January 27, 2025

Conditions of the Active Account Requirement – Introductory Note

SIX operates the financial market infrastructure for the Swiss and Spanish financial centers, catering to a broad international client base. SIX encompasses two Central Counterparties (CCPs): SIX x-clear AG in Switzerland and BME Clearing SA in Spain. SIX x-clear is an interoperable CCP clearing cash equity and fixed income across 20 trading venues and 19 markets. In contrast, BME Clearing is diversified in asset classes, clearing cash equity, financial derivatives, fixed income, energy derivatives, and particularly interest rate swaps (IRS).

SIX' IRS Clearing Segment was established in 2015 and has been running successfully but with very low volumes. In light of the Active Accounts Requirement (AAR) set out in Article 7a EMIR, SIX has sought to expand its IRS offering beyond its Spanish Members base. We understand that the onus is on EU CCPs to offer an attractive Euro clearing solution to Members that helps facilitate the migration of risk or cost resulting from the AAR. Our product offering aims to absorb the aforementioned potential costs and provide a European IRS clearing solution based on both regulatory obligations and commercial considerations.

SIX thanks the European Securities and Markets Authority (ESMA) for the opportunity to provide feedback to the consultation report on Conditions of the Active Account Requirement. We welcome ESMA's aim to address financial stability risks in the EU while ensuring competition and access to third country CCPs. While SIX in general understands and supports the requirements set out by the proposed Regulatory Technical Standards (RTS) on AAR, we would like to make the overall general comments:

1) SIX questions whether the minimum number of trades required by the AAR effectively meets the European Commission's goal of mitigating systemic risk posed by EU clearing members and clients' exposure to systemically important third-country central counterparties (Tier 2 CCPs). This raises concerns that the minimum trade requirement under the AAR might be increased in the future. Transparency regarding any potential future increase would be advantageous for all market participants. This would enable counterparties within scope to optimize their strategic planning processes to accommodate any future obligations or intentions to clear within the eurozone.
2) Another important consideration is the potential buildup of concentration risk for market participants at a European CCP due to the AAR. While shifting risk in these products from Tier 2 CCPs to the Union may align with the AAR's objectives, a complete migration to a single European CCP could introduce new concentration risks. Conducting an analysis to assess any potential new concentration risks for market participants resulting from the AAR would be prudent to ensure long-term market stability.

3) Given that clearing members and clients subject to the clearing obligation and the AAR are already required to report their derivatives under Article 9 of EMIR to trade repositories, SIX would like to emphasize the importance of harmonizing reporting requirements and avoiding the duplication of information already submitted through existing regulatory reporting streams. This approach would help minimize inefficiencies and additional costs for market participants and competent authorities.
4) We wish to emphasize that the Active Accounts Requirement (AAR) outlined in Article 7a of EMIR is set to take effect in June, likely preceding the implementation of the Regulatory Technical Standards (RTS) under consultation. To minimize administrative burdens, we strongly recommend that ESMA and the relevant national authorities delay the enforcement of Article 7a EMIR until the Level 2 measures are in place.

In addition to our introductory notes above, please find answers to all your questions in SIX' online submission.

Yours faithfully

SIX Group