



EUROPEAN CENTRAL BANK

EUROSYSTEM

# CONSULTATION OF THE EUROPEAN COMMISSION ON “POSSIBLE INITIATIVES TO ENHANCE THE RESILIENCE OF OTC DERIVATIVES MARKETS”

## EUROSYSTEM CONTRIBUTION

### I INTRODUCTION

The Eurosystem welcomes the European Commission’s consultation on possible measures to enhance the resilience of over-the-counter (OTC) derivatives markets. The Eurosystem finds this consultation comprehensive, appropriate and timely. Like other central banks and regulators, the Eurosystem has become increasingly concerned about possible weaknesses in the operational efficiency and resilience, counterparty risk management, transparency and regulatory oversight of OTC derivatives markets. Recent financial market events have underlined that shortcomings, given the large size of OTC derivatives markets and their close linkages with cash markets, may have a negative impact on financial stability and other market infrastructures. Moreover, given the important role of euro-denominated OTC derivatives,<sup>1</sup> any malfunctioning of OTC derivatives markets may have negative repercussions for the euro area, with direct implications for the Eurosystem’s responsibilities for monetary policy and financial stability.

The Eurosystem considers the timely implementation of effective and appropriate measures to enhance the resilience of OTC derivatives markets a priority. Against this background, the Governing Council of the ECB, in its decisions of 18 December 2008 and 16 July 2009, welcomed the progress that has been made towards the introduction of central counterparty (CCP) clearing facilities for OTC credit derivatives and, in line with its earlier statement of September 2001, confirmed the importance of having at least one CCP clearing facility for OTC credit derivatives located within the euro area. In this context, particular priority

will be given to the use of euro area infrastructures for credit default swaps (CDSs) denominated in euro, which will be closely monitored by the Eurosystem in the coming months.

This document presents the Eurosystem’s response to the European Commission consultation. *Section 2* provides some general considerations underpinning the Eurosystem’s position, while *Section 3* contains the Eurosystem’s responses to the questions posed in the consultation.

### 2 GENERAL CONSIDERATIONS

*First, the Eurosystem sees a strong need for appropriate safeguards to ensure adequate operational efficiency and resilience, legal certainty, counterparty risk management and transparency across all OTC derivatives market segments.* The Eurosystem recognises the benefits of both the standardised and the more bespoke OTC derivatives market segments in facilitating well-targeted hedging and trading strategies, thereby complementing the markets for exchange-traded derivatives and cash products and contributing to overall financial market efficiency and development. At the same time, given the size and systemic relevance of OTC derivatives markets, it is essential that all market segments and associated infrastructures meet adequate standards in terms of operational efficiency and resilience, legal certainty,

<sup>1</sup> The share of euro-denominated OTC instruments is estimated to be 36% for interest rate swaps, 45% for OTC equity derivatives and 21% for OTC foreign exchange derivatives in terms of notional amounts outstanding (source: BIS). The euro is also estimated to account for around 39% of turnover in the global credit default swap market (source: CLS and ECB).

counterparty risk management, transparency vis-à-vis the markets and competent public authorities, and regulatory oversight.

*Second, the Eurosystem would like to emphasise the significance of the recently adopted ESCB-CESR recommendations for CCPs as a major contribution to promoting the soundness of centrally cleared derivatives transactions.* One of the remaining challenges is now to ensure the consistent implementation of these recommendations across all EU jurisdictions in order to create the conditions for a true regulatory level playing field in the European clearing landscape. Given the non-binding nature of the ESCB-CESR recommendations, their consistent application will greatly depend on each authority's goodwill in applying the recommendations and cooperating with one another for the sake of establishing a harmonised regulatory and oversight environment in Europe. If the implementation process to be conducted in the coming months reveals that a consistent application of the recommendations is not feasible on the basis of the existing EU legislation and non-binding recommendations, the Eurosystem considers that further measures might be an option.

*Third, as pointed out in the ESCB-CESR recommendations, there are some important aspects which are relevant from a systemic and financial stability point of view but which could not be addressed either in the existing recommendations or by CCPs.* These issues include the growing complexity of market infrastructures in general, interdependencies between payment, clearing and settlement systems, the protection of indirect clearing members, and the role of data repositories. These aspects (all of which are also of relevance for the Commission's future work) should and will be followed up at both the European and the global level in a coordinated manner.

