

Consultation paper “Draft RTS (under Article 49(5) of EMIR) on the conditions and the list of documents for an application for validation of changes to models and parameters under Articles 49 and 49a of EMIR”

It is important for ISDA members who are clearing members or clients at European CCPs that these CCPs have safe, prudent, and conservative risk management frameworks. While we are supportive of the aim to make EU CCPs more attractive by streamlining supervision, it is also necessary to ensure sufficient supervision and scrutiny over changes to these CCPs’ risk management frameworks.

We have reviewed the consultation paper “[Draft RTS \(under Article 49\(5\) of EMIR\) on the conditions and the list of documents for an application for validation of changes to models and parameters under Articles 49 and 49a of EMIR](#)” (the Consultation). Our comments are very high-level and we therefore have not structured them along the questions in the Consultation.

This response covers the positions of our members that are clearing members. The paper does not reflect the views of many CCPs, and many of the CCPs are in disagreement with the views.

Calibration of numerical thresholds

We appreciate that ESMA has noted that “*the empowerment allows ESMA to set different values for the different points of paragraph 1i of Article 49 of EMIR...*” and that ESMA has made use of this freedom. We assume these thresholds are carefully calibrated, but the consultation paper lacks qualitative and quantitative details on how they were determined. Without this information, we cannot assess the rationale behind using different thresholds for various criteria. Notably, changes to the total margin requirement have a 15% threshold, while changes to individual members' contributions to the default fund can reach 30% before triggering a full review. We understand that you relied on your and national competent authorities’ experience with model reviews and also expert judgement. However, without a clear rationale, we would question why the impact on individual members' contributions to the default fund can reach 30% without model review, whereas other thresholds are much smaller.

Concentration risk

Level 1 of EMIR 3.0 refers to the “*concentration risk a CCP has towards an individual counterparty is changed, such that the CCP’s overall exposure to that counterparty decreases or increases significantly.*”

ESMA interprets this as criteria related to the CCP’s liquidity exposure to individual counterparties. We believe that Level 1 of EMIR 3.0 refers to the concentration add-ons used by many CCPs to account for concentrated positions, where margin increases if a clearing member presents portfolios with a high concentration in certain products. We propose to establish another threshold whether these concentration add-ons change by 15%.

Lookback period

“*ESMA suggests that a CCP should assess the impact of each change, comparing the outcome of current methodology with the outcome of the proposed methodology, using a continuous period of at least 6 months within the 12 months terminating at the application date.*” We are concerned that this provide too much flexibility too CCPs to pick a period with benign changes and propose for ESMA to define what the actual period should be.

Changes that would require full model review

We agree with the list of changes proposed.

About ISDA

Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 1,000 member institutions from 76 countries. These members comprise a broad range of derivatives market participants, including corporations, investment managers, government and supranational entities, insurance companies, energy and commodities firms, and international and regional banks. In addition to market participants, members also include key components of the derivatives market infrastructure, such as exchanges, intermediaries, clearing houses and repositories, as well as law firms, accounting firms and other service providers. Information about ISDA and its activities is available on the Association's website: www.isda.org. Follow us on [X](#), [LinkedIn](#), [Facebook](#) and [YouTube](#).