

**Response to the CPMI/IOSCO discussion paper on
Client clearing: access and portability**

Executive Summary

ISDA members welcome the discussion paper by CPMI/IOSCO on client clearing. Both new access models and porting are important topics that require more analysis and discussion.

Direct and sponsored clearing models

Our members are generally supportive of tools that provide better access to clearing for clients or makes client clearing more cost-efficient, assuming any significant new risks these tools introduce into the clearing system can be managed by CCPs and CCSPs. However, we remain concerned that any sponsored and direct access model will increase legal risks and uncertainty to some degree for CCPs and CCSPs. A CCP's safety is contingent on existing membership criteria related to creditworthiness, liquidity, and operational competence, as well as on the enforceability of the rulebook in case of a client insolvency in the direct client's jurisdiction. Allowing clients to face the CCP directly increases risk in these areas and increases the number of parties that can use the CCP.

We agree with the statement that direct and sponsored access models are designed for and generally used more by larger and/or more sophisticated clients. This does not need to be an issue, as the move of these larger clients to direct/sponsored clearing models potentially could free up capacity at client clearing service providers (CCSP) for other clients. We do not believe that every sponsored product will promote portability or that portability is a concern of every client.

We believe that while sponsored access might mitigate the risk that a large directional client's portfolio has to be closed out upon default of its CCSP, sponsored clearing could introduce additional mutualization risk, depending on the specifics of the sponsored access model: Clients which so far would have been guaranteed by their CCSP, pose now a risk as a direct clearing member, including the risk that losses will have to be mutualized.

We believe that the issue of capacity constraints in access to client clearing has not been solved yet. We provide technical details why this is the case and make some proposals, for instance temporary waiving of capital requirements for CCSP accepting new clients and re-use of anti-money laundering (AML) / know-your-customer (KYC) checks completed by the previous CCSP. We however note that AML/KYC checks form only part of the onboarding process and would not solve operational onboarding, credit risk assessments etc.

Porting

Functioning porting is crucial in default management: Clients rely on porting for continuity of their hedges, and if porting is unsuccessful, the portfolios to be closed out during default management become larger, making default management more risky and difficult. We agree that two key strategies to support porting are for clients to have backup CCSPs and for CCPs to develop a porting game plan. However, neither strategy is without drawbacks and ultimately success hinges on capacity of other CCSPs. In general, clients in a net omnibus account without a backup CCSP will struggle to get ported during a default.

We propose to review how regulation could be changed to provide more economic incentives for CCSPs to provide clearing services.

We agree with many proposals on porting made in the discussion paper, from more harmonization to realistic testing.

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

Access (Section 2)

Design of direct and sponsored access models

1. Do you agree with the observation in the discussion paper that the direct and sponsored access models are designed for and generally used more by larger and/or more sophisticated clients?

These access models are not used widely yet, so it is difficult to generalize, but we overall agree with the statement that these models are designed for and generally used more by larger and/or more sophisticated clients. This does not need to be an issue, if the move of these larger clients to direct/sponsored clearing models does not add significant risk to the system and frees up capacity at CCSPs. If the membership criteria to CCPs remain high, and depending on the design of such access models, overall clearing capacity might increase.

2 Could there be any other solutions that would facilitate access, either through greater use of such access models by small and medium-sized clients, or through some other solution?

Client clearing solutions reduce the economical and operational overhead for small and medium-sized clients and it is difficult to foresee direct access solutions that do not increase the operational burden for these firms. Many smaller or medium-sized clients would not be able to fulfil rulebook requirements for direct access.

Clients will likely look towards their sponsor to fulfill certain operational functions. Sponsored clearing access might therefore affect more legal obligations than actual operational flows, especially for smaller clients (if they have the ability and appetite to access the CCP directly at all).

If a direct access model requires the CCSP to fully guarantee the performance of the client, the CCP needs to ensure that there will be fully enforceable closeout netting and collateral rights against the client and that the sponsoring CCSP has the operational visibility to risk monitor the client's activity and access collateral.