*Fourth, the global nature of OTC derivatives markets highlights the importance of global*

*cooperation and data-sharing among all stakeholders.* A global cooperative framework has already been established through the CDS CCP Regulators' Forum, which aims to facilitate information-sharing and cooperation among financial regulators with respect to the CDS CCPs and the Trade Information Warehouse, as well as with other interested financial regulators. Moreover, cooperation will also be established within the new framework for macro- and micro-prudential supervision, in particular through the European Systemic Risk Board. Furthermore, the duplication of international regulatory efforts by European initiatives should be avoided as far as possible, not least in order to preclude the emergence of inconsistent or even conflicting requirements. In particular, the Eurosystem considers that EU regulatory initiatives should take due account of the ESCB-CESR recommendations as adopted and of the ongoing revision of the CPSS-IOSCO recommendations for CCPs, which will also consider possible issues relating to other infrastructures and service providers in OTC derivatives markets, such as data repositories, and will address several issues raised in the Commission's Communication.

In this context, the Working Group on credit risk transfer statistics reviewed the current semi-annual BIS statistics on CDSs and proposed some enhancements to the statistical information available on risk transfer mechanisms. The recommendations, in particular those on CDS statistics, were approved by the Working Group's parent body, the Committee on the Global Financial System, in June 2009 (see the response to question 23 for more details). They are publicly available.

Finally, the responses to the questions contained in the consultation document in principle address all OTC markets and do not refer to any particular segment of the OTC markets. As a consequence, specific issues concerning only some markets, which are nevertheless important, are not addressed here.

### 3 RESPONSES TO THE INDIVIDUAL QUESTIONS

#### 3.1 PROMOTING FURTHER STANDARDISATION

##### (1) What would be a valid reason not to use electronic means as a tool for contracts standardisation?

The Eurosystem considers the promotion and enhancement of contract standardisation as an important way of facilitating the use of CCP clearing, thus allowing for better risk management. In view of the benefits that electronic trading and greater contract standardisation may offer, market participants could be invited to explain why, in their view, the use of electronic means and further contract standardisation may not be possible in certain cases.

##### (2) Should contracts standardisation be measured by the level of process automation? What other indicators can be used?

Advances in standardisation and automation typically evolve in parallel. Thus, greater standardisation is often associated with more automation. However, there are other indicators of standardisation. For example, higher trading volumes and the absence of significant (economic and legal) differences in contract terms can also be viewed as indicators of standardisation. Moreover, if a derivatives contract is accepted by one or more CCPs, this can be seen as an indication that it is sufficiently standardised. However, the decision by one CCP to clear a certain type of derivatives contract should not make it compulsory for other CCPs to accept such derivatives contracts as well.

##### (3) Should non-standardised contracts face higher capital charges for operational risk?

By facilitating the automated processing of trades, contract standardisation is often a prerequisite for the clearing of such trades by a CCP and thus offers significant benefits in terms of operational risk management and efficiency. From the Eurosystem's point of view, priority should be given to counterparty risk mitigation

tools and in particular CCP clearing. However, positive incentives in favour of CCP clearing already exist. Moreover, general operational risk capital requirements have already been incorporated into the Capital Requirements Directive (CRD); a recognition of strengthened requirements for non-standardised contracts seems technically difficult in this area.

##### (4) What other incentives toward standardisation could be used, especially for non-credit institutions?

Customised and non-standardised products can be beneficial, in particular for the risk management and hedging purposes of non-credit institutions. As a result, the Eurosystem acknowledges that there is demand and scope for such non-standardised products. Furthermore, the Eurosystem would expect that any additional risks that are specifically associated with such non-standardised products will be effectively addressed on the basis of monitoring, auditing and rigorous risk management efforts that may well have to go beyond those applied to standardised products.

