

December 13, 2013

Comments on the Consultative Report: “*Public Quantitative Disclosure Standards for Central Counterparties*” by the Committee on Payment and Settlement Systems of the Bank for International Settlements and the Board of the International Organization of Securities Commissions

Japanese Bankers Association

We, the Japanese Bankers Association (“JBA”), would like to express our support for the effort by the Committee on Payment and Settlement Systems of the Bank for International Settlements (“BIS/CPSS”) and the Board of the International Organization of Securities Commissions (“IOSCO”), to stabilise financial markets and deepen stakeholders’ understanding of central counterparties (“CCP”) through public quantitative disclosure, for which the standards are set forth in the Consultative Report: “Public Quantitative Disclosure Standards for Central Counterparties”.

To ensure that these initiatives are fully aligned with the banks’ regulatory capital framework currently being discussed by the Basel Committee on Banking Supervision under its Consultative Document: “Capital Treatment of Bank Exposures to Central Counterparties (“BCBS253”)”¹ in a parallel way, it is suggested that the BIS/CPSS and IOSCO give due consideration to some of the following items:

1. Alignment of disclosure with the Basel regulatory capital framework for banks

The “Capital Requirements of Bank Exposures to Central Counterparties” (so-called “interim rules”, “BCBS227”) ² set out the following two criteria as the requisites for a qualifying central counterparty (“QCCP”), which is subject to BCBS253.

Criterion (1): The CCP is based and prudentially supervised in a jurisdiction where the relevant regulator/overseer has established, and publicly indicated that it applies to the CCP on an ongoing basis, domestic rules and regulations that are consistent with the CPSS-IOSCO Principles for Financial Market Infrastructures (“PFMIs”).

Criterion (2): The CCP must calculate numbers necessary for a bank to calculate risk-weight, and make such numbers available to the bank.

¹ <http://www.bis.org/publ/bcbs253.pdf> (BCBS, June 2013)

² <http://www.bis.org/publ/bcbs227.pdf> (BCBS, July 2012)

In Japan, where Basel III has been applied from March 31, 2013; a highly inefficient practice is imposed on banks because each bank needs to access every CCP (i.e. there are N x N number of communications) to determine whether criterion (2) is met. This could result in situations where a bank that has obtained the prescribed data from a CCP treats that CCP as a QCCP, while another bank that has failed to obtain such data treats the same CCP as a Non-QCCP. In addition, in cases where a bank indirectly participates in a CCP as a client, rather than as a direct participant, or a bank deals in, via a fund, derivatives which are settled by a CCP; it is conceivable that the situation might become worse as the CCP would not cooperate in providing information requested by the bank.

The approach set out under the interim rules presents a practical difficulty in information availability, which undermines the accomplishment of the stated objectives of these initiatives. This is a matter that needs to be addressed before discussing the assessment of the prudentiality of CCPs. Given this perspective, we believe that CCPs should be required to publicly disclose such information. Mandatory disclosure of such information by CCPs is in line with the PFMI, which stipulate in paragraph 3.23.1. that “[a]n FMI should provide sufficient information to its participants and prospective participants to enable them to identify clearly and understand fully the risks and responsibilities of participating in the system”; and therefore is strongly recommended.

More specifically, as shown in the table below, there are six parameters required under the BCBS253’s proposed approaches (i.e., the ratio approach and tranches approach), and four of them are deemed able to be obtained through the quantitative disclosure proposed by the Consultative Report. However, the remaining two parameters cannot be obtained through the proposed matrix and, therefore, once the BCBS253 framework is implemented, it is expected that a number of banks (both direct and indirect participants) will start raising requests for the necessary information to every CCP.

With a view toward avoiding inefficient practices and ensuring that a CCP, which should be truly treated as a QCCP, is actually determined to be a QCCP by all financial institutions, it is recommended³ that the Consultative Report should be amended so that these two parameters are included as disclosure requirements within the framework of the Consultative Report.

³ A similar comment was submitted to the BCBS in response to BCBS253. <http://www.zenginkyo.or.jp/abstract/opinion/entryitems/opinion250957.pdf> (JBA, September 2013)

Required parameters	Ratio approach	Tranches approach	The Consultative Report
$DF^{\text{cover*}}$	✓	✓	Obtainable through Item 4.3
$K_{\text{CCP}}(\text{NIMM})$	✓	✓	Not obtainable
DF_{CCP}	✓	✓	Obtainable through Item 4.1
$DF_{\text{CCP, junior}}$	✓	-	Not obtainable ⁴
$DF_{\text{CM}}^{\text{pref}}$	✓	✓	Obtainable through Item 4.1
$DF^{\text{committed}}$	✓	-	Obtainable through Item 4.1

“✓” represents a parameter required under each approach.

Further, we are in support of the statement made in page 12 of the Consultative Report “a reporting lag of no more than one month is suggested”. Banks need to calculate⁵ and disclose the Basel III capital ratio in accordance with the timeline set by national laws and regulations. To this end, it would be prudent to ensure that the quantitative disclosure is made available within a lag of no more than one month. With regard to $DF^{\text{cover*}}$, it needs to be predictable to a certain extent for bank’s regulatory capital management purpose and, therefore, it is recommended that this parameter should be disclosed along with an explanation of the basis and logic underpinning its calculation.

Even if the proposed quantitative disclosure for the parameters shown in the above table is not implemented, the BIS/CPSS and the IOSCO should at least provide guidance to CCPs of their member countries on the disclosure/provision of information so that the above two parameters are made equally available to both direct and indirect participants without imposing too much of a practical burden on them.

⁴ If the description of Item 4.1 of the Consultative Report: “(further split by whether used before, alongside, or after, member contributions)” is not optional but mandatory, this parameter can be also obtained.

⁵ If a CCP’s quantitative disclosure is not made available in time for a bank’s regulatory capital calculation, the bank is unable to calculate capital charge in accordance with the formula set out by BCBS253 and forced to treat such a CCP as a Non-QCCP.

Finally, we believe that the background information⁶, described in Annex A of the “Principles for financial market infrastructures: Disclosure framework and Assessment methodology” published in December 2012, should be very useful in determining whether a CCP meets criterion (1). In addition to the quantitative disclosure under the Consultative Report, we hope that CCPs will widely disclose their background information to the public.

2. Disclosure of segment information by CCP’s business

With regard to disclosure of Items 15.2 and 15.3 under Principle 15 “General Business risk”, it is recommended that segment information be disclosed by the clearing service, if such information is available, for the following reasons:

- (1) When considering new or continuing participation in a CCP that engages in multiple services, information related to the soundness and sustainability over future periods of the businesses in which a bank participates (e.g., profit/loss information such as operating income), as well as information regarding the adequacy and potential of default funds linked to such businesses, should be essential factors to take into account;
- (2) In addition to disclosure of item (1), separating and capturing information relating to overhead expenses, which are not attributable to clearing services, should be important in assessing the soundness of a CCP itself; and
- (3) Disclosure of items (1) and (2) is in line with the description given in paragraph 3.23.1. of the PFMI as referred to above. We believe that disclosure of such information will help existing and prospective participants understand in fine detail the risks of participating in the system.

⁶ <http://www.bis.org/publ/cpss106.pdf> (CPSS-IOSCO, Dec 2012). This document provides the following descriptions in the last paragraph of page 82.

*III. General background on the FMI
(omitted)*

Legal and regulatory framework

This section should provide an overview of the FMI’s legal and regulatory framework, including the legal and ownership structure of the FMI, the legal basis for each material aspect of the FMI’s activities, and the regulatory, supervisory and oversight framework for the FMI.