

INVERCO COMMENTS ON ESMA CONSULTATION ON THE CLEARING OBLIGATION FOR FINANCIAL COUNTERPARTIES WITH A LIMITED VOLUME OF ACTIVITY

INVERCO welcomes the opportunity to comment on the ESMA consultation paper on the clearing obligation for financial counterparties with a limited volume of activity.

INVERCO, is the Spanish Association of Investment and Pension funds. It represents 5.039 Collective Investment Institutions (CIS) with assets amounting to 255.338 million Eur (98, 7 % of total assets in Spain), 1.335 Pension Funds with assets amounting to 104. 518 million Eur (99, 8% of total assets in Spain) and 24 UCITS registered for marketing in Spain with assets amounting to de 80.000 million Eur. The answers to this consultation are, therefore, made on behalf of those INVERCO associates which are considered as financial counterparties in regard of the clearing obligation.

Please find below the answers to the questions posed in the consultation paper:

Question 1: To which category of counterparties does your organisation belong: (1) in the context of the 1st Commission Delegated Regulation on the clearing obligation, and (2) in the context of the 2nd Commission Delegated Regulation on the clearing obligation?

As stated above, INVERCO is the Spanish Association of Investment and Pension funds. Most of its associates belong to Category 3 in relation to both Regulations.

Question 2: If you offer clearing services, please provide evidence on the constraints that would prevent you from offering clearing services to a wider range of clients.

N/A

Question 3: Have you already established clearing arrangements (1) for interest rate swaps? (2) for credit default swaps? If not, please explain why (including the difficulties that you may be facing in establishing such arrangements) and provide an estimation of the time needed to finalise the arrangements.

The general situation of our associates is as follows:

They are currently in discussions with various providers regarding pricing, operational and risk issues (mainly in relation to margin) and legal documentation.

No clearing arrangements for IRS and/or CDS have been executed yet mainly because of the progressive and recent developments in relation to the clearing obligations and therefore:

- The lack of certainty regarding the types and features of the derivatives to be subject to clearing obligation, as Regulations were passed and published not so far ago.

- The lack of certainty regarding the authorized CCPs which will be available for clearing those types of derivatives when the clearing obligation is applicable (especially in relation to CDS, for which the current offer is reduced to LCH SA). This affects to competence/pricing and operational and risk issues (such as the type of segregated accounts available for us, etc.).
- The lack of experience in the functioning of these entities (legal documentation models imposed by clearing members are being progressively modified in order to include recent developments, such as new available CCPs).
- The lack of certainty regarding the rules of the authorized CCPs (these rules are usually modified in order to obtain the EMIR authorization from ESMA and also affects the legal documentation to be executed with the clearing members).

Additionally, it is important to note that not only clearing arrangements should have to be executed, but also new execution agreements with the executing brokers, as well as new ISDA Master Agreements or the amendment of the existing ones.

Therefore, our associates strongly estimate the proposed new time schedule which would be very helpful in order to conclude all negotiations prior to the start of the clearing obligations.

Question 4: Please provide information and data you may have that could complement this analysis on the level of experience and preparedness of financial counterparties with CCP clearing

N/A

Question 5: Do you agree with the proposal to keep the definitions of the categories of counterparties as they currently are and to postpone the date of application of the clearing obligation for Category 3? If not, which alternative would achieve a better outcome?

We strongly agree to postpone the date of application of the clearing obligation for Category 3.

Question 6: Do you agree with the proposal to modify the phase-in period applicable to Category 3, by adding two years to the current compliance deadlines?

Yes.

Question 7: Do you agree with the proposal to modify the three Commission Delegated Regulations on the clearing obligation at the same time?

Yes.

Madrid, 5th September 2016