#### 3.2 STRENGTHENING BILATERAL COLLATERAL MANAGEMENT FOR NON-CCP ELIGIBLE OTC DERIVATIVES

##### (5) How could the coverage of collateralised credit exposures be improved?

From a financial stability perspective, the effective collateralisation of all credit exposures is highly important. Achieving this objective is generally more challenging in those cases where credit exposures are managed on a bilateral basis rather than by a CCP, given the absence of harmonised procedures and the more limited opportunities for collateral savings through multilateral netting. Multilateral netting via CCP clearing reduces net exposures, thus limiting the amount of collateral required and facilitating a higher degree of collateralisation. Additional challenges may arise in those cases where derivatives transactions involve non-financial institutions that do not hold substantial amounts of collateral.

Against this background, the Eurosystem would suggest the following course of action. First, it is important to achieve a higher level of transparency in collateralisation practices. To do so, regulators may need more detailed and comprehensive information regarding the types of counterparty that are involved in non-collateralised transactions. Second, it would seem useful to assess, in cooperation with the financial industry, possible ways to further harmonise procedures for the calculation of bilateral exposures. Third, it is important to ensure the continuous monitoring of such exposures. Fourth, exposures and associated risks will then have to be addressed on the basis of sufficient collateral or capital. In this context, to the extent that the overall CRD framework allows, regulators may wish to review the CRD treatment of the counterparty risk of bilaterally cleared OTC derivatives exposures in terms of compliance with best practices. Finally, to ensure the smooth availability of collateral, it would also seem beneficial to assess the scope for, and possible obstacles to, an enhanced use of non-cash collateral for OTC derivatives exposures. In this regard, it should be noted that central clearing and multilateral netting are conducive to a higher degree of collateralisation.

**(6) Are there markets where daily valuation, exchange of collateral and portfolio reconciliation cannot be the goal? Please justify.**

In the course of its work on CCPs and the infrastructure for OTC derivatives, the Eurosystem has not become aware of any markets where daily valuation, exchange of collateral and portfolio reconciliation might not be a goal, but acknowledges that participants in such markets might be better placed to provide examples that prove the contrary.

In addition to regular portfolio reconciliation, the Eurosystem supports regular portfolio compression for OTC derivatives, which is still a relatively new practice. The Eurosystem expects that its usage by a broad range of market participants will increase as the industry gains greater experience in this regard.

**(7) How frequently should multilateral netting be used?**

In view of the benefits of multilateral netting, the Eurosystem expects that it is in the interest of the industry to ensure that multilateral netting takes place sufficiently frequently and regularly, in a legally sound environment.

**(8) Should bilateral collateral management be left to self-regulatory initiatives or does it need to be incentivised by appropriate legislative instruments?**

In view of the considerable systemic risks inherent in non-CCP-cleared derivatives transactions, the Eurosystem considers that effective risk controls including collateral and capital are indispensable. Appropriate collateralisation and other risk controls will also contribute to providing the necessary incentives for participants to move their bilateral transactions into central clearing. The degree of risk mitigation that market participants have adopted voluntarily in the past was not sufficient. The Eurosystem acknowledges, however, that there is now greater awareness of the risks and the need for risk controls, which may lead the industry to increase the level of collateralisation spontaneously.

Before any regulatory or legislative measures are adopted, the Eurosystem would propose, as a first step, that collateralisation is reviewed – reliable sources of aggregate information are scarce at present – and the expected progress in collateralisation resulting from the increased risk awareness in the derivatives industry is monitored. As a second step, if sufficient collateralisation and other risk mitigation controls do not evolve spontaneously within a reasonably short period of time appropriate further measures might be an option to this end.

For interdealer activity, the assessment of the required level of collateral could be based on the criteria applied by CCPs, which could be considered as a benchmark. This issue would also merit international harmonisation.

### 3.3 CENTRAL DATA REPOSITORIES

#### (9) Are there market segments for which a central data repository is not necessary or desirable?

The Eurosystem regards central data repositories as an essential tool for enhancing operational procedures and transparency in financial markets, especially with regard to OTC derivatives markets and, where relevant, the underlying instruments. In particular, to the extent that data repositories achieve comprehensive coverage of certain products, they can provide regulatory and supervisory authorities and the markets with a timely overview of the build-up and distribution of exposures in the relevant markets. In this way, central data repositories can also play a role as the providers of the information necessary to enable relevant authorities to establish an early-warning mechanism for emerging financial risks.

