BANKING AND FINANCE

Call for evidence: EU regulatory framework for financial services

Fields marked with * are mandatory.

Introduction

The Commission is looking for empirical evidence and concrete feedback on:

- A. Rules affecting the ability of the economy to finance itself and growth;
- B. Unnecessary regulatory burdens;
- C. Interactions, inconsistencies and gaps;
- D. Rules giving rise to unintended consequences.

It is expected that the outcome of this consultation will provide a clearer understanding of the interaction of the individual rules and cumulative impact of the legislation as a whole including potential overlaps, inconsistencies and gaps. It will also help inform the individual reviews and provide a basis for concrete and coherent action where required.

Evidence is sought on the impacts of the EU financial legislation but also on the impacts of national implementation (e.g. gold-plating) and enforcement.

Feedback provided should be supported by relevant and verifiable empirical evidence and concrete examples. Any underlying assumptions should be clearly set out.

Feedback should be provided only on rules adopted by co-legislators to date.

Please note: In order to ensure a fair and transparent consultation process **only responses received through our online questionnaire will be taken into account** and included in the report

summarising the responses. Should you have a problem completing this questionnaire or if you require particular assistance, please contact fisma-financial-regulatory-framework-review@ec.europa.eu.

More information:

- on this consultation
- on the protection of personal data regime for this consultation

1. Information about you

* Are you replying as:
  - a private individual
  - an organisation or a company
  - a public authority or an international organisation

* Name of your organisation:

ABN AMRO Clearing Bank N.V.

Contact email address:

The information you provide here is for administrative purposes only and will not be published

aac.regulatory@nl.abnamro.com

* Is your organisation included in the Transparency Register?
(If your organisation is not registered, we invite you to register here, although it is not compulsory to be registered to reply to this consultation. Why a transparency register?)
  - Yes
  - No

* Type of organisation:
  - Academic institution
  - Consultancy, law firm
  - Industry association
  - Non-governmental organisation
  - Trade union
  - Company, SME, micro-enterprise, sole trader
  - Consumer organisation
  - Media
  - Think tank
  - Other

* Where are you based and/or where do you carry out your activity?

The Netherlands

* Field of activity or sector (*if applicable*):

at least 1 choice(s)

- Accounting
- Auditing

- [x] Banking
- [ ] Consumer protection
- [ ] Credit rating agencies
- [ ] Insurance
- [ ] Pension provision
- [ ] Investment management (e.g. hedge funds, private equity funds, venture capital funds, money market funds, securities)
- [ ] Market infrastructure operation (e.g. CCPs, CSDs, Stock exchanges)
- [ ] Social entrepreneurship
- [x] Other
- [ ] Not applicable

* Please specify your activity field(s) or sector(s):

General Clearing Member (GCM)

Important notice on the publication of responses

* Contributions received are intended for publication on the Commission's website. Do you agree to your contribution being published?
(see specific privacy statement)

- (•) Yes, I agree to my response being published under the name I indicate (*name of your organisation/company/public authority or your name if your reply as an individual*)
- ( ) No, I do not want my response to be published

2. Your feedback

In this section you will have the opportunity to provide evidence on the 15 issues set out in the consultation paper. You can provide up to 5 examples for each issue.

If you would like to submit a cover letter or executive summary of the main points you will provide below, please upload it here:

- **684beff4-c62b-4b56-b27a-507ad8c96e9b/20162801 Call for evidence Final.pdf**

Please choose at least one issue from at least one of the following four thematic areas on which you would like to provide evidence:

A. Rules affecting the ability of the economy to finance itself and grow

You can select one or more issues, or leave all issues unselected

- [ ] Issue 1 - Unnecessary regulatory constraints on financing
- [x] Issue 2 - Market liquidity
- [ ] Issue 3 - Investor and consumer protection
- [x] Issue 4 - Proportionality / preserving diversity in the EU financial sector

Issue 2 – Market liquidity

Please specify whether, and to what extent, the regulatory framework has had any major positive or negative impacts on market liquidity. Please elaborate on the relative significance of such impact in comparison with the impact caused by macroeconomic or other underlying factors.

How many examples do you want to provide for this issue?

(•) **1** example ( ) **2** examples ( ) **3** examples ( ) **4** examples ( ) **5** examples

Please fill in the fields below. For any additional documentation, please use the upload button at the end of the section dedicated to this issue.

Example 1 for Issue 2 (Market liquidity)

* **To which Directive(s) and/or Regulation(s) do you refer in your example?**

Please select at least one item in the list of the main adopted EU legislative acts below.
Please do not tick the "other" box unless the example you want to provide refers to an legislative act which is not in the list (other adopted EU legislative acts, national legislative acts, etc..). In that case, please specify in the dedicated text box which other legislative act(s) the example refers to.

- [ ] Accounting Directive
- [ ] AIFMD (Alternative Investment Funds Directive)
- [ ] BRRD (Bank recovery and resolution Directive)
- [ ] CRAs (credit rating agencies)- Directive and Regulation
- [x] CRR III/CRD IV (Capital Requirements Regulation/Directive)
- [ ] CSDR (Central Securities Depositories Regulation)
- [ ] DGS (Deposit Guarantee Schemes Directive)
- [ ] Directive on non-financial reporting
- [ ] ELTIF (Long-term Investment Fund Regulation)
- [x] EMIR (Regulation of OTC derivatives, Central Counterparties and Trade Repositories)
- [ ] E-Money Directive
- [ ] ESAs regulations (European Supervisory Authorities)
- [ ] ESRB (European Systemic Risk Board Regulation)
- [ ] EuSEF (European Social Entrepreneurship Funds Regulation)
- [ ] EuVECA (European venture capital funds
- [ ]

Regulation)

- [ ] FCD (Financial Collateral Directive)
- [ ] FICOD (Financial Conglomerates Directive)
- [ ] IGS (Investor compensation Schemes Directive)
- [ ] IMD (Insurance Mediation Directive)
- [ ] IORP (Directive on Institutions of Occupational Retirement Pensions)
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- [ ] Omnibus II: new European supervisory framework for insurers
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- [ ] PD (Prospectus Directive)
- [ ] PRIPS (Packaged retail and insurance-based investment products Regulation)
- [ ] PSD (Payment Services Directive)
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- [ ] SSM Regulation (Single Supervisory Mechanism)
- [ ] SSR (Short Selling Regulation)
- [ ] Statutory Audit - Directive and Regulation
- [ ] Transparency Directive
- [ ] UCITS (Undertakings for collective investment in transferable securities)
- [ ] Other Directive(s) and/or Regulation(s)

