a detailed description of the CCP's proposed extension of its activities or services and with the CCP's competent authority's assessment of why it considers that one or more of the criteria are fulfilled by the CCP's proposed extension of its activities or services. The CCP's competent authority shall give sufficient time to the members of the college

to express their views on whether the CCP's proposed extension of its activities or services fulfils any of the criteria set out in Article 2.

2. Unless the majority of the members of the college disagrees that one or more of the criteria set out in Article 2 are fulfilled by the CCP's proposed extension of its activities or services, the conditions for an extension of authorisation shall be considered met. The competent authority shall inform the CCP thereof.
3. Where the majority of the members of the college disagrees that one or more of the criteria set out in Article 2 are fulfilled by the CCP's proposed extension of its activities or services, they may request that a college discussion be organised. Sufficient time for discussions between college members shall be provided. The CCP's competent authority shall consider the views expressed by the members of the college when finalising its assessment of whether one or more of the criteria set out in Article 2 are fulfilled by the CCP's proposed extension of its activities or services. Where the CCP's competent authority's final assessment concludes that one or more of the criteria are fulfilled, the conditions for an extension of authorisation shall be considered met. The CCP's competent authority shall inform the CCP thereof.

Article 5

College consultation on indicators for extension of CCP's authorisation

1. Where, following the assessment in accordance with Article 1(2), the CCP's competent authority considers that one or more of the indicators set out in Article 3 are fulfilled by the CCP's proposed extension of its activities or services, and at the same time the CCP's competent authority considers that none of the criteria set out in Article 2 are fulfilled, the CCP's competent authority shall inform the college and provide the college with a detailed description of the CCP's proposed extension of its activities or services. In addition, the CCP's competent authority shall provide the college with its initial analysis of whether the conditions for an extension of authorisation are met by the CCP's proposed extension of its activities or services.
2. The CCP's competent authority shall give sufficient time to the members of the college to express their views on the CCP's competent authority's initial analysis of whether the conditions for an extension of authorisation are met by the CCP's proposed change.
3. Where one or more members of the college disagree with the CCP's competent authority's initial analysis, any member of the college may request that a college discussion be organised. Sufficient time for discussions between the members of the college shall be provided. Members of the college shall explain any dissenting views in detail.
4. The CCP's competent authority shall consider the views expressed by the members of the college when finalising its analysis of whether the conditions for an extension of authorisation are met by the CCP's proposed extension of its activities or services. When the CCP's competent authority's final analysis concludes that the conditions

for an extension of authorisation are met, the competent authority shall inform the CCP thereof.

Article 6

Conditions for significant changes to CCP's models and parameters

1. A CCP shall apply for a validation of the changes to its models and parameters in accordance with Article 49 of Regulation (EU) No 648/2012 in the following cases:
 - (a) The CCP's proposed change fulfils one or more of the criteria for significant changes to CCP's models and parameters specified in Article 7 and following a consultation with the college in accordance with Article 9, the conditions for significant changes to CCP's models and parameters are considered met in accordance with Article 9(3) or Article 9(3); or;
 - (b) the CCP's proposed change fulfils one or more of the indicators for significant changes to CCP's models and parameters specified in Article 8 and following a consultation with the college in accordance with Article 10, the CCP's competent authority's final analysis concludes that the conditions for significant changes to CCP's models and parameters are met in accordance with Article 10(4).
2. The CCP's competent authority shall assess whether any of the criteria set out in Article 7 or indicators set out in Article 8 are fulfilled by the CCP's proposed change. The impact of each change shall be assessed using the maximum impact observed over a look-back period of at least six months. The calculations should be run at the CCP, clearing member or margin account level where relevant, and based on actual historical production portfolios.

Article 7

Criteria for significant changes to CCP's models and parameters

The criteria for significant changes to CCP's models and parameters shall be as follows:

- (a) the change leads to a decrease or increase of the total pre-funded financial resources, including margin requirements, default fund and skin-in-the-game, greater than 10%;
- (b) the structure or structural elements of the margin model are changed, such as moving from a SPAN to a VaR model;
- (c) a new margin module, such as an add-on developed to capture a risk or set of risks, is introduced, removed, or amended in a manner which leads to a decrease or increase of this margin module greater than 10% at the CCP level;

- (d) any change in the calibration of one of the core EMIR margin parameters, as set out in Articles 24 to 26 of the Commission Delegated Regulation (EU) No 153/2013:
 - i. the confidence level (percentage) of the margin model;
 - ii. the look-back period of the model;
 - iii. the number of days used for the margin period of risk;
- (e) the methodology used to compute portfolio offsets is changed, such as by introducing new offsets between instruments, or removing the 80% cap between different instruments, leading to a decrease or increase of margin requirements for any clearing member greater than 10%;
- (f) a different option to satisfy the anti-procyclicality requirement, as set out in Article 28 the Commission Delegated Regulation (EU) No 153/2013⁷, is applied by the CCP;
- (g) stress test scenarios applied for the purpose of determining default fund exposures, as set out in Article 30 of the Commission Delegated Regulation (EU) No 153/2013, are introduced, changed or removed, leading to a decrease or increase greater than +/-10% of a default fund, or greater than 50% of any individual default fund contribution;
- (h) the methodology applied to assess liquidity risk and monitor concentration risk, as set out in Articles 32 to 34 of the Commission Delegated Regulation (EU) No 153/2013, is changed, leading to a decrease or increase of the estimated liquidity needs in any currency, or the total liquidity needs, greater than 10%;
- (i) the list of eligible collateral is extended to accept collateral with a different risk profile:
 - i. new asset class, such as equities, bonds, bank guarantees;
 - ii. new category of issuer, such as corporate or sovereign, or level of credit risk;
 - iii. material differences in the liquidity of the market for the new asset(s);
- (j) the methodology applied to value collateral, calibrate collateral haircut or set concentration limits, as set out in Articles 40 to 42 of the Commission Delegated Regulation (EU) No 153/2013, is changed, such that either:
 - i. the total value of non-cash collateral decreases or increases by more than 10%; or
 - ii. haircuts on one or more securities accepted as collateral decrease or increase by more than 10 percentage points;

