

ESMA
CS 60747
103 rue de Grenelle
75345 Paris Cedex 07, France

2 September 2016

Dear Sirs,

Consultation Paper
On the clearing obligation for financial counterparties with a limited volume of activity
ESMA/2016/1125

Many thanks for the opportunity to respond on this subject.

As a smaller bank, access to derivative clearing is an area of particular concern for us. We have been actively looking at the best way to meet this obligation for more than five years, and in this time we have seen a dramatic reduction in available options.

We carefully evaluated our ability to become a direct clearing member, and concluded that we were too small to meet the membership obligations, especially in terms of the default management process.

Following this we began discussions with a number of clearing members who were offering client clearing services. Over time most of these institutions have ceased to offer client clearing, and no new institutions have come into the market. We are continuing to work with a single institution to finalise a clearing agreement, and expect this to be signed shortly, however we are well aware that this single signed agreement does not guarantee that we will be able to access clearing when required.

Our use of derivatives is primarily interest rate swaps for the purpose of hedging positions in our deposit and loan books, outside of our risk appetite for natural hedging. If we could not enter into new derivative transactions we would significantly increase our interest rate risks. In the event that this carried on for a period of time and we were not comfortable with the additional risk then our ability to conduct business, including lending to customers, would be negatively affected. It is therefore extremely important from a risk management perspective that we retain the ability to transact derivatives.

We are supportive of the additional time that this paper offers smaller institutions such as ourselves to meet our clearing obligation, but we are conscious that time alone is unlikely to create greater access to clearing. We would support further work on how clearing can be made more available, for example by a change to the model or by making it more attractive for clearing members to offer a client clearing service.

We have answered the specific questions posed by the consultation and these are attached.

Kind regards,



Valerie M. Wolvaardt
Cash & Liquidity Manager

Consultation Paper

On the clearing obligation for financial counterparties with a limited volume of activity

Response Form

Email: Valerie.wolvaardt@closebrothers.com

Activity: Banking

Institution: Close Brothers Limited

Title: Mrs

First Name: Valerie

Surname: Wolvaardt

Phone: +44 203 857 3095

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?

Response 1: Category 3

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.

Response 2: N/A, do not offer clearing services.

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.

Response 3: We began discussions with clearing members in 2011 for interest rate swaps (we do not trade in credit default swaps). At that time we were speaking to 5 banks which were willing to offer this service. Since then, most banks have decided not to offer client clearing as a service and currently there is only one bank with whom we are still in discussion. They are only willing to offer client clearing to us as part of a wider relationship, and we are hoping to have a clearing contract signed with them in Autumn 2016. We are very concerned that we will not be able to find a second clearing member, which greatly increases our risk, and that even once a clearing agreement is signed this is not a guarantee that we will have permanent access to clearing as required by the legislation. We are also concerned that permanent access to clearing via a clearing member is not a sustainable model in the current environment, and that we may find ourselves in a situation where we cannot use derivatives to hedge our positions. Our institution is also too small to become a direct member of a Clearing House.

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.

Response 4: No comment

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?

Response 5: Yes, we agree that maintaining current categories seems most logical.

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?

Response 6: Yes. The additional time should allow other regulatory activities to take shape, informing Clearing Members of their obligations. However, if the leverage ratio framework is punitive this additional time alone is unlikely to increase access to clearing for small counterparties.

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

Response 7: Yes.