* **Please provide us with an executive/succinct summary of your example:**
(If applicable, mention also the articles of the Directive(s) and/or Regulation(s) selected above and referred to in your example)

GCMs such as AAC are key intermediaries for their clients, which in our case includes principal trading groups, commodity trading groups and selected asset managers and hedge funds. AAC is a provider of market access, execution, clearing and settlement services and operates in a heavily regulated global environment. The key role of the GCMs is to guarantee their client's performance to all (central) counterparties. As a result of the implementation of MiFIDii and MiFIR, the number of market participants requiring authorisation as an investment firm is likely to increase. The cumulative effect of the regulatory framework for investment firms has significant implications for commodity trading groups, asset managers and principal traders that deal on own account in order to perform essential market making and liquidity provision functions. Such groups are particularly concerned about their compliance to the framework of CRDIV/CRR, most notably concerning

capital, leverage, liquidity and remuneration. AAC is concerned that the regulatory burden for such players is prompting some of them to consider moving their business outside the European Economic Area (EE) which could potentially affect market liquidity in the EEA.

* **Please provide us with supporting relevant and verifiable empirical evidence for your example:**
(please give references to concrete examples, reports, literature references, data, etc.)

Market Makers and Liquidity Providers

Under MiFIDii/MiFIR, principal traders are likely to be in scope of the expanded authorisation requirements resulting from the nature of their business including exchange memberships, using direct electronic access (DEA) or utilising (high frequency) algorithmic trading techniques. Market makers and liquidity providers perform essential services to facilitate efficient price discovery in the global markets using their own proprietary capital; they represent up to 25-40% of turnover on global markets. Given their nature, this is predominantly volume that generates liquidity rather than consuming it. Market makers ensure there is a buyer for every sell order and a seller for every buy order at any time, including times of market stress. In return for providing this liquidity, market makers seek economic returns based on trade spreads maintaining risk-neutral portfolios. Such players only put their proprietary capital at risk. The majority of these players operate a global business model driven by technology and diversified (algorithmic) trading strategies. Market makers are a critical source of liquidity in the European and global financial markets where they play a key role in contributing to stable, reliable, efficient and well-functioning markets. If such players leave the European markets, market liquidity could be seriously affected leading to higher spreads, lower volumes, more volatility and greater systemic risk. Lastly, market makers and liquidity providers operate in a competitive market and employ highly qualified individuals. Since only proprietary capital is put at risk, individuals are rewarded based on the merits of the trading strategies of the firm. Under CRDIV, such firms are confronted with prescriptive remuneration policies that are not in line with such business models. As their employees generally have an international profile, they can become incentivized to move to firms outside of the EEA putting valuable resources and strategies of EEA-based liquidity providers at risk.

Commodity Trading Groups

The larger commodity traders expect to be classified as an investment firm uner MIFIDII . As such , capital requirements (CRR / CRDIV) and the position limits regime will apply to them. Most of the commodity traders underline that the position limit regime will be the most restrictive requirement within the MiFIDII framework. As a result of 1.) unclarity around the scope of hedging exemptions, 2.) ancillary activities calculations, and 3.) potentially restrictive position limits, an unintended consequence may be that it such players move their the business outside of the EEA and push commodity traders in a direction not to hedge their portfolios. We note that a number of

commodity traders are already involved in discussions with some of the leading exchange trading venues to move (''duplicate'') some of their important contracts to exchange venues outside of the EEA. In addition, some traders consider to organise their physical business and associated hedging within an entity that can retain the use of hedge exemption and that the more 'speculative side' of their business will go into the MIFID II entity which will be restricted from the hedge exemption.

Asset managers and hedge funds

As for the entities listed above , the asset management community also comes in scope of the stricter CRDIV requirements on capital, liquidity, leverage and remuneration. Compliance with the CRDIV/CRR requirements can impose onerous obligations on firms and may impede a firm's ability to hedge risks of i.e. retirement portfolios. Such firms might find that the weight of regulatory capital requirements is disproportionately heavy, given their relatively limited contribution to systemic risks and the fact that asset managers are not direct holders of client deposits and/or monies.

Although we note an emerging understanding among policy makers that more proportionality is required for different types of investment firms, the end result is that when these players leave the European markets it will have grave consequences for market liquidity. This could result in higher prices for consumers of food and energy in the "real economy", as well as for employees relying on professionals to manage their retirement portfolio. An indirect consequence is that when the number of GCMs is decreasing as a result of prudential requirements, principal trading groups, commodity trading groups and asset managers will face a reduction in choice of providers and risk diversification. Moreover, the netting limitation under the Leverage Ratio (LR) framework may lead to market participants becoming incentivized towards placing a tailored bi-lateral OTC trade rather than trade in the more liquid and transparent centrally cleared markets.

*** If you have suggestions to remedy the issue(s) raised in your example, please make them here:**

AAC appreciates that the activities of principal trading groups, commodity trading groups and asset managers / hedge funds as participants in the European financial markets require clear oversight, transparency of trading activities, authorization and supervision, as well as a level playing field in terms of business conduct. At the same time, if regulation is not tailored accordingly to the type of business and risk profile of such players, it could risk irreparable damage to the wider industry, leading to a reduction in market participants, a trading shift to non-EU venues and reduced liquidity. This particularly holds for entities that only trade with proprietary capital and do not put client money at risk, nor face taxpayer bail-outs in case of default.

AAC believes that for investment firms more proportionality for investment firms under CRDIV/CRR is required. This should be based on the type of

activities, particularly whether or not client money is put at risk or their role in the financial markets infrastructure (i.e. whether they have a direct membership of a CCP or not). This profile should be based on a careful assessment of where market, operational and systemic risks are concentrated. The severity and scope of the CRDIV/CRR requirements should be based on that profile.

We note that a GCM can play a key role in this process as market access provider and guarantor of its client's performance. The guarantee of transactions helps prevent disruptions in the execution and settlement, and prevents losses for the counterparties of the client in the event of its failure. By virtue of its construct and existing legal framework in Europe, GCMs generally act as principal towards its (central) counterparties, but for the risk and account of its clients. In this way, the GCM not only guarantees its clients' obligations, but remains subject to most stringent regulatory and financial requirements that ensure the quality and suitability of their underlying clients, thus mitigating potential systemic risks. GCMs that are banks will become subject to even stricter capital requirements under the CRDIV/CRR framework for the services they provide on behalf of their clients. As a result of the services provided, GCMs already operate in a strict and comprehensive pre-trade, post-trade, credit, market and operational risk management framework. They have robust pre-boarding and on-boarding processes in place which assess and verify the suitability of potential clients through 1.) KYC and AML validations, 2.) credit risk assessments, 3.) operational and technical due diligence, 4.) trader competence, and 5.) analysis of the proposed trading strategies.