Provided that the CCP's proposed change does not fulfil any criteria for the extension of CCP's authorisation specified in Article 2.

Article 8

Indicators for significant changes to CCP's models and parameters

The indicators for significant changes to CCP's models and parameters shall be as follows:

- (a) The CCP's proposed change leads to an adjustment of the pre-funded financial resources in one or more of the following manners:
 - i. a decrease or increase of the total pre-funded financial resources, including margin requirements, default fund and skin-in-the-game, greater than 5%;
 - ii. a decrease or increase of a default fund greater than 5%;
 - iii. a decrease or increase of the margin requirements or stress test exposures on an individual underlying, a class of financial instruments, greater than 10%;
 - iv. a decrease or increase of the margin requirements or stress test exposures of any clearing member, greater than 10%;
- (b) The CCP's proposed change leads to a decrease or increase of the haircut due to a change in the methodology, on one or more securities accepted as collateral, greater than 5 percentage points;
- (c) The CCP's proposed change leads to a decrease or increase of the estimated liquidity needs in any currency, or of the total liquidity needs, greater than 5%;
- (d) The CCP's proposed change leads to the introduction or modification of one or more of the following:
 - i. the method used to calibrate the parameters, the set of risk factors, or other assumptions of the risk model;
 - ii. a pricing model;
 - iii. pricing histories or the methodology to address missing or incomplete time series;
 - iv. procedures detecting pricing uncertainties or ensuring reliable settlement prices;
 - v. Data used as input to risk models, operational or organizational developments linked to the change;
- (e) The CCP's proposed change implies the development of new stress scenarios, including either historical or hypothetical scenarios or both, or the modification of the calibration or definition of the existing scenarios, for the purpose of determining default fund exposures, collateral haircut, liquidity risk, credit and counterparty risk or operational risk;
- (f) The CCP intends to offer a new access model, or to offer clearing services to a new type of clearing members with different risk profile and characteristics than the current ones.

Article 9

College consultation on criteria for significant changes to CCP's models and parameters

1. Where, following the assessment in accordance with Article 6(2), the CCP's competent authority considers that one or more of the criteria set out in Article 7 are fulfilled by the CCP's proposed change, the CCP's competent authority shall inform the college and provide the college with a detailed description of the CCP's proposed change and the CCP's competent authority's assessment of why it considers that one or more of the criteria are fulfilled by the CCP's proposed change. The CCP's competent authority shall give sufficient time to the members of the college to express their views on whether the CCP's proposed change fulfils any of the criteria set out in Article 7.
2. Unless the majority of the members of the college disagrees that one or more of the criteria set out in Article 7 are fulfilled by the CCP's proposed change, the conditions for significant changes to CCP's models and parameters shall be considered met. The competent authority shall inform the CCP thereof.
3. Where the majority of the members of the college disagrees that one or more of the criteria set out in Article 7 are fulfilled by the CCP's proposed change, they may request that a college discussion be organised. Sufficient time for discussions between college members shall be provided. The CCP's competent authority shall consider the views expressed by the members of the college when finalising its assessment of whether one or more of the criteria set out in Article 7 are fulfilled by the CCP's proposed change. If the CCP's competent authority's final assessment concludes that one or more of the criteria are fulfilled by the CCP's proposed change, the conditions for significant changes to CCP's models and parameters shall be considered met. The competent authority shall inform the CCP thereof.

Article 10

College consultation on indicators for significant changes to CCP's models and parameters

1. Where, following the assessment in accordance with Article 6(2), a CCP's competent authority considers that one or more of the indicators set out in Article 8 are fulfilled by the CCP's proposed change, and at the same time the CCP's competent authority considers that none of the criteria set out in Article 7 are fulfilled by the CCP's proposed change, the CCP's competent authority shall inform the college and provide the college with a detailed description of the CCP's proposed change. In addition, the CCP's competent authority shall provide the college with its initial analysis of whether the conditions for significant changes to CCP's models and parameters are met by the CCP's proposed change.

2. The CCP's competent authority shall give sufficient time to the members of the college to express their views on the CCP's competent authority's initial analysis of whether the conditions for significant changes to CCP's models and parameters are met by the CCP's proposed change.
3. Where one or more members of the college disagree with the CCP's competent authority's initial analysis, any member of the college may request that a college discussion be organised. Sufficient time for discussions between college members shall be provided. Members of the college shall explain any dissenting views in detail.
4. The CCP's competent authority shall consider the views expressed by the members of the college when finalising its analysis of whether the conditions for significant changes to CCP's models and parameters are met by the CCP's proposed change. When the CCP's competent authority's final analysis concludes that the conditions for significant changes to CCP's models and parameters are met the competent authority shall inform the CCP thereof.

Article 11

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Commission

The President