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| Response Form to the Consultation Paper  |
| Draft technical advice on criteria for tiering under Article 25(2a) of EMIR2.2 |

**Responding to this paper**

ESMA invites comments on all matters in this paper and in particular on the specific questions summarised in Annex III. Comments are most helpful if they:

* respond to the question stated;
* indicate the specific question to which the comment relates;
* contain a clear rationale; and
* describe any alternatives ESMA should consider.

ESMA will consider all comments received by **29 July 2019.**

All contributions should be submitted online at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading ‘Your input - Consultations’.

**Instructions**

In order to facilitate analysis of responses to the Consultation Paper, respondents are requested to follow the below steps when preparing and submitting their response:

1. Insert your responses to the questions in the Consultation Paper in the present response form.
2. Please do not remove tags of the type <ESMA\_QUESTION\_TATC\_1>. Your response to each question has to be framed by the two tags corresponding to the question.
3. If you do not wish to respond to a given question, please do not delete it but simply leave the text “TYPE YOUR TEXT HERE” between the tags.
4. When you have drafted your response, name your response form according to the following convention: ESMA\_TATC\_nameofrespondent\_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA\_TATC\_ABCD\_RESPONSEFORM.
5. Upload the form containing your responses, in Word format, to ESMA’s website ([www.esma.europa.eu](http://www.esma.europa.eu) under the heading “Your input – Open consultations” 🡪 “Consultation on Position limits and position management in commodities derivatives”).

**Publication of responses**

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly and prominently indicate in your submission any part you do not wish to be publically disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESMA’s rules on access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESMA’s Board of Appeal and the European Ombudsman.

**Data protection**

Information on data protection can be found at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading [Legal Notice](http://www.esma.europa.eu/legal-notice).

**Who should read this paper**

All interested stakeholders are invited to respond to this consultation paper. In particular, responses are sought from central counterparties (CCPs), clearing members and clients of clearing members.

**General information about respondent**

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| --- | --- |
| Name of the company / organisation | Amundi Asset Management |
| Activity | Investment Services |
| Are you representing an association? |[ ]
| Country/Region | France |

**Introduction**

***Please make your introductory comments below, if any***

<ESMA\_COMMENT\_TATC\_1>

TYPE YOUR TEXT HERE

<ESMA\_COMMENT\_TATC\_1>

**Questions**

1. : Do you generally agree with the proposed indicators (Indicators 1, 2, 3, 4 and 5) to further assess the nature, size and complexity of the CCP's business? Please elaborate and if you disagree with any specific indicator, please suggest an alternative one to measure the relevant criterion.

<ESMA\_QUESTION\_TATC\_1>

Yes.

Considering indicator 3, we believe that the required granularity to identify end clients and among them the EU end clients will prove difficult. It would require the development of segregation standards that are not presently offered. However, we agree that ESMA should gather as much as possible information on the exposure of EU firms to the TC CCP and have a view split on each sub-asset class. We suggest that ESMA introduce incentive to create omnibus accounts limited to a series of clients at the level of each Clearing member. For example, an OSA dedicated to EU funds would facilitate estimates of EU clients exposure to a TC CCP and offer a possibility to assess EU based funds.

For indicator 5, its seems appropriate to introduce a reference to sustainability risk when listing the general risks a CCP faces.

<ESMA\_QUESTION\_TATC\_1>

1. : How would you envisage ESMA to consider risks and in particular cyber-risks in relation to the evaluation of systemic importance?

<ESMA\_QUESTION\_TATC\_2>

As a representative of the buy-side, Amundi is very concerned with cyber risk, which we see as fundamental in the CCP business and all along the chain of intermediaries. It is at the very top of our list and we encourage ESMA to develop expert skills in this area in order to ensure financial stability and investors confidence.

<ESMA\_QUESTION\_TATC\_2>

1. : Do you generally agree with the proposed indicators (Indicators 6, 7, 8 and 9) to further assess the effect of a failure or disruption of the CCP? Please elaborate and if you disagree with any specific indicator, please suggest an alternative one to measure the relevant criterion.

<ESMA\_QUESTION\_TATC\_3>

We have reservations more specifically on indicators 8 and 9.

We see direct access to central bank money as a necessity to ensure proper liquidity transfer at the level of the CCP. When assessing the quality of a CCP, Amundi does prefer those who have a banking licence. We insist that swap and liquidity agreements do not offer the same level of protection for investors than direct access to the central bank of the concerned currency, ECB for € denominated transactions.

Indicator 9 focuses on the relationship between CCP and clearing members (CM). It overlooks the end clients, those investors that use CCPs for the facility they offer and/or because of EMIR regulation. We would like to introduce another bullet point in the list:

* If clients money may be at risk…

<ESMA\_QUESTION\_TATC\_3>

1. : Do you generally agree with the proposed indicators (Indicators 10 and 11) to further assess the CCP’s clearing membership structure? Please elaborate and if you disagree with any specific indicator, please suggest an alternative one to measure the relevant criterion.

<ESMA\_QUESTION\_TATC\_4>

Here again we would like ESMA to better consider end clients who access a CCP through their CM. To ensure compliance with EMIR and its FRAND requirement, ESMA should pay extreme attention to the capacity of CCPs to offer at reasonable commercial conditions a capacity for clients to have different levels of segregation for their assets. We insist on the fact tha ISA is for an end client the only way to be recognised in the books of the CCP and, hence to be able to activate portability of its positions effectively. Indicator 11 should take this consideration on board.

<ESMA\_QUESTION\_TATC\_4>

1. : Do you generally agree with the proposed indicator (Indicator 12) to further assess alternative clearing services? Please elaborate and if you disagree with any specific indicator, please suggest an alternative one to measure the relevant criterion.

<ESMA\_QUESTION\_TATC\_5>

We suggest that ESMA introduce a new criterion in the conditions to decide mandatory clearing of an instrument: the existence of at least 3 CCPs able to clear that concerned instrument. It would ease the pression on alternative clearing possibilities and reduce stress for end clients that would have real alternatives from the beginning.

<ESMA\_QUESTION\_TATC\_5>

1. : Do you generally agree with the proposed indicators (Indicators 13 and 14) to further assess relationships, interdependencies, or other interactions? Please elaborate and if you disagree with any specific indicator, please suggest an alternative one to measure the relevant criterion.

<ESMA\_QUESTION\_TATC\_6>

Yes. We do not support the silo architecture that links a trading venue with one CCP and want investors to have a real choice in the matter.

<ESMA\_QUESTION\_TATC\_6>

1. : Do you identify other benefits and costs not mentioned above associated to the proposed approach (option 3)? If you advocated for a different approach, how would it impact this section on the impact assessment? Please provide details.

<ESMA\_QUESTION\_TATC\_7>

We support option 3 and would like some of the data used by ESMA to be made public in order to provide more transparency to market participants at large (and not limited to CCPs and CMs).

<ESMA\_QUESTION\_TATC\_7>