In general, GCMs receive income from their clients on the basis of a fixed fee structure . This ensures that the GCMs always have an incentive aligned with the market; it is not in the GCM's interest to compromise on its client's risk management, nor do GCMs share in any upside of the trading activities of their clients. A GCM will thus always consider the robustness of its own risk management and its clients' risk management as one of the most crucial elements of their activity.

Clients are reviewed frequently to ensure the client (and its strategy) operate within the agreed limits and to ensure that the activities of the clients pose no risk to the GCM or the wider market. Moreover, GCMs have real-time risk management and monitoring processes in place to safeguard against potential market abuse, trading errors and other operational and compliance issues. MiFIDII will ensure further standardisation and transposition of existing guidelines into primary legislation at EEA level augmenting the existing framework.
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As a result, where the GCM plays the guaranteeing role and is responsible for the transactions of clients that deal with proprietary capital, we believe that proportional relief should be provided on the scope the CRDIV/CRR rules based on their market, operational and systemic risk profile, and whether the positions are guaranteed by a GCM, i.e. the higher the risk, the stricter your requirements under CRDIV/CRR. While AAC is in favour of limited risk-based

capital requirements for clients resulting from its exposure to CCPs and/or counterparties guaranteed by the GCM, we believe the scope of such relief should extend to the organisational requirements aimed at other types of institutions and risk profiles under CRDIV/CRR, particularly related to remuneration policies.

If you have further quantitative or qualitative evidence related to issue 2 that you would like to submit, please upload it here:

Issue 4 – Proportionality / preserving diversity in the EU financial sector

Are EU rules adequately suited to the diversity of financial institutions in the EU? Are these rules adapted to the emergence of new business models and the participation of non-financial actors in the market place? Is further adaptation needed and justified from a risk perspective? If so, which, and how?

How many examples do you want to provide for this issue?

(•) **1** example ( ) **2** examples ( ) **3** examples ( ) **4** examples ( ) **5** examples

Please fill in the fields below. For any additional documentation, please use the upload button at the end of the section dedicated to this issue.

Example 1 for Issue 4 (Proportionality / preserving diversity in the EU financial sector)

* **To which Directive(s) and/or Regulation(s) do you refer in your example?**

Please select at least one item in the list of the main adopted EU legislative acts below.
Please do not tick the "other" box unless the example you want to provide refers to an legislative act which is not in the list (other adopted EU legislative acts, national legislative acts, etc..). In that case, please specify in the dedicated text box which other legislative act(s) the example refers to.

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- [ ] CRAs (credit rating agencies)- Directive and Regulation
- [x] CRR III/CRD IV (Capital Requirements Regulation/Directive)
- [ ] CSDR (Central Securities Depositories Regulation)
- [ ] DGS (Deposit Guarantee Schemes Directive)
- [ ] Directive on non-financial reporting
- [ ] ELTIF (Long-term Investment Fund
- [x] EMIR (Regulation of OTC derivatives, Central

Regulation)

- [ ] E-Money Directive
- [ ] ESRB (European Systemic Risk Board Regulation)
- [ ] EuVECA (European venture capital funds Regulation)
- [ ] FICOD (Financial Conglomerates Directive)
- [ ] IMD (Insurance Mediation Directive)
- [ ] Life Insurance Directive
- [ ] MCD (Mortgage Credit Directive)
- [x] MiFID II/R (Markets in Financial Instruments Directive & Regulation)
- [ ] Omnibus I (new EU supervisory framework)
- [ ] PAD (Payments Account Directive)
- [ ] PRIPS (Packaged retail and insurance-based investment products Regulation)
- [ ] Qualifying holdings Directive
- [ ] Reinsurance Directive
- [ ] SFD (Settlement Finality Directive)
- [ ] Solvency II Directive
- [ ] SSM Regulation (Single Supervisory Mechanism)
- [ ] Statutory Audit - Directive and Regulation
- [ ] UCITS (Undertakings for collective investment in transferable securities)

Counterparties and Trade Repositories)

- [ ] ESAs regulations (European Supervisory Authorities)
- [ ] EuSEF (European Social Entrepreneurship Funds Regulation)
- [ ] FCD (Financial Collateral Directive)
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- [ ] MIF (Multilateral Interchange Fees Regulation)
- [ ] Motor Insurance Directive
- [ ] Omnibus II: new European supervisory framework for insurers
- [ ] PD (Prospectus Directive)
- [ ] PSD (Payment Services Directive)
- [ ] Regulations on IFRS (International Financial Reporting Standards)
- [ ] SEPA Regulation (Single Euro Payments Area)
- [ ] SFTR (Securities Financing Transactions Regulation)
- [ ] SRM (Single Resolution Mechanism Regulation)
- [ ] SSR (Short Selling Regulation)
- [ ] Transparency Directive
- [ ] Other Directive(s) and/or Regulation(s)

* **Please provide us with an executive/succinct summary of your example:**
(If applicable, mention also the articles of the Directive(s) and/or Regulation(s) selected above and referred to in your example)

AAC believes ETD and OTC instruments have inherently different characteristics and risks profiles based on the following characteristics: EMIR and CRR rules on CCP exposures and default funds insufficiently take the different characteristics and risks of ETD and OTC instruments into account insufficiently. AAC is a strong proponent of recognising these inherently different risk profiles and making a clearer differentiation in terms of

exposure calculations towards CCPs and their default funds.

* **Please provide us with supporting relevant and verifiable empirical evidence for your example:**
(please give references to concrete examples, reports, literature references, data, etc.)

General:
- General:
- All ETDs are executed on an a regulated exchange or regulated multilateral trading facility (no bilateral transaction preceding it compared to cleared OTC transactions);
- ETDs are standardised ("plain vanilla") products;
- ETD markets are global in nature and highly liquid;
- Complex trades are seen as one single transaction position through netting, quick close-out and margining;
- ETDs are CCP-cleared and of limited duration;
- The ETD market served as blueprint for current cleared OTC derivative rules given its strong track record in times of stress with only few historical examples of CCP defaults.

Economic:
- Highly liquid global markets;
- ETDs are primarily used as risk limiting transactions (futures/options);
- ETDs are fully collateralised on a daily basis (initial and variation margin);

Legal:
- Close-out netting in case of default

The futures market has a very strong track record with only very limited known occasions of CCP default fund use. These examples are limited to the failure of the Hong Kong Futures Exchange in the wake of the global stock market crash in 1987, and the default of HanMag Securities in Korea prompting default fund use of the KRX CCP in 2013. The futures market also remained largely unaffected by the crisis in 2008. Moreover, it also served as the blueprint for the current rules for mandatory OTC clearing rules in the wake of the G20 Agreements of 2009.