Barriers

3. Do you agree with the findings in the discussion paper that direct and sponsored access models are used more for certain types of products (eg repos) than for others? Do you agree with the reasons described in the paper for why this is the case? Why/why not?

We agree with the reasons provided. The high balance sheet usage in bilateral trading combined with the fact that clients do not have long-dated directional positions make the sponsored model attractive for repo relative to other asset classes. Providing classic client clearing for such asset classes might not be cost effective for some of these products and direct access could be an alternative way to provide access to clearing for firms that cannot be direct clearing members.

Similar issues do not exist (anymore) for clearing of Exchange-Traded Derivatives (ETD).

Challenges related to direct and sponsored access models

4. Do you agree that direct and sponsored access models have the potential to diversify the risk profile of the direct clearing participant basis of a CCP by introducing new types of direct participants? Why/why not?

Given the need to have a sponsor who will be a CCSP and likely offer client clearing services, we do not see much diversification of risk in this model. There are for instance fewer firms offering sponsored access than regular client clearing. Firms offering sponsored clearing are likely firms that are already large client clearers. The current concentration in the client clearing market is therefore not diversified.

Depending on the model, sponsored access could mitigate the risk that a large directional client could not be ported and its portfolio be closed out upon default of its CCSP. However, sponsored clearing could also introduce additional mutualization risk: Clients, which so far would have been guaranteed by their CCSP, pose now a risk as direct clearing member, including the risk that losses will have to be mutualized. Some sponsored access models however still require sponsors to guarantee the performance of their clients creating limited benefit for all parties other than for clients that wanted to mitigate the counterparty risk towards their clearing broker.

If a sponsored client loses its sponsor, risk might not be completely covered, as the sponsored client in most models would not have to margin the full stress loss and not participate in mutualization. If a

client has to pay additional margin in case of sponsor default, there would be an additional operational burden for posting this additional margin after the sponsor has defaulted.

There could also be increased legal risk. To address some of this risk, CCPs must determine how and whether their rules will be enforceable against a client should a client face insolvency, taking into account measures like stays under the laws of the client's jurisdiction.

It thus very much depends on the direct access criteria and the design of a sponsored access model whether such a model could lead to a diversification of risk for a CCP and its clearing members.

5. Do you think that CCPs have introduced sufficient safeguards to prevent risk transmission from direct participants using direct and sponsored access models? Why/why not? If not, what additional safeguards do you think are necessary?

See above – under many direct access models, direct clients are no longer guaranteed by their sponsor. Also, depending on the access model, the direct client could become under-margined if the sponsor defaults.

If the client defaults, there could be a mutualization risk if the client is not guaranteed by the sponsor. In most of these models, direct clients will only be covered by the IM they post. Should this not be sufficient, losses could be mutualized instead of being absorbed by the CCSP of the defaulted client. Hence, the CCP membership criteria should not be softened for direct access/sponsored clients in comparison with CCSP.

6. Do you think that sponsors are properly incentivised to closely monitor the activity of their sponsored participants (ie the direct participants)? Why/why not? If not, how do you think sponsors could be properly incentivised?

As noted in the paper, the sponsored clearing model still leaves operational (such as auction bidding) and/or economic obligations (such as default fund contributions) with the sponsor, which leaves incentives to monitor the activity of a sponsored participant.

On the other hand, as the sponsor in most models does not guarantee the client's performance, incentives are reduced. We believe that the expectation for sponsors to monitor the activity of sponsored participants should be proportional to the amount of resources (both operational and economic) and the additional risk that is introduced into the CCP.

7. Do you think that the number of sponsors is limited? Are you concerned about sponsor concentration risk? If so, is this because it is difficult to find a sponsor? Are there any other reasons?

We believe that sponsors by construction will be a subset of CCSPs, and the limited number is more a reflection of client demand. Cost implications, as well as financial and operational requirements and legal risk will limit the number of CCSPs that can offer direct access.

8. Do you think that CCP rules adequately address the issue of sponsor default? If so, what are the CCP rules that adequately address this issue? If not, what kind of CCP rules are required to address this issue?