The Eurosystem would like to underline that the functions currently performed by existing data repositories could also be performed by other private or public entities. The Eurosystem would therefore propose adopting a functional approach for issues relating to data repositories, focusing on the sound provision of the service rather than on the nature of the provider. The widespread use of central repositories or similar functions for OTC derivatives is of utmost interest to regulators and market participants. Such a repository currently exists only for credit derivatives, run by DTCC in the United States. In the long run, European market participants may favour the possibility of establishing a European central data repository for euro-denominated transactions.

Against this background, the Eurosystem strongly supports the extended use of central data repositories for all OTC derivatives asset classes, including both standardised and non-standardised products. It is not aware of any market segment for which repositories or similar functions would not be desirable or necessary.

#### (10) Which regulatory requirements should central data repositories be subject to?

A wider use of central data repositories would imply an increased reliance of users, public authorities, interoperable infrastructures and service providers on the availability, timeliness and accuracy of the data in such a repository. This highlights the need for regulatory oversight of central data repositories and other entities performing similar functions.

The Eurosystem would like to point out that the ESCB-CESR recommendations for CCPs already identify a range of requirements that data repositories and other entities performing similar functions should comply with, including transparency, reporting to competent authorities, legal soundness, governance, operational resilience and – where they are not an integral part of the CCP – fair access criteria. To this end, a cooperative oversight framework needs to be developed at the global level for warehouses that serve multiple markets, which, in addition to ensuring that the authorities are part of the cooperative oversight framework, should also give the relevant authorities uninhibited access to information held by trade warehouses.

Against this background, the Eurosystem welcomes the intention of the CPSS and IOSCO to review their 2004 recommendations for CCPs and to consider in this context also possible recommendations specifically for functions relating to central data warehousing. The results of this work are expected to provide clarity on regulators' expectations in this area and to establish the basis for a global regulatory level playing field. The Eurosystem also welcomes the efforts of the OTC derivatives Regulators' Forum to establish a regulatory framework for DTCC's Trade Information Warehouse.

#### (11) What information should be disclosed to the public?

Information items collected by data repositories that may be eligible for public reporting could include in particular live positions, activity for the data repository's positions, transaction activity, and aggregate open interest and

settlement data by currency denomination, provided that no inference can be drawn about individual participants' positions. The Regulators' Forum is currently in the process of identifying the uniform set of quantitative and qualitative regulatory information to be requested from data repositories.

Moreover, ESCB-CESR recommendation 14 requires CCPs to complete and disclose the answers to the key questions of the ESCB-CESR recommendations (as does CPSS-IOSCO recommendation 14). This requirement could be extended to entities performing data warehousing functions. The Eurosystem considers that the answers to these key questions are essential to provide market participants and the general public with the complete and accurate information that they need.

Finally, the Eurosystem would encourage the use of information on OTC derivatives transactions and positions, including data derived from central data repositories, also for statistical purposes, as these repositories could provide a vital information basis with which to measure bilateral and sectoral exposures in specific instruments and markets, subject to the strict confidentiality criteria that apply. For this purpose, the Eurosystem would encourage a high degree of standardisation in the classification of instruments and sectors, with the latter being based on unique identifiers for entities acting as counterparties in the respective markets.

### **3.4 MOVE CLEARING OF STANDARDISED OTC DERIVATIVES TO CCPs**

#### **3.4.1 DEFINING CCP ELIGIBLE CONTRACTS**

**(12) Do you agree that the eligibility of contracts should be left to CCPs? Which governance arrangements might be necessary for this decision to be left to the CCPs' risk committees?**

The Eurosystem agrees with the European Commission on promoting the CCP clearing of OTC derivatives to the greatest possible extent, given the pronounced benefits in terms of the

reduction of counterparty risk and operational risk management and efficiency as compared with bilateral clearing. With regard to the definition of eligible contracts, the Eurosystem considers that the decision should primarily be left to the CCPs themselves (subject to the applicable regulatory framework), given that they would be the ultimate holders of the resulting risks and taking into account ongoing product innovation.