* **If you have suggestions to remedy the issue(s) raised in your example, please make them here:**

We strongly believe a more vertical model at CCPs – with segmented default funds for different asset classes and appropriate risk weightings – would be beneficial from both a Risk Weighted Asset (RWA) perspective, as well as for the eventual recovery or resolution of a CCP. Also, the recovery or resolution of a mono-product CCP is likely to be more straightforward compared to a multi-product CCP in times of stress. Recovery or resolution of the business

is probably not required with interoperating CCPs (as already known in the equities sphere), while a CCP clearing ETDs is usually strongly related to an exchange.

If you have further quantitative or qualitative evidence related to issue 4 that you would like to submit, please upload it here:

B. Unnecessary regulatory burdens

You can select one or more issues, or leave all issues unselected

- [x] Issue 5 - Excessive compliance costs and complexity
- [x] Issue 6 - Reporting and disclosure obligations
- [ ] Issue 7 - Contractual documentation
- [ ] Issue 8 - Rules outdated due to technological change
- [x] Issue 9 - Barriers to entry

Issue 5 – Excessive compliance costs and complexity

In response to some of the practices seen in the run-up to the crisis, EU rules have necessarily become more prescriptive. This will help to ensure that firms are held to account, but it can also increase costs and complexity, and weaken a sense of individual responsibility. Please identify and justify such burdens that, in your view, do not meet the objectives set out above efficiently and effectively. Please provide quantitative estimates to support your assessment and distinguish between direct and indirect impacts, and between one-off and recurring costs. Please identify areas where they could be simplified, to achieve more efficiently the intended regulatory objective.

How many examples do you want to provide for this issue?

(•) **1** example ( ) **2** examples ( ) **3** examples ( ) **4** examples ( ) **5** examples

Please fill in the fields below. For any additional documentation, please use the upload button at the end of the section dedicated to this issue.

Example 1 for Issue 5 (Excessive compliance costs and complexity)

* **To which Directive(s) and/or Regulation(s) do you refer in your example?**

Please select at least one item in the list of the main adopted EU legislative acts below.

Please do not tick the "other" box unless the example you want to provide refers to an legislative act which is not in the list (other adopted EU legislative acts, national legislative acts, etc..). In that case, please specify in the dedicated text box which other legislative act(s) the example refers to.

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- [ ] Statutory Audit - Directive and Regulation
- [ ] Transparency Directive

☐ UCITS (Undertakings for collective investment in transferable securities)

☐ Other Directive(s) and/or Regulation(s)

* **Please provide us with an executive/succinct summary of your example:**
(If applicable, mention also the articles of the Directive(s) and/or Regulation(s) selected above and referred to in your example)

It is of crucial importance that the negotiations between the European Commission and the Commodities Futures Trading Commission on the topic of CCP equivalency reach a conclusion as soon as possible. Since AAC and its clients operate a global business model, we believe a level playing field is key in the global derivative markets. AAC continues to be particularly concerned about the lack of progress on negotiations between the EU and the US on CCP equivalency. Given the importance of the transatlantic exchange-traded derivatives markets, failure to resolve this standoff results in a significant (up to thirtyfold) increase in RWA for European clearers with exposures on US CCPs, potentially even affecting financial stability in Europe. For AAC, the main impact will be the exposure to the default fund contributions of US CCPs. The increased RWA charge for NQCCPs in the US will have an impact on AAC's overall regulatory capital.

* **Please provide us with supporting relevant and verifiable empirical evidence for your example:**
(please give references to concrete examples, reports, literature references, data, etc.)

AAC welcomes the current ESMA consultation on the revision of EMIR Article 26 in order to assess the appropriateness of allowing a one-day liquidation period for financial instruments cleared at EMIR authorised CCPs for client accounts calculated on a gross basis as an alternative model.

Since one of the purposes of the consultation is to reach better alignment with the United States, AAC needs to underline that global markets generally benefit from a level playing field that takes local market practice, rules and regulations into account, rather than a prescriptive one-size-fits-all approach with respect to acceptable margin models, MPOR and client account types.

In that context, while AAC believes that one-day gross margin requirements for Omnibus Settlement Account (OSA) accounts (for client portfolios which are not directional, but netted) may be larger than two-day net margin requirements, there are some very key differences between the EEA and US markets that are not addressed in the Discussion Paper, but are very relevant for the discussion:

• The US model allows cross-margining for positions held at several CCPs, which lowers the overall margin requirements, see for example the margining rules with Option Clearing Corporation . This cross-margining is

offered for certain financial instruments (equity index derivatives) and for certain market participants (designated market participants) only. It should be noted however that these market participants are often the liquidity providers on those financial markets on which they are active.

• The US financial markets are more concentrated with respect to CCPs. This means that a client is more likely to have its positions with one CCP benefitting from portfolio margining effects. For example, practically all equity trades are cleared through one CCP and there are also fewer derivatives CCP than in Europe.Furthermore, ACC would like to point out that client collateral can not only be segregated at the level of the CCP, but also at the level of the clearing member. This can be important for e.g. market makers/liquidity providers participating in multiple (cross-jurisdictional) financial markets or several CCPs through its clearing member.

As such, market makers and/or liquidity providers benefit from posting collateral at its clearing member who can transform or directly use this to cover margin requirements on multiple CCPs, enabling liquidity in the European financial markets. Therefore, AAC believes that the existing two-day net model for OSA better fits the European market infrastructure given its more fragmented nature and because it is unfamiliar with the concept of cross margining (and the number of interoperable CCP especially with regard to derivatives of the market is currently limited - which may change under MiFIDII). Prescribing gross margin requirements for OSA in general might decrease flexibility and thus hinder the role of market makers and liquidity providers.

* **If you have suggestions to remedy the issue(s) raised in your example, please make them here:**

AAC believes that the one-day gross margin requirement rule is fit for the US markets infrastructure as a key element of their specific local risk framework and should therefore be recognised as such. However, for most of the European market infrastructures, the two-day net margin requirements for OSA better fits the structure of the markets, rather than a one-day gross margin requirement with various additional conditions. This prompts AAC to be a strong proponent of a level playing field tailored to the specific local context and recognising the one-day gross model in the specific context of the US and other relevant third countries.

