**Reply** **form**

Consultation Paper on a draft RTS on the conditions and the list of documents for an application for validation of changes to models and parameters under Articles 49 and 49a of EMIR

Responding to this paper

ESMA invites comments on all matters in the Consultation Paper and in particular on the specific questions in this reply form. 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 **7 April 2025.**

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:

* Insert your responses to the questions in the Consultation Paper in this reply form.
* Please do not remove tags of the type <ESMA\_QUESTION\_VALID\_1>. Your response to each question has to be framed by the two tags corresponding to the question.
* 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.
* When you have drafted your responses, save the reply form according to the following convention: ESMA\_VALID\_nameofrespondent.

For example, for a respondent named ABCD, the reply form would be saved with the following name: ESMA\_VALID\_ABCD.

* Upload the Word reply form containing your responses to ESMA’s website (**pdf documents will not be considered except for annexes**). All contributions should be submitted online at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading ‘Your input - Consultations’.

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 publicly 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.

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# General information about respondent

|  |  |
| --- | --- |
| Name of the company / organisation | Cboe Clear Europe N.V. |
| Activity | Central Counterparty |
| Are you representing an association? |  |
| Country/Region | Netherlands |

Cboe Clear Europe N.V. (CCE) welcomes the opportunity to provide feedback on the draft RTS on the conditions and the list of documents for an application for validation of changes to models and parameters under Articles 49 and 49a of EMIR.

CCE acknowledges the efforts to address industry concerns as undertaken by the EU Commission and ESMA in the EMIR 3.0 review to provide clarity and legal certainty through amendments to the level 1 text and the introduction of RTS. However, CCE believes that certain aspects of the draft RTS conflict with the core intent of the EMIR review to enhance the attractiveness of European markets and clearing in general. CCE believes that more could be done to better align with this intent. A central concern is that, as written, the RTS will not improve the timing to market for CCP changes but will instead increase complexity and create disincentives to change and innovation.

While responses to each question are described in more detail below, CCE believes that the three elements outlined in this section, could significantly improve the application of EMIR 3.0. These changes would greatly reduce the regulatory burden without compromising the management of financial stability risks:

1. CCE would welcome a section clarifying that changes ‘already covered’ by a procedure under Article 15, 17, 17a of EMIR or ‘exempted’ under Article 17a of EMIR can be considered as ‘already covered’ or ‘exempted’ for purposes of Article 49 or Article 49a, such that a CCP will not be required to submit two applications in respect of the same change. As such an outcome would increase regulatory burden, we would welcome the ability to combine the application procedures and information to be provided such that it is not duplicative and a CCP undergoing an approval procedure under Article 49 or Article 49a of EMIR will not also need to submit an application under Article 17 or Article 17a of EMIR.
2. The drafting of the conditions and the proposed thresholds to determine that a change is significant ensure that most changes will be deemed significant and therefore not meet the conditions of an accelerated procedure. For example, this can be seen in the Articles 4 and 6 of the draft RTS, where the double-threshold approach is proposed. The conditions as drafted i.e. opting for the highest benchmark when setting criteria has the effect of increasing, not decreasing, the changes that qualify for a full procedure under Article 49 of EMIR, contrary to the goals set out in the EMIR 3.0 review of making EU clearing services and EU CCPs more efficient and competitive. CCE respectfully requests in the spirit of proportionality and to better align with intent underpinning the EMIR review, that the thresholds in the proposed criteria be amended as per our detailed responses below.
3. In addition, CCE respectfully expresses concern around the requirement in Article 12(4) of the draft RTS for any application submitted for the validation of a model change to be accompanied by a document approved by the board of the applicant CCP certifying the accuracy and veracity of all the documents submitted in accordance with EMIR. CCE strongly believes, the inclusion of this requirement goes beyond the mandate included in EMIR and does not acknowledge that EMIR (through level 1 and existing level 2 text) already requires CCPs to have robust governance arrangements in place whereby the board is held responsible for the activities and management of the CCP. Requiring such a certification process is extremely prescriptive, is not in the spirit of reducing regulatory burden and improving time to market and appears to ignore the regulatory simplification agenda of the CMU/SIU. CCE respectfully requests that Article 12(4) of the draft RTS be deleted.

# Questions

1. Do you agree with the proposed threshold for condition (a)?

<ESMA\_QUESTION\_VALID\_1>

CCE considers the threshold under Article 1 of the draft RTS to be too low which therefore captures changes as ‘significant’ even where there is no material impact on the CCP’s risk profile. CCE supports increasing the threshold to 20% in order to ensure that the application of the draft RTS creates the appropriate and desired balance between Article 49 and Article 49a procedures. To ensure consistency, we would respectfully suggest that the threshold across Articles 1, 2 and 3 of the draft RTS be aligned at 20%. Considering that Article 1 and Article 2 are likely to be triggered together by a change, ESMA could consider combining the two conditions.

<ESMA\_QUESTION\_VALID\_1>

1. Do you agree with the proposed threshold for condition (c)?

<ESMA\_QUESTION\_VALID\_2>

Please refer to the response to Q1.

<ESMA\_QUESTION\_VALID\_2>

1. Do you agree with the proposed threshold for condition (d)?

<ESMA\_QUESTION\_VALID\_3>

Please refer to the response to Q1.

<ESMA\_QUESTION\_VALID\_3>

1. Do you agree with the proposed thresholds for condition (e)?

<ESMA\_QUESTION\_VALID\_4>

In respect of Article 4 of the draft RTS, CCE notes that while there is alignment between the thresholds applied under (a) and (b) of Article 4 of the RTS, the threshold percentage numbers and the double threshold approach under (c) of Article 4 of the RTS do not seem coherent.