Moreover, precautions should be taken to avoid the possibility that this decision may be impacted by conflicts of interest at the CCP, especially in view of the oligopolistic nature of OTC derivatives markets and/or the owner/shareholder structure of CCPs that can influence the CCP's decision in terms of eligibility criteria. At a minimum, CCPs should be required to be completely transparent about their decisions and the reasoning behind them.

Further guidance on this matter is expected to be provided by the CPSS-IOSCO working group revising the CPSS-IOSCO recommendations for CCPs, as it will consider both the eligibility criteria for contracts and the adequate consultation mechanisms of CCPs.

#### **3.4.2 INCENTIVES TO USE CCP CLEARING**

**(13) What additional benefits should the CCP provide to secure a broader use of its services?**

Central clearing facilitates risk management, enables multilateral netting, helps to save liquidity, sustains anonymity, and improves operational efficiency. In order to effectively address the specific risks associated with the clearing of OTC derivatives, CCPs must apply adequate risk control measures. The adaptation of the ESCB-CESR recommendations for CCPs to reflect the specific risks associated with the clearing of OTC derivatives has been a milestone in this respect.

CCP services, and in particular the management and reduction of risks, involve costs in terms of fees and the provision of margins and other

forms of collateral in order to be compliant with the ESCB-CESR recommendations. If CCPs are not used broadly enough, it may be the result of insufficient regulatory incentives and the fact that bilateral clearing is currently not subject to sufficiently rigorous risk controls, which may result in bilateral clearing being less costly for participants than central clearing.

**(14) Is the zero-risk weighting a sufficiently effective incentive for using CCPs across different market segments?**

The Eurosystem considers that zero-risk weighting capital treatment for centrally cleared derivatives exposures is a powerful incentive for using CCPs. The zero-risk weighting capital treatment of centrally cleared transactions needs to be complemented, however, by adequate risk controls for transactions that are not centrally cleared (collateralisation and/or additional capital requirements).

**(15) Should additional requirements, such as appropriate account segregation, be introduced to apply the zero-risk weighting to indirect participants?**

The Eurosystem strongly agrees that there is a need for an effective segregation of clients' assets by CCP clearing members, and considers that the benefits of this measure would extend beyond broadening the access to capital relief to include indirect clearing members. Such segregation should be supported by appropriate legal protection, and a review of the existing legal frameworks in the EU in this respect may be warranted. Indeed, the importance of appropriate account segregation by CCPs was underscored during the financial market turbulence; it has gained further importance in view of the fact that interoperability between different CCPs is unlikely to be achieved in the near future and that indirect access to different CCPs via the respective general clearing members is therefore expected to provide the main interim solution for enabling the central clearing of the exposures of trading partners that are direct clearing members at different CCPs.

ESCB-CESR recommendation 14 for CCPs reflects the need for segregation by specifying that "a CCP may be in a position to contribute to asset segregation by providing separated accounts and margining (and collateral). In this case, the CCP should clearly describe the level of segregation it can offer and the consequences thereof (e.g. the approach to margining)."

**(16) Should bilateral clearing of CCP-eligible CDS be penalised and, if so, to what extent? Is there a need to extend regulatory incentives to clear through a CCP to other derivatives products?**

As noted above, the Eurosystem takes the view that bilaterally cleared derivatives transactions need to be subject to adequate risk controls involving collateralisation and/or capital requirements. If there is no voluntary adoption of collateralisation practices and other risk controls within a reasonably short period of time, the Eurosystem would support further measures to ensure effective risk management in the bilateral derivatives trading environment, which may also take the form of additional capital incentives/penalties for CCP-eligible derivatives products that are not cleared through a CCP. Alternatively, positive incentives in favour of CCP clearing could be strengthened. The Eurosystem does not see any valid reason to limit the use of central clearing to any particular class of products. Furthermore, taking into account the fact that resistance to the use of clearing services may be related to costs, it supports transparency on margin requirements and clearing fees.

**(17) Under which conditions should exemptions be granted and by whom?**

Currently, there does not seem to be a need to grant exemptions since both bilaterally and multilaterally cleared transactions are subject to regulation (see answer to question 16 above), although with different treatments and incentives according to the different risk profiles. However, if further actions were to be considered, the need for discussions about exemptions might arise (e.g. concerning contracts that are not eligible

for CCP clearing; parties effecting trades that are unable to have access to a CCP and/ use a clearing member; or where the size of the eligible contracts is limited and the parties are able to prove to their supervisors that the related risks are properly managed).

**(18) What is the minimum acceptable ratio of CCP cleared/eligible contract? What is the maximum acceptable number of non-eligible contracts?**

As noted above, the Eurosystem considers that as many derivatives trades as possible should be moved into central clearing, while all trades that remain in a bilateral environment should be subject to other forms of rigorous risk control. From this perspective, any quantitative determination in terms of ratios, numbers, etc. appears irrelevant.

**(19) What statistics need to be provided to regulators to make sure they have all the information necessary to perform their duties?**

The CCP Regulators' Forum, where regulators come together to exchange views and share information on CDS CCP developments, is in the process of developing uniform quantitative and qualitative regulatory information requests for CDS CCPs and the Trade Information Warehouse.

As regards the quantitative information that regulators will request from CCPs, the forum has identified the need to receive statistics on particular live positions, activity for the data repository's positions, transaction activity, and aggregate open interest and settlement data by currency denomination, which is information that could also be disclosed to the public. In addition, regulators may need information on participant type and residency, concentration data, information on participants' positions and collateral and funding data. Subject to the fulfilment of strict confidentiality requirements, the information collected should also aim to serve statistical requirements arising from monetary analysis and financial stability. This would considerably enrich the dataset available

for these purposes, as well as avoiding a double collection which would further increase the reporting burden.

In addition to data from CCPs, information transmitted by financial institutions could be collected and monitored by regulators in order to assess the evolution of clearing practices. Regulators may need information on the share of contracts eligible for central clearing, the share of contracts cleared by instrument and participant type.

**3.4.3 ENSURING THE SAFETY AND SOUNDNESS OF CCPs**

**(20) How could European legislation help ensuring safety, soundness and a level playing field between CCPs?**

The Eurosystem welcomes the reference to the importance of the ESCB-CESR recommendations for CCPs, which were published on 23 June 2009. As noted above, the adoption of these recommendations implies that, for the first time, a consistent set of recommendations is available for EU authorities to follow in conducting the regulation and oversight of EU CCPs. At the same time, given the envisaged global product scope of several CDS CCP solutions put forward during 2009, global regulatory convergence is also indispensable. In this context, the Eurosystem supports the current review of the application of the CPSS-IOSCO recommendations to CCPs for OTC derivatives.

If the implementation of the respective recommendations to be conducted in the coming months reveals that a consistent application of the recommendations is not feasible on the basis of the existing EU legislation and non-binding recommendations, the Eurosystem considers that further measures should be envisaged.

Moreover, as ESCB-CESR recommendation 1 for CCPs points out, for systemic risk purposes, the harmonisation of rules relevant for CCPs should be promoted to minimise discrepancies stemming from different national legal



frameworks. This will minimise the effects of potential conflicts of law, thereby increasing the level of legal certainty. In this respect, some harmonisation has already been achieved through the implementation of the Settlement Finality Directive, the Financial Collateral Directive and the Markets in Financial Instruments Directive (MiFID), assuming that the revised Settlement Finality and Financial Collateral Directives will be fully implemented by EU Member States in due course. Further harmonisation should be considered at the EU level in the future, in particular in terms of capital requirements.

### **3.5 INCREASE TRANSPARENCY OF PRICES, TRANSACTIONS AND POSITIONS**

#### **3.5.1 TRANSPARENCY OF TRADING**

**(21) Should MiFID-type pre- and post-trade transparency rules be extended to non-equities products? Are there other means to ensure transparency?**

The Eurosystem considers that enhanced transparency in OTC derivatives markets is one of the key conditions for reducing uncertainty, facilitating effective market discipline and supporting adequate regulatory oversight in these markets. In this context, the Eurosystem would like to highlight that the emerging market infrastructures for OTC derivatives could play an important role in enhancing market transparency, as a complement to the possible extension of prudential reporting requirements for financial institutions trading OTC derivatives, which will be further assessed, in particular during the upcoming review of the MiFID.