If you have further quantitative or qualitative evidence related to issue 5 that you would like to submit, please upload it here:

Issue 6 – Reporting and disclosure obligations

The EU has put in place a range of rules designed to increase transparency and provide more information to regulators, investors and the public in general. The information contained in these requirements is necessary to improve oversight and confidence and will ultimately improve the functioning of markets. In some areas, however, the same or similar information may be required to be reported more than once, or requirements may result in information reported in a way which is not useful to provide effective oversight or added value for investors.

Please identify the reporting provisions, either publicly or to supervisory authorities, which in your view either do not meet sufficiently the objectives above or where streamlining/clarifying the obligations would improve quality, effectiveness and coherence. If applicable, please provide specific proposals.

Specifically for investors and competent authorities, please provide an assessment whether the current reporting and disclosure obligations are fit for the purpose of public oversight and ensuring transparency. If applicable, please provide specific examples of missing reporting or disclosure obligations or existing obligations without clear added value.

How many examples do you want to provide for this issue?

(•) **1** example ( ) **2** examples ( ) **3** examples ( ) **4** examples ( ) **5** examples

Please fill in the fields below. For any additional documentation, please use the upload button at the end of the section dedicated to this issue.

Example 1 for Issue 6 (Reporting and disclosure obligations)

* **To which Directive(s) and/or Regulation(s) do you refer in your example?**

Please select at least one item in the list of the main adopted EU legislative acts below.
Please do not tick the "other" box unless the example you want to provide refers to an legislative act which is not in the list (other adopted EU legislative acts, national legislative acts, etc..). In that case, please specify in the dedicated text box which other legislative act(s) the example refers to.

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- [ ] BRRD (Bank recovery and resolution Directive)
- [ ] CRAs (credit rating agencies)- Directive and Regulation
- [ ] CRR III/CRD IV (Capital Requirements Regulation/Directive)
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- [ ] Directive on non-financial reporting
- [ ] ELTIF (Long-term Investment Fund Regulation)
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- [ ] FICOD (Financial Conglomerates Directive)
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- [ ] Transparency Directive
- [ ] UCITS (Undertakings for collective investment in transferable securities)
- [x] Other Directive(s) and/or Regulation(s)

* **Please specify to which other Directive(s) and/or Regulation(s) you refer in your example?**
(Please be short and clear: state only the common name and/or reference of the legislative act(s) you refer to.)

REMIT

* **Please provide us with an executive/succinct summary of your example:**
(If applicable, mention also the articles of the Directive(s) and/or Regulation(s) selected above and referred to in your example)

AAC notes that the various reporting obligations enacted as part of the G20 commitments have had the most significant organizational and IT impact. Although we are a strong proponent of increasing market transparency and predictability, we believe a range of these obligations could have benefitted from 1.) more alignment with existing market practice, 2.) more analysis on applicability and workings and 3.) rational implementation timelines taking organizational complexities and available solutions into account.

* **Please provide us with supporting relevant and verifiable empirical evidence for your example:**
(please give references to concrete examples, reports, literature references, data, etc.)

Furthermore, we note a significant overlap between various reporting requirements, most notably for exchange-traded derivatives. In this case, much of the same information that is already reported under MIFiD will also have to be reported under EMIR. In the case of gas and electricity derivatives, the same product is again reported under REMIT. Given the complexities of IT landscapes and the differences between systems and requirements, timelines have been challenging for the majority of the industry. In the case of EMIR in particular, the short implementation timeline leads to serious data quality and matching issues between counterparties and trade repositories. We therefore seriously question whether the current data is fit for purpose. In addition, institutions were also confronted with significant investments.

Regarding clients, we note that a large number of market participants have delegated their reporting obligation under EMIR to third parties, most notably banks, brokers and/or GCMs. Market participants that have not delegated reporting are obviously required to report their respective trade-leg themselves. However, AAC is concerned that market participants do not always report their part of the transactions. AAC has limited control over this process. Furthermore, given the issues surrounding inter-TR matching, it is not always clear whether the client has reported and whether a transaction can be matched. Essential parts of the transaction may therefore not be visible to the regulator.

In addition, AAC notes that client identifiers (muost notable the LEI) have faced challenges to a wide uptake and maintenance by market participants. This specifically concerns smaller entities. Many market participants do still not have a LEI while others do not renew or maintain it. A common concern cited are high costs and administrative issues. Since the LEI is key for correct reporting of transactions, AAC is concerned about how this development affects its ability to report data correctly as result of dependency on clients.

* **If you have suggestions to remedy the issue(s) raised in your example, please make them here:**

We are a firm believer in the benefits of having transparent market data available. We see a number of different solutions; some of them are already being addressed and under discussion. We welcome the EMIR review where a number of market participants call for ending ETD reporting for EMIR (as this was not envisaged as part of the G20 commitments) and move to single-sided reporting. This would already decrease the burden and is likely to lead to better data quality. A more comprehensive and future-proof solution would be a centralized data collection regulation in an EEA-wide data-warehouse. In this way, market participants will be required to report all relevant data to a centralized depository where regulators, NCAs and other stakeholders will have access to all market data in one place. It would reduce the burden on the

market in having to deal with the number of recipients and different data requirements. For the LEI, possible solutions include a scenario where the LEI requirement is waived for NFCs and/or local identifiers can be used. Another solution could be to waive maintenance fees. Another alternative could include the streamlining of the LEI process to include the possibility for banks to obtain multiple LEIs which it can allocate to its clients at a reduced cost from Local Operating Units.

If you have further quantitative or qualitative evidence related to issue 6 that you would like to submit, please upload it here:

Issue 9 – Barriers to entry

Please document barriers to market entry arising from regulation that the EU should help address. Have the new rules given rise to any new barriers to entry for new market players to challenge incumbents or address hitherto unmet customer needs?

How many examples do you want to provide for this issue?

(•) **1** example ( ) **2** examples ( ) **3** examples ( ) **4** examples ( ) **5** examples

Please fill in the fields below. For any additional documentation, please use the upload button at the end of the section dedicated to this issue.

Example 1 for Issue 9 (Barriers to entry)

* **To which Directive(s) and/or Regulation(s) do you refer in your example?**

Please select at least one item in the list of the main adopted EU legislative acts below.
Please do not tick the "other" box unless the example you want to provide refers to an legislative act which is not in the list (other adopted EU legislative acts, national legislative acts, etc..). In that case, please specify in the dedicated text box which other legislative act(s) the example refers to.