See the response under question 4: A sponsored client may potentially be under-margined if the sponsor defaults, as the client in some models has to provide a margin add-on in the size of the default fund contribution, without this additional margin being mutualized. So, the client might benefit from mutualization (if the client defaults and initial margin is not sufficient), without contributing to it.

We also believe direct or sponsored clients should have a backup sponsor to speed up “porting” in case their existing sponsor defaults. If the sponsor also guarantees the sponsored client to the CCP, this is as much a challenge as in a traditional client-CCSP relationship in case of a CCSP default.

Testing

9. Have you participated in default management exercises that test direct and sponsored access models?

We do not believe there have been large scale default management exercises focusing solely on direct and sponsored access models.

10. Without providing identifying information, what has worked well in such exercises? What has not? Do you have recommendations as to what could be improved for such exercises?

As noted in question 9, we do not believe there have been large scale default management exercises for direct and sponsored access models.

We do however have feedback with regards to drills that have taken place for traditional clearing arrangements and client porting as we believe the feedback will also be relevant more broadly.

Firstly, we believe there is too much variability across CCPs in the level of testing of portability ranging from a handful of dummy trades to large portfolios of trades and clients, with time provided to members to assess the impact of these portfolios on risk and capital. We believe that these standards should converge to the higher standards featuring realistic exercises. It is worth noting

that even though time has been provided in these exercises to assess the capital and risk impact of accepting a client portfolio, it has been found to be insufficient.

We also believe that fire drills including porting need to be made as realistic as possible, including contemplating the default of a large CCSP with listed and OTC derivatives. Existing fire drills do not tend to really stress the system in the same way a member default of size (e.g., top 10 CFTC margin balances) would.

Additional considerations

11. Please describe any additional factors that may be impacting the activity and uptake of direct and sponsored models that are not considered in this paper.

Asset classes that include clients with large directional positions would result in prohibitive costs for clients thus impacting demand for sponsored services. This would also increase risk and costs to CCSPs. If the CCSP still guarantees the sponsored client to the CCP, it still has to capitalize for the client's positions.

The report seems mostly concerned with a sponsor default and does not, in our opinion, sufficiently look at the consequences of a (sponsored) client default and its implications on the CCP and its members.

Where a sponsored access model effectively adds risk to the system, e.g. by softening membership requirements, the financial resources of the CCP should be carefully analyzed, including the sizing of the CCP capital and the skin-in-the-game.

12. Please provide any additional comments with regards to the impact that direct and sponsored access models have on access to client clearing.

Whilst sponsored models where CCSPs are not required to guarantee the performance of a participant to a CCP may reduce some of the resource requirements for a CCSP, the requirement to meet default fund contributions and default management obligations on behalf of a participant result in economic and operational requirements that are not vastly dissimilar from traditional client clearing models.

On access, while sponsored models might free up capacity at some CCSPs, which we have noted are likely the same existing CCSPs who provide traditional clearing access, the focus for regulators and industry should be to ensure a wide range of CCSPs and reduced concentration in the market for clearing access, for example via further reform to regulatory capital requirements to ensure those requirements are efficiently calibrated against risk.

To reduce concentration, regulators should ensure that no additional barriers are created to providing clearing services, and work towards removing existing barriers.

13. Please provide additional comments with regard to access to client clearing more generally.

It is important to emphasize the current backdrop of clearing service provision in relation to this question. We have continued to see withdrawal and selective retrenchment of CCSPs either completely or for pockets of cleared activity given the risk/reward profile and significant ongoing investment required to operate at scale.

Meanwhile demand for clearing continues to increase, driven in part by regulatory efforts to encourage clearing:

- The final phase of uncleared margin rules final phases will incentivize more clearing.
- Increased liquidity/improved pricing under cleared model in some instruments vs. bilateral leads to more voluntary clearing.
- The potential¹ lifting of the clearing exemption for pension funds in Europe.