The Eurosystem would welcome transparency rules to tackle the unwanted effects that may arise in a decentralised trading environment, taking into account the different nature of the products and the complexities of their pricing. These effects can be particularly pronounced in the OTC environment. However, the Eurosystem would not support the extension of the MiFID to other asset classes as an appropriate tool to this end.

Finally, the Eurosystem would like to point out that the ESCB-CESR recommendations for CCPs contain a large number of transparency requirements relating to many different areas. While most of these requirements refer to aspects other than trading, some of them have a bearing on the transparency of prices. In particular, CCPs are required to be transparent about the way they obtain and/or calculate prices that are needed as a basis for margin calculations.

#### **3.5.2 TRANSACTION AND POSITION REPORTING OF OTC DERIVATIVES**

**(22) How should transaction reporting of OTC derivatives to competent authorities be envisaged? Should it be extended to all contracts or to certain categories? If so, which ones? Are there other means to ensure that the competent authorities receive the relevant information on OTC derivatives transactions?**

**(23) How should position reporting of derivatives to competent authorities be envisaged? Should it be extended to all contracts or to certain categories? If so, which ones? Are there other means to ensure that the competent authorities receive the relevant information on the exposures to particular contracts?**

In the case of centrally cleared transactions, ESCB-CESR recommendation 15 for CCPs requests CCPs to provide regulators and central banks with information on many different aspects necessary for regulation and oversight in a timely manner. The recommendation also requires the authorities to exchange relevant information for the regulation and oversight of CCPs. This could be extended to data repositories. The details on the collection and exchange of information by regulators and overseers will be developed and refined in the forthcoming implementation exercise. The Eurosystem considers that such reporting requirements and the way in which they are

implemented could be extended to all types of derivatives transaction, regardless of whether or not they are traded on regulated markets.

Moreover, as noted above, an execution framework to ensure the effective and streamlined implementation of information requirements is currently being developed by the global Regulators' Forum. Again, while these requirements concern CCP-cleared transactions, they could be consistently applied to all sorts of derivatives transaction. Overall, the Eurosystem expects that the work in this field will provide a significant enhancement as regards the transparency of OTC derivatives, not only for direct regulators, but also for less directly affected public authorities, as well as market participants. In this context, the Eurosystem would like to underline once more the benefits of the wider use of central data repositories, given their ability to capture also the less standardised OTC derivatives markets.

As mentioned before, the Working Group on credit risk transfer statistics drew up a number of short and medium-term proposals to increase the available information on risk transfer mechanisms, focusing in particular on CDSs.

### 3.6 MOVE TRADING TO MORE PUBLIC VENUES

#### (24) How can further trade flow be channelled through transparent and efficient trading venues? What would be the appropriate level of transparency (price, transaction, position) for the different derivatives markets?

Different types of trading mechanism can be distinguished, including regulated markets, multilateral trading facilities and internalising intermediaries. Such public/multilateral trading venues are mechanisms for executing trades that allow multiple parties to accept bids or offers from other participants. Trading in public/multilateral venues requires a significant degree of contract standardisation. In many cases, counterparties to OTC derivatives trades seek to customise the terms of trade to meet very specific risk management needs, with the

result that many OTC trades are not suitable for trading in public/multilateral venues. However, many OTC derivatives, including many credit derivatives, have become sufficiently standardised, such that not only central clearing but also trading in public/multilateral venues may be feasible and could be expanded through the further standardisation of contracts while still meeting risk management needs.

Where trading of OTC credit derivatives in public/multilateral venues is feasible, it can produce several benefits. First, trades executed in a public/multilateral trading venue are usually intermediated by a CCP. Second, public/multilateral markets are transparent, thus ensuring reliability, a high degree of information and liquidity. Third, public/multilateral markets tend to be neutral and independent as they aim to ensure equal treatment of all participants. Fourth, they facilitate monitoring and surveillance of trading. For these reasons, more trading on public/multilateral markets could be encouraged.

However, it is also worth noting that one of the main reasons that the credit derivatives market and other OTC markets have grown so rapidly is that market participants have seen substantial benefits in customising contract terms to meet their individual risk management needs. Bilaterally negotiated and customised contracts should continue to be allowed where participants see them as beneficial.

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