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- [ ] SSR (Short Selling Regulation)
- [ ] Transparency Directive
- [ ] Other Directive(s) and/or Regulation(s)

* **Please provide us with an executive/succinct summary of your example:**
(If applicable, mention also the articles of the Directive(s) and/or Regulation(s) selected above and referred to in your example)

AAC operates a global business model, including a subsidiary based in the United States that offers Direct Electronic Access (DEA) on European trading venues to a number of US-based clients. In general, although we believe MiFIDII and MiFIR do not apply to non-EEA firms without a branch in the EEA,

US Futures Commission Merchants that act as General Clearing Member and/or market access provider on EEA-based venues may be considered to perform investment activities into the EEA under the MiFIDII/MiFIR rules.

* **Please provide us with supporting relevant and verifiable empirical evidence for your example:**
(please give references to concrete examples, reports, literature references, data, etc.)

There is currently a large degree of unclarity on the territorial scope of some of the MiFIDII requirements for entities based out of the EEA that are potentially caught within the remit of Article 2(d). Article 1 of MiFIDII seems to suggest that third country firms without a branch are not in scope of MiFIDII, while MiFIR Article 46 provides for a clear carve-out for entities servicing professional clients and eligible counterparties without a branch following an equivalence decision. Assuming the above, a key issue is whether this changes anything if a third country firm without a branch has a membership on an EU exchange and when it offers DEA services. When an entity is caught under article 46 (1) of MiFIR, and assuming an equivalence decision exists based on article 47 MiFIR, the question is which parts of the MiFID II regime apply, if any.

In addition, for clients trading on an EEA venue, but based out of the EEA, assuming the above, the key issues is again which part the MiFIDII/MiFIR regime is applicable for entities without a branch that take up DEA services, engage in HFT activities and are dealing on own account. If such entities are exempt, we see a clear risk for circumvention by re-establishing EEA entities overseas.

Under MiFIDII, DEA to these trading venues might trigger an authorisation / licencing obligation with various national EEA regulators (e.g. FCA in the UK). This obligation is driven by Article 48(7) of MiFIDII, which stipulates that National Authorities (Member States) shall require regulated markets to only allow the offering of DEA by EEA authorised investment firms and credit institutions. This might therefore require AAC to establish “third-country branches” in a number of locations across the EEA.

Given that these rules are contained in a European Directive, individual EEA countries are required to “transpose” them, as well as wider licencing requirements, into National Law by 3 July 2016. While the European Commission will provide oversight on the National Regimes to ensure harmonisation across the EEA, there is still the potential that individual countries will vary in their approach to Article 48(7).

* **If you have suggestions to remedy the issue(s) raised in your example, please make them here:**

MiFIDII article 4(41) defines DEA as an arrangement where a member or participant or client of a trading venue permits a person to use its trading code, which probably means that it will apply to all members regardless of

their nationality. We also note that MiFID article 48(7) stipulates that Member States require regulated markets to only allow the offering of DEA by authorised investment firms and credit institutions. It is key that the European Commission providers clarity on whether offering DEA and/or participation in or membership of a trading venue amounts to the provision of investment services or activities in the EEA. This could theoretically bring a range of requirements in scope, most notably the DEA requirements of draft RTS 6, depending on the scope of the national regime.

It is expected that these provisions trigger some form of licensing/authorisation under a national regime pending an equivalence decision under article 46 of MiFIR. We believe article 46(4) MiFIR makes clear that in the absence of a relevant equivalence decision, it is for each Member State to determine the basis on which third-country firms may provide investment services or perform investment activities to ECPs and professional clients in their territories in accordance with national regimes. Prior to an equivalence decision, it is for each Member State to determine whether and when a local licensing requirement may apply to a third-country firm, and what exemptions might be available. At the same time, we see a key role for the European Commission to ensure the following:

- Equal rules to all trading venue participants and ensure a non-discriminatory trading environment / level playing field;
- Prevent circumvention of the MiFIDII/MiFIR rules by EEA firms;
- Prevent regulatory arbitrage.

If you have further quantitative or qualitative evidence related to issue 9 that you would like to submit, please upload it here:

C. Interactions of individual rules, inconsistencies and gaps

You can select one or more issues, or leave all issues unselected

- [x] Issue 10 - Links between individual rules and overall cumulative impact
- [x] Issue 11 - Definitions
- [ ] Issue 12 - Overlaps, duplications and inconsistencies
- [x] Issue 13 - Gaps

Issue 10 – Links between individual rules and overall cumulative impact

Given the interconnections within the financial sector, it is important to understand whether the rules on banking, insurance, asset management and other areas are interacting as intended. Please identify and explain why interactions may give rise to unintended consequences that should be taken into

account in the review process. Please provide an assessment of their cumulative impact. Please consider whether changes in the sectoral rules have affected the relevancy or effectiveness of the cross-sectoral rules (for example with regard to financial conglomerates). Please explain in what way and provide concrete examples.

How many examples do you want to provide for this issue?

(●) **1** example ( ) **2** examples ( ) **3** examples ( ) **4** examples ( ) **5** examples

Please fill in the fields below. For any additional documentation, please use the upload button at the end of the section dedicated to this issue.

Example 1 for Issue 10 (Links between individual rules and overall cumulative impact)

* **To which Directive(s) and/or Regulation(s) do you refer in your example?**

Please select at least one item in the list of the main adopted EU legislative acts below.
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- [ ] framework)
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- [ ] Transparency Directive
- [ ] Other Directive(s) and/or Regulation(s)

* **Please provide us with an executive/succinct summary of your example:**
(If applicable, mention also the articles of the Directive(s) and/or Regulation(s) selected above and referred to in your example)

AAC believes that the most notable discrepancy between EMIR and CRR relates to the Leverage Ratio (LR). As discussed in Issue 4, in general, we believe EMIR and CRR s disproportionately affect the ETD market as most of the rules are aimed at OTC products with an inherently different risk profile. This is despite the ETD market having a very strong track record with limited occasions of CCP defaults. The current LR interpretations fail to recognise the business models of a GCM and its clients: trading firms with large inventories and matched positions that cannot, under the current calculation methodology, be netted. Naturally, this has an adverse effect on the sustainability of these business models, as it becomes uneconomic for such trading firms to make markets on trading venues and provide the necessary liquidity in the global ETD market as well as for GCMs to service them.

* **Please provide us with supporting relevant and verifiable empirical evidence for your example:**
(please give references to concrete examples, reports, literature references, data, etc.)

Under the current interpretations and guidance, the concept of netting ETD exposures is not adequately recognised under the applicable calculation methodology (Current Exposure Method - CEM), as the treatment of ETD contracts as OTC derivative contracts triggers multiple ways of interpreting the netting rules (i.e. definition of an individual derivative contract).