However, binding constraints on clearing capacity remain: capital and the leverage ratio are referenced in the paper. Other capital related issues are:

CVA capital charge: The client leg of cleared transactions is exempt from the CVA capital charge in the EU, but not in the US. To not restrict clearing member capacity further, the client leg of cleared transactions should be exempted globally. This would also ensure that accounting and regulatory capital for CVA are more closely aligned for cleared client transactions.

The standardised approach for counterparty credit risk (SA-CCR): Our members have highlighted before² that SA-CCR has some shortcomings that inflate capital requirements. Especially the treatment of IM under SA-CCR will affect capital requirements for CCSP.

G-SIB scores: Under the complexity indicator, specifically for OTC client cleared transactions, notional is included on both CCP facing and client facing legs of the client cleared transactions, where these are cleared under the principal model. Particularly in the context of porting, this creates a significant disincentive to facilitate porting, due to potential for abrupt increase in two times gross notional associated with the client portfolios to be ported, which in turn could have impact on the overall GSIB score.

Amending GSIB rules to recognize that OTC clearing reduces complexity and interconnectedness, under both principal and agency models will aid in reducing the capital impediments for client clearing providers and therefore increase likelihood of porting being possible and further capacity being available.

¹ On 25th January, ESMA [wrote](#) to the European Commission and proposed for the exemption of pensions scheme arrangements to end.

² For instance the [ISDA/AFME response to the PRA consultation on implementation of Basel standards](#) (from page 5) or the 2019 [industry response to the Standardised Approach for Counterparty Credit Risk \(SA-CCR\)](#)

Clearing capacity is already an area of concern and demand is likely to increase further as more clients are mandated to clear. For example, when European pension funds start clearing in large volumes, requirements for clearing capacity will increase significantly³.

Access to client clearing is a difficult challenge for smaller clients. Smaller clients are less likely to have back up arrangements in place given their smaller books/resources/appetite for minimal business in BAU and may also be of lower credit quality.

Porting (Section 3)

Risks from not porting

14. Are there any additional risks or potential harm associated with not porting following a clearing participant default, which were not described in the discussion paper? If so, please describe such additional risks and/or harm.

The immediate risks of forced liquidation and market dislocation have been well discussed in the paper. The broader and longer-term impact is a loss of faith in the safety of the clearing model for clients.

15. Potentially effective practices. Do you agree with the two tools identified in the discussion paper as potentially successful porting practices? Are there any other tools that should be identified as potentially effective practices?

We believe that clients with multiple CCSPs will likely find it easier to port positions from a failed CCSP to a surviving CCSP, but this will of course depend on the size of cleared positions at a failed CCSP relative to the surviving one as it will require additional financial resources to be deployed by the surviving CCSP at a time of likely extreme market stress.

We also hear from many clients that there are not many CCSPs available to them.

We believe that the alternative CCSP approach helps by ensuring KYC processes are already complete, however it does not mitigate the fact that the alternate CCSP does not guarantee the porting of a client's portfolio. This is because it is impossible for the alternative CCSP to be able to commit to accepting unknown capital requirements that would surround accepting an unknown client portfolio at some future time.

We believe the game plan approach may help identify potential target CCSPs, but it would be impossible for CCPs to be able to model potential capital/leverage constraints at a given CCSP in a period of stress, although we fully agree that CCPs having the power to port clients without their

³ A [study](#) by Pensions Europe and ISDA estimates an increase in initial margin of ca. EUR85bn (or a full range of ca. EUR 58bn to ca EUR111bn depending on varying assumptions) would be required over a number of years when European pension funds start clearing in large volumes. This is significant when compared with ca. EUR 77bn of client IM held by the three major CCPs for interest swaps.

consent would improve the odds of successful porting. In particular, for smaller clients, the additional cost and complexity of arranging and maintaining an alternate CCSP may be disproportionate to the risks posed. We would urge that any mandatory requirement for clients to maintain an “active” alternate CCSP or CCP arrangement with live positions should be avoided, as this would introduce additional cost and complexity in risk management and the clearing process for clients, again, in particular negatively impacting smaller clients disproportionately, and raising challenges in achieving regulatory compliance where such alternatives cannot be sourced.