Large and liquid segments will have a high probability of exhibiting at least one clearing member with specific and/or atypical behaviour which could, without carrying much risk to the CCP and its clearing members, breach the condition (c)(i), which combined with the low threshold under (c)(ii) could mean the condition will be met far too frequently.

We respectfully suggest, consideration be given to:

* Considering the condition (c)(i) to be met only if several (two or three) Clearing Members trigger it; or
* Raising the thresholds: (c)(ii) to at least 15% and (c)(i) to 50%; or
* Having the conditions (c) apply to the largest (5-10, largest in term of Default Fund contributions) Clearing Members.

CCE recognizes the reasoning for evaluating the impact at both the clearing member and CCP levels concurrently. However, the current proposal is likely to result in a substantial increase to regular submissions under Article 49 of EMIR without, in our assessment, clearly enhancing risk management or overall CCP resilience.

This point is further substantiated by section 4.1.8 “Lookback period for condition a-c-d-e-f-g-h” of the draft RTS. Considering that the metric proposed by the draft RTS is the “maximum” (i.e., “if the corresponding threshold is triggered at any time during the period”), there could be instances where the impact at both CCP and individual levels consistently hovers around 6%, but a single breach of the 30% threshold by one clearing member within the lookback period results in an undue full regulatory procedure under Article 49 of EMIR. CCE believes that smaller clearing members may act as outliers, particularly near specific events (e.g., expiry dates, options expiries related to futures), which might lead to a non-significant change being classified under the regular procedure under Article 49 of EMIR.

<ESMA\_QUESTION\_VALID\_4>

1. Do you believe that sub-condition (c) of condition (e) on individual default fund contributions should also take into account the difference between CCPs with a single default fund and CCPs with multiple default funds? If so, how?

<ESMA\_QUESTION\_VALID\_5>

CCE believes that Article 4(c) of the draft RTS on individual default fund contributions should not take into account the difference between CCPs with a single default fund and CCPs with multiple default funds. Segmentation or compartmentalisation of default fund generally does not affect the resources available against the stress scenario. The entirety of the default fund is in principle available to be utilised against losses, even if those losses crystalise in a specific liquidation group or segment.

<ESMA\_QUESTION\_VALID\_5>

1. Do you agree with the proposed thresholds for condition (f)?

<ESMA\_QUESTION\_VALID\_6>

For Article 5 of the draft RTS, we respectfully suggest that ESMA consider:

* removing the condition (i); or
* applying the condition (i) to several (two or three) currencies; and
* raising the threshold of (ii) to at least 10% or 15%.

CCE understands the need to assess impact at both currency and CCP levels. However, the current proposal greatly increases the instances of full regulatory procedures under Article 49 of EMIR without clearly improving risk capture. As noted in our response to Q4, considering the "maximum" impact over the lookback period increases the chance of minor changes falling under the standard procedures.

<ESMA\_QUESTION\_VALID\_6>

1. Do you agree with the proposed threshold for condition (g)?

<ESMA\_QUESTION\_VALID\_7>

As observed in the response to Q4 and Q6, CCPs are highly likely to have clearing member or individual counterparty outliers, which will skew the decrease/increase metric towards more procedures under Article 49 which does not accord with the principle of proportionality. We respectfully suggest, consideration be given to removing the double threshold by deleting ‘b’ under Article 6 of the draft RTS. Alternatively, increasing the threshold under ‘b’ from 5% to 15%.

<ESMA\_QUESTION\_VALID\_7>

1. Do you agree with the proposed threshold for condition (h)?

<ESMA\_QUESTION\_VALID\_8>

We respectfully ask that a clarification is made to Article 7 of the draft RTS that the criteria apply to a change to the methodology applied to value collateral or calibrate collateral haircuts as set out in paragraph 4.1.7 of the consultation document.

In addition, we respectfully request a clarification that the change to the total value of collateral refers to the “total value of collateral after applying haircuts”, which is currently only implied but not clearly stated.

Furthermore, we believe a threshold of 10% is more appropriate.

<ESMA\_QUESTION\_VALID\_8>

1. Do you agree with proposed lookback period to assess whether conditions (a), (c), (d), (e), (f), (g) and (h) are met? Should the lookback period be extended to account for the potential seasonal behaviour of some instruments?

<ESMA\_QUESTION\_VALID\_9>

CCE considers the length of the lookback period proposed under Article 10 of the RTS to be appropriate and supports the clarity being provided, although it should be recognised that certain instruments would require a different lookback period to enable adequate assessment of the stated conditions.

This is because the calibration of the period is complex. While using 6 out of 12 months may be acceptable and coherent for most segments, there is a risk of not capturing the seasonal effect for any asset class with such features (e.g., Soft commodities and Milling Wheat, which have significant deliveries in both September and December each year). A six-month period might lead a CCP to selectively avoid these two critical months.

CCE would respectfully recommend ESMA to consider:

* aligning the period of time or condition a-c-d-e-f-g together with Article 6.2.4 (Q22) considering that the applicant CCP would need to build the data (portfolio, price, …);
* choosing a period such as “consecutive 9 out of 18 months” for both Q8 and Q22 or “consecutive 12 months out of 18 months”;
* if allowing CCPs to choose to perform an assessment over a set period with a number of observations that the CCP considers relevant, maintain the option for CCPs to use the continuous period of 6 months.

The proposed metric ("maximum") is acceptable as a standalone. However, under Article 49(1i) conditions (e)(c)(i) of EMIR, it would artificially increase the number of full regulatory procedures for approval under Article 49 of EMIR instead of classifying such changes for the accelerated procedure. A solution could be to allow a few exceptions, for example, set at 99% or not exceeding a percentile set at the CCP