Under the Current Exposure Method (CEM) the leverage ratio breaks derivatives exposure for GCMs into two components:

The replacement cost, which is a measure of its current (Mark-to-Market) value;

The potential future exposure (PFE), based on a simple grid, with product nature on one axis and maturity on the other, generating 15 different multipliers that are applied to the notional value of a trade to calculate the PFE add-on

For ETD, AAC believes that a different treatment compared to OTC derivatives would be warranted recognising the applicable netting rules and CCP clearing processes. (

The impact of CEM can be illustrated by the following example.

- Client A and B have positions in Philips options (shares trading at 24EUR) and a contract size equal to 1.
- Client A's position consists of 100 short call Philips options with strike price 24 and expiration in December.
- Client B's position consists of 100 short call Philips options with strike price 24 and expiration in December and 100 long call Philips options with strike price 26 and expiration in December. The table below shows the exposure when the CEM is applied (no netting allowed).

Based on the CEM method Client A receives a total exposure of 2.400 and client B a total exposure of 5.000. However, the total exposure of client B should actually be equal to abs(24-26)*100 = 200 due to offsetting positions.
In the (simplistic) example described above, Client A depicts a trader with an outright position, whereas client B represents a Market Maker.

Market Makers in general ensure there is a buyer for every sell order and a seller for every buy order at any time, including times of market stress. In return for providing this liquidity, market makers seek economic returns based on option trade spreads while they maintain risk-neutral portfolios.
Due to netting not being allowed in the current Leverage Ratio Methodology (i.e. CEM), in the example above, the exposure for the Market Maker (client B) is larger than a trader with an outright position (client A), despite the fact that the credit risk associated with the (risk-constrained) position of the Market Maker is limited to only 200. Whereas the credit risk associated with the position of the trader with an outright position is theoretically unlimited. In sum: The CEM is appropriate for a simple long or a simple short position, however given the example above, the CEM is demonstrably inappropriate risk-constraining used by market makers).

Given the lack of clarity, AAC takes a conservative approach by including all (indirect) individual derivative exposures in the LR and treating all derivative exposure as OTC* based on EBA Single Rulebook Question 2014-798. Using this methodology and interpretation, it is likely to result in the need for capital ratios of over 60% for banks acting as GCM. Consequently, the LR implication will result in a vast increase in capital requirements that comes in addition to the already increased Own Fund requirements for bank exposures to CCPs under CRR.

The current interpretation of the CEM will likely prompt further GCMs in the ETD market to cease activities given the heavy restrictions on netting (capped

at 60%) that will impose overly increased capital requirements.

AAC notes that a number of its peers have already stopped GCM operations, whilst others are re-assessing their business models. This will result in a further lack of choice for end-users and decrease available (global) balance sheet capacity for clearing of all derivatives transactions that are anticipated to become subject to mandatory clearing. More worryingly, a further reduction in the number of available GCMs heightens the risk that clients of a defaulted clearing member will be unsuccessful in porting their positions to a "back-up" GCM. Based on the current LR interpretations, no other GCMs may be able or willing to take up such positions given the impact it will have on its overall exposures.

In sum, AAC believes there are potential systemic complications if the scope, definition and calculation method of the LR remains unchanged. Liquidity at CCPs will be harmed and systemic risk will increase due to contraction of the number of GCMs and liquidity-providers.

* **If you have suggestions to remedy the issue(s) raised in your example, please make them here:**

We point out that a similar issue exists with respect to the risk-weighted asset (RWA) ratio and its treatment of ETDs. The BCBS rightly recognized this and has adopted SA-CCR as a replacement for CEM and the Standardized Method in the context of the RWA ratio, with an agreed upon implementation date of January 1, 2017. (The SA-CCR method is outlined in BCBS Paper 279).

We strongly urge the European Commission to address the unintended consequences and shortcomings of the CEM methodology for CCP exposures by allowing the SA-CCR method as a replacement for CEM in the leverage calculation for ETD exposure. We believe SA-CRR provides better differentiation between margined and unmargined trades and provides more meaningful recognition of netting benefits. The SA-CCR leads to more transparency and a level playing field; it is for reasons such as these that it was adopted in the context of the RWA ratios.

AAB requests the European Commission and the BCBS to undertake further analysis on the proportionality of the LR requirements and align its applicability on institutions with different business models, such as GCMs or trading firms active in the ETD market. We believe that a tailored approach based on proportionality would contribute to a better application and effectiveness of the LR requirements. We already welcome the European Commission’s request to the EBA in this respect. We stand ready to provide input and explain our position and business models.

If you have further quantitative or qualitative evidence related to issue 10 that you would like to submit, please upload it here:

Issue 11 – Definitions

Different pieces of financial services legislation contain similar definitions, but the definitions sometimes vary (for example, the definition of SMEs). Please indicate specific areas of financial services legislation where further clarification and/or consistency of definitions would be beneficial.

How many examples do you want to provide for this issue?

(•) **1** example ( ) **2** examples ( ) **3** examples ( ) **4** examples ( ) **5** examples

Please fill in the fields below. For any additional documentation, please use the upload button at the end of the section dedicated to this issue.

Example 1 for Issue 11 (Definitions)

* **To which Directive(s) and/or Regulation(s) do you refer in your example?**

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* **Please provide us with an executive/succinct summary of your example:**
(If applicable, mention also the articles of the Directive(s) and/or Regulation(s) selected above and referred to in your example)

A number of specific legal issues have also been identified.

* **Please provide us with supporting relevant and verifiable empirical evidence for your example:**
(please give references to concrete examples, reports, literature references, data, etc.)

Client categorization under EMIR: AAC is concerned about the client categorizations for the clearing obligation under EMIR. GCMs and/or banks rely on the classification done by the client, as banks or GCMs are not allowed to do this themselves. In our experience, awareness on the upcoming clearing obligations is extremely low. Since the client categorization affects the

timing of mandatory clearing, it is crucial that more efforts are made to provide clarity on the client categorization.

Definition of derivatives: Under the existing MiFID framework it remains unclear what constitutes a derivative as there are differing rules in member states that hamper a uniform EEA-wide approach. A clear example is whether a FX spot or Forward constitutes a derivative or not.

* **If you have suggestions to remedy the issue(s) raised in your example, please make them here:**

AAC suggests the adoption of a regulation listing the scope of derivatives providing much-needed clarity and avoiding discussions on obligations for financial and non-financial instruments under MiFIDII/MiFIR.

If you have further quantitative or qualitative evidence related to issue 11 that you would like to submit, please upload it here:

Issue 13 – Gaps

While the recently adopted financial legislation has addressed the most pressing issues identified following the financial crisis, it is also important to consider whether they are any significant regulatory gaps. Please indicate to what extent the existing rules have met their objectives and identify any remaining gaps that should be addressed.