However, whatever firms and CCPs plan to ensure porting, these plans need to be tested on a regular basis. See also question 28.

These plans also consistently need to be refreshed given constantly changing dynamics including the number of CCSPs, the evolution in CCP product offerings and the regulatory environment.

It would be helpful if, at least for an intermediate period that a CCSP that accepts client portfolios to be ported could rely on the previous CCSP’s KYC/AML checks. These were also points raised in the 2018 DAT response.

A longer-term solution to some of the KYC challenges of onboarding with a new CCSP could be dealt with in the event that a third-party service was employed by all relevant CCSPs to perform all KYC checks, and hence for which prior KYC could then be relied upon by counterparts such as CCSPs and custodians. This situation could of course only apply in circumstances where the vendor was capable of undertaking the relevant tasks under applicable regulation for each of the relevant CCSPs (who may themselves be based in multiple jurisdictions), but it could provide a number of benefits for all participants in addition to potentially reducing onboarding times, such as reduction of costs by centralizing the KYC process into a third party and not having to replicate at each individual counterparty. However, our members note that in many cases the delays in KYC processes can be due to the time taken by clients to provide information, or revert with additional questions or documents, so while centralization of KYC processes through a common vendor could serve to address issues of duplication of information requests, there are limits to the efficiencies in time that can be gained. Centralization of KYC documents in a common repository could be a potential solution.

We also note that KYC checks are just one step in an onboarding process which can lead to extended onboarding times, as there are needs to negotiate and finalize client documentation and open accounts at a CCP. There are also other elements in a CCSP’s due diligence process, which are very hard to outsource such as the credit review process of the new client. See also the reply to question 16.

Another possibility could be an indirect structure: The smaller clients are clients of a CCSP that is client of a larger clearing member. If the clearing member defaulted, the CCSP with the client relationships could just be ported to its backup clearing member provided the backup clearing member would only have to do the due diligence on the CCSP and rely on the CCSP with regard to the due diligence on the end clients. Of course, this also comes at an extra cost. In addition, the end clients and the clearing member(s) have the additional CCSP default risk in such a structure. If the CCSP has large clients and not only smaller clients, or if the added portfolio of all clients is a large directional portfolio, the costs and risks will be greater.

16. What additional approaches do CCPs use to pre-emptively identify a backup CCSP? What incentives can be provided to assist the development of alternative/backup CCSP relationships? Are there any other considerations for alternate/backup CCSPs not set forth in the report?

Clearing firms in Europe may reference in their public clearing disclosures that clients may consider putting in place arrangements with a backup CCSP and carrying out operational testing in respect of those arrangements, in order to facilitate porting of positions and assets in the event of a default by their CCSP.

Having backup CCSPs will likely come at a cost to the end user. There is a significant amount of cost for a CCSP:

- Set up and service a client (and increased for fund managers with significant numbers of legal entities/accounts).
- Ongoing credit due diligence, KYC, AML.
- Keeping the relationship compliant in the face of changes in regulation regardless of any revenue.
- System capacity and operational risk of having dormant accounts on books and middleware platforms.

It can also be less operationally efficient for the end user to face multiple counterparties, for instance due to the loss of margin efficiency and commercial negotiating power.

CCSPs need to manage the business as a commercial undertaking, not as a utility – industry has already seen withdrawal of clearing providers.

It is also important to contemplate what being a backup actually means. It is not a guarantee of porting. CCSPs generally set contractual limits for OTC and sometimes for ETD (e.g. under MiFID) expressed in terms of initial margin. This is by client legal entity and based on the credit risk appetite for the client. Therefore, the amount of headroom available for porting will depend on a) current utilization already for this entity at the non-defaulting CCSP and then b) credit risk appetite which may be reduced given market volatility/falling asset values triggered by broader market disruption.

On client consent and implicit consent, it would be very difficult for a CCSP to take on a client on without KYC/AML (see also under the previous question).

Moreover, from a risk management perspective, the following has to be in place:

- A client clearing agreement, which includes the contractual terms which govern the relationship.
- Limits and settlement instructions to facilitate margin payments to accompany the transfer.
- There is also a requirement for credit due diligence, which implies that the relationship must pre-exist the porting event between CCSP and client.⁴

⁴ The FRB released a [press release](#) on Dec 10th 2021 reminding firms of safe and sound practices for counterparty credit risk management in the light of the Archegos issue. This applies to institutions supervised by the Fed that have derivatives portfolios and relationships with investment funds. The letter specifically

- Taking on business which has not been properly onboarded, without straight through processing in place, is likely to lead to significant operational risk for all market participants, including those not impacted by the CCSP default.

These elements are critical to make sure that margin obligations are covered and to not introduce further risk into the system for solvent clearers.

The largest challenge as a backup CCSP is the obligation to take on an unknown portfolio (with unknown capital requirements) at an unknown time in the future. The only way to guarantee that a backup CCSP has sufficient balance sheet and capital capacity to take on the portfolio is to keep a buffer, however it is not possible to foresee a model where backup CCSPs are compensated for maintaining this capacity. A viable solution to this issue could be to provide leverage and capital relief for ported portfolios for a finite period of time. This would ensure that clients can continue their operations without risking their positions be closed out and look to either agree commercial terms with the clearing broker that has taken on the portfolios, or migrate their portfolio to a new clearing broker, and in effect lengthening the time available for clients port their positions. We would add that this point is especially relevant given the points raised in question 10 where the time required to assess the risk and capital impact of a large number of client portfolios can be significant.

We also propose for regulators to review how regulation could be changed to provide more economic incentives for CCSPs to provide clearing services and to be available to accept new clients during the default management process. The 2018 Derivatives Assessment Team study has provided a good start for such an analysis.

17. Are there other considerations for having a game plan that were not described in the discussion paper?

We propose for the CCP to communicate to CCSPs if they have been identified as fallback CCSP in the game plan, without providing confidential information.

The game plan needs to be adaptable: There should be unique scenarios based on member defaulting and the duration of the runway ahead of the default occurring.

There are a lot of factors that will influence the game plan:

- Size of activity of each CCSP.
- Number and credit quality of clients.
- Whether porting would be at a fund or asset manager level.
- Time zone/location and legal structure of key decision-makers for clients.
- Necessary engagement of regulators of the CCP and of CCSPs.
- Account types, e.g., net vs. gross margin.

references when initiating a relationship and on an ongoing basis, firms should obtain critical information regarding derivative portfolios. The PRA published a [similar letter](#) on the same day.

- ETD vs. OTC.
- How many other CCPs is a CCSP a member of and therefore other porting being attempted in other jurisdictions.
- Prevailing market circumstances – both generated by the default/general volatility but also regular events, e.g. physical delivery, option expiration, roll and compression cycles.
- If there are illiquid or concentrated positions in the defaulting CCSPs client portfolios which may be particularly challenging to port.
- Client profile – retail clients, indirect clearing clients may also be more operationally challenging for a new clearer to adopt.

The game plan also needs to consider credit and liquidity assessments of CCSPs assuming more activity. E.g., will a CCSP be able to manage the additional activity from porting and service ongoing obligations (margin, concentration margin/liquidity add on and DF contributions) for new and existing client base?

There are also insolvency considerations, depending on the law of the country in which the CCP is incorporated and the laws applicable to collateral rights (e.g. court approval to move collateral) and how realistic it is for collateral to move and in what timeframe.

Therefore, there needs to be elements of flexibility in the game plan in terms of the right people with appropriate skillsets and most critically the correct and constantly refreshed data to facilitate optimum decision-making. Different strategies for different components of business/clients rather than an all or nothing approach.

18. In addition to those outlined in the paper, what attributes of account structures facilitate or impede porting client accounts?

Account structures with greater asset protection and segregation increase the feasibility of successful porting.

19. Are some client accounts not suitable for porting?

Clients in net omnibus account structures where collateral and transactions are comingled with other clients would be nearly impossible to port if clients want to port to different CCSPs, or if every party within the omnibus account is required to agree to port before this could proceed. In this scenario, the ability to port without first obtaining client consent would be a necessary prerequisite step in order to be able port these portfolios.

The nature of the client's portfolio could also serve as a barrier to porting due to risk, concentration margin and delivery capability.

After a default, there could be a tightening appetite for certain products, depending on what prompted a CCSP's default or market stress at the time of the default.

The role of asset managers should also be taken into account, in the scenario where a single asset manager may want to port multiple accounts under their management at the same time or to the same CCSP.

20. Does holding excess collateral and the ability to make direct payments improve the probability that a client will be ported successfully or are there impediments to using this collateral?

We believe this approach increases the time window available to port but does not overcome the hurdles of being able to find a suitable CCSP/sponsor with the available economic and operational resources in a period of market stress to take over a client's portfolio.

21. What is your view of a client consent mechanism that could be used to facilitate porting, if permitted under applicable law?

As discussed in prior questions, we believe advance client consent or mechanisms where clients have to object to porting would be helpful in most cases and a necessary pre-requisite in others to be able to facilitate porting.

22. Are the potentially effective practices described in the discussion paper consistent with prior porting experiences?

Given that there has been no recent market stress even requiring the use of porting, we cannot comment on what practices have been particularly effective.

23. Are there any barriers to implementing potentially effective porting practices that are not described in the discussion paper?

We propose for CCPs and supervisors to review the BAU porting processes to ensure they are robust enough to be used in a default situation porting multiple clients at the same time.

Communication and coordination

24. Are there any additional communications by the CCP or the defaulting CCSP that may increase the probability of porting client accounts?

We believe it may be valuable for CCPs to look into a default management committee equivalent where representatives of some CCSPs are shown the client portfolios (or part thereof) of a CCP to assess capital impacts and other issues if their firms should be asked to take on the client portfolio (or part thereof). This process would need to ensure that information barriers are maintained, and any information shared follows the "need to know" principle.

25. Are there additional actions CCPs can take following a clearing participant default to coordinate that are not set forth in the discussion paper? Are there any limitations on coordination that are not included in the paper?

We believe that these have been covered in the points raised in other questions.

Harmonisation

26. Are there additional items CCPs can harmonise or standardise during business as usual that are not outlined in the discussion paper? Are there any factors that may impede harmonisation or standardisation that are not provided in the paper?

We believe that any form of harmonization of rule books and practices would make it easier for all parties (especially smaller clients) to be able to understand the provisions and rules with regards to default management and porting and make it easier for clients to onboard with more CCPs.

It would also be helpful to have harmonized data structures and processes for porting, e.g. how client portfolios are provided to CCSPs. The more these processes are automated and standardized the higher the likelihood of successful porting and the lower the risk of operational issues. These could include:

- Harmonization of data formats and fields.
- Use of LEIs or universally understood client identifiers.
- Common milestones/timeframes/communication steps for porting across CCPs would definitely simplify the environment.

Greater harmonization and standardization of CCSP documentation would be possible as a result of the above, which could in turn be expected to reduce complexity in porting.

Notable issues to consider when developing a porting protocol

27. Are there additional regulatory requirements that could impede porting? Can such impediments be addressed or mitigated through action prior to the CCSP's default?

Please see comments in question 16 with regards to leverage and capital relief, and question 26 with regards to harmonized practices and data structures as impediments and mitigants to such impediments.

28. Are there any additional factors that should be addressed in testing exercises?

We would recommend regular tests, both tabletop as well as real firedrills for all parties in the porting chain to be as prepared as possible. Member default is likely to be during a highly stressful time in terms of market volatility. Understanding key tasks, owners, sequencing and communication protocols will always be a good investment.

It is also really important to make sure that any fire drills conducted are realistic and are as close as possible to the game plan that would be put into effect so that constructive feedback can be sought, the game plan improved and kept current.

We believe that it would be helpful for CCPs to offer testing of the operational workflow to ensure that clearing participants could actually process the transactions and clients they have agreed to port. This testing would likely have to be voluntary as not all CCSPs will be able to accept clients, or at least no new clients.

As mentioned in question 10, we also believe that there is significant variability in the complexity and realism of the testing exercises between CCPs and believe that it would be valuable to define a minimum standard that tests must adhere to.

If the proposal made in our response to question 24 (representatives of some CCSPs are shown the client portfolios of a CCP to assess capital impacts and other issues if their firms should be asked to take on the client portfolio) is implemented, these processes would need to be tested, for instance how the data could be provided in a pre-agreed and ideally harmonized format.

29. Please provide examples of good disclosure practices from your perspective.

We believe that it would be helpful for clients to understand the end-to-end porting process including key deadlines, the initial process by which client portfolios are constructed and then distributed to CCSPs for review.

We also believe that the some of the proposals in prior questions with respect to KYC and leverage/capital relief may provide comfort to clients on how of porting of their portfolios could actually be achieved in periods which are likely to be exhibiting extreme market stress.

For assessing disclosure practices, it is important to contemplate what the environment would be like in the event of a CCSP default; this would be highly chaotic with multiple parties involved all seeking resolution with expediency, against the backdrop of elevated levels of market volatility.

New technology may have a role to play to facilitate the timely and accurate transfer of information and efficient communication across all market participants in a default scenario, and also help with addressing the additional complexity from the likelihood that a larger CCSP would be a CCSP at multiple CCPs. One could envisage a Fintech solution where, with the right permissioning model across the clearing chain, client portfolios could be shown to CCSPs who are designated back up for that entity, CCSPs could publish limit availability by client entity, CCSPs could confirm portfolios they were willing to take electronically, enabling the porting process to begin and clients would have full transparency of the process and their status. Linking this information to CCP margin calculators and existing risk cleared would facilitate understanding of margin and liquidity impacts to CCPs/CCSPs.

30. Are there other arrangements a CCSP can make to ensure that, post default, the CCSP can help coordinate porting at multiple CCPs if the CCSP is a non-defaulter? If the CCSP defaults, what arrangements can the CCSP make to facilitate the porting of its clients?

We believe that CCPs providing harmonized data in the form of prearranged data packs would help CCSPs co-ordinate porting at multiple CCPs as it would allow faster assessment of combined portfolios. It is also important that data is provided to CCSPs in some form of coordinated fashion so that CCSPs can make full assessments of portfolios.

We also refer back to the points raised in question 16 with respect to leverage and capital relief, and question 15 with respect to KYC arrangements that would significantly reduce the workflow and thereby shorten the decision-making process.

A CCSP could also produce and keep updated data packs with all relevant information about each client and all relevant information for KYC/AML.

Suggested next steps

31. Please provide feedback on the suggested next steps for consideration. Do you agree that these issues warrant further consideration by CCPs, CCSPs and/or clients? Are there additional issues that may warrant further consideration?

We mostly agree with the proposed next steps, but would like to note the following comments:

- While CCPs might be able to obtain some degree of client consent in advance, this is a topic that rulemakers in some jurisdiction should also review. For instance, while it is well-intentioned in EMIR that every client should have the right to determine its new CCSP, this guaranteed client choice might lead to clients not be ported at all.
- On CCPs coordinating, we are concerned whether CCPs are actually able to exchange confidential portfolio information of defaulted CCSPs or its clients.

- While it is welcome for CCPs to try to simulate stressed market conditions, it is extremely difficult to simulate real market stress. For instance, it is one thing to establish capital requirements during a firedrill compared to doing the same exercise in a situation of extreme uncertainty where management is fighting several fires at the same time.

While industry can progress these issues to an extent, there will also be a requirement for regulatory changes (for instance see the above example of porting consent in EMIR. Capital requirements and KYC/AML protocols are others).

About ISDA

Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 960 member institutions from 78 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 Twitter, LinkedIn, Facebook and YouTube.

Contact: Ulrich Karl, Head of Clearing Services, UKarl@isda.org