How many examples do you want to provide for this issue?

(•) **1** example ( ) **2** examples ( ) **3** examples ( ) **4** examples ( ) **5** examples

Please fill in the fields below. For any additional documentation, please use the upload button at the end of the section dedicated to this issue.

Example 1 for Issue 13 (Gaps)

* **To which Directive(s) and/or Regulation(s) do you refer in your example?**

Please select at least one item in the list of the main adopted EU legislative acts below.

Please do not tick the "other" box unless the example you want to provide refers to an legislative act which is not in the list (other adopted EU legislative acts, national legislative acts, etc..). In that case, please specify in the dedicated text box which other legislative act(s) the example refers to.

- [ ] Accounting Directive
- [ ] AIFMD (Alternative Investment Funds Directive)
- [ ] BRRD (Bank recovery and resolution Directive)
- [ ] CRAs (credit rating agencies)- Directive and Regulation
- [ ] CRR III/CRD IV (Capital Requirements Regulation/Directive)
- [ ] CSDR (Central Securities Depositories Regulation)
- [ ] DGS (Deposit Guarantee Schemes Directive)
- [ ] Directive on non-financial reporting
- [ ] ELTIF (Long-term Investment Fund Regulation)
- [x] EMIR (Regulation of OTC derivatives, Central Counterparties and Trade Repositories)
- [ ] E-Money Directive
- [ ] ESAs regulations (European Supervisory Authorities)
- [ ] ESRB (European Systemic Risk Board Regulation)
- [ ] EuSEF (European Social Entrepreneurship Funds Regulation)
- [ ] EuVECA (European venture capital funds Regulation)
- [ ] FCD (Financial Collateral Directive)
- [ ] FICOD (Financial Conglomerates Directive)
- [ ] IGS (Investor compensation Schemes Directive)
- [ ] IMD (Insurance Mediation Directive)
- [ ] IORP (Directive on Institutions of Occupational Retirement Pensions)
- [ ] Life Insurance Directive
- [ ] MAD/R (Market Abuse Regulation & Criminal Sanctions Directive)
- [ ] MCD (Mortgage Credit Directive)
- [ ] MIF (Multilateral Interchange Fees Regulation)
- [x] MiFID II/R (Markets in Financial Instruments Directive & Regulation)
- [ ] Motor Insurance Directive
- [ ] Omnibus I (new EU supervisory framework)
- [ ] Omnibus II: new European supervisory framework for insurers
- [ ] PAD (Payments Account Directive)
- [ ] PD (Prospectus Directive)
- [ ] PRIPS (Packaged retail and insurance-based investment products Regulation)
- [ ] PSD (Payment Services Directive)
- [ ] Qualifying holdings Directive
- [ ] Regulations on IFRS (International Financial Reporting Standards)
- [ ] Reinsurance Directive
- [ ] SEPA Regulation (Single Euro Payments Area)
- [ ] SFD (Settlement Finality Directive)
- [ ] SFTR (Securities Financing Transactions Regulation)
- [ ] Solvency II Directive
- [ ] SRM (Single Resolution Mechanism Regulation)
- [ ] SSM Regulation (Single Supervisory Mechanism)
- [ ] SSR (Short Selling Regulation)
- [ ] Statutory Audit - Directive and Regulation
- [ ] Transparency Directive

☐ UCITS (Undertakings for collective investment in transferable securities)

☐ Other Directive(s) and/or Regulation(s)

* **Please provide us with an executive/succinct summary of your example:**
(If applicable, mention also the articles of the Directive(s) and/or Regulation(s) selected above and referred to in your example)

AAC welcomes the consultation on indirect clearing under EMIR and MiFIR while it remains concerned about the possible legal implications. AAC appreciates that broad access to CCPs is a key goal of policymakers, but underlines that GCMs are not utilities, and as such can never be obliged to offer clearing services.

* **Please provide us with supporting relevant and verifiable empirical evidence for your example:**
(please give references to concrete examples, reports, literature references, data, etc.)

From a risk-management, commercial and legal perspective GCMs should always have the ability to set clear limits for clients and should be able to refuse certain clients or structures (such as indirect clearing) that are not in line with its their operational, commercial, legal and risk-management structure. Although GCMs are currently not obliged to offer indirect clearing services, however, GCMs cannot differentiate between certain clients or client groups. If a GCM offers indirect clearing it needs to do this for all its clients, and is subsequently unable to differentiate between various clients where this would be preferable. AAC is also concerned about the practical implications related to implementation of new account structures (including at CCP level) and the potential number of underlying indirect clients. In this respect, we support setting clear limitations to the chain of underlying indirect clients. In addition, current local insolvency regimes lead to a wide degree of uncertainty and implications in case of a default of a party in an indirect clearing structure. More clarity is also needed on whether EU-law takes primacy over national insolvency regimes.

* **If you have suggestions to remedy the issue(s) raised in your example, please make them here:**

AAC remains opposed to any mandatory indirect clearing arrangement until these outstanding issues are solved. Offering of indirect clearing services should always remain the prerogative of a GCM. Furthermore, the proposed structure will potentially lead to a situation where no GCM is willing to offer indirect clearing services at all given the legal and operational uncertainties. At the same time, AAC argues that a potential solution to facilitate indirect clearing arrangements should at least include: 1.) clarity on the operational barriers, 2.) the ability for GCM to determine whether indirect clearing would be offered and for which client types, 3.) clarity on the insolvency issues, and 4.) a clear limitation to the number of accounts for indirect clients and

limitations on the chain of participants, i.e. all indirect clients will receive a single account at CCP level rather than one account per client and the number of indirect clients is limited to four.

If you have further quantitative or qualitative evidence related to issue 13 that you would like to submit, please upload it here:

D. Rules giving rise to possible other unintended consequences

You can select one or more issues, or leave all issues unselected

- [ ] Issue 14 - Risk
- [ ] Issue 15 - Procyclicality

Useful links

Consultation details (http://ec.europa.eu/finance/consultations/2015/financial-regulatory-framework-review/index_en.htm)

Consultation document (http://ec.europa.eu/finance/consultations/2015/financial-regulatory-framework-review/docs/consultation-documer

Specific privacy statement (http://ec.europa.eu/finance/consultations/2015/financial-regulatory-framework-review/docs/privacy-statement_en

More on the Transparency register (http://ec.europa.eu/transparencyregister/public/homePage.do?locale=en)

Contact

✉ financial-regulatory-framework-review@ec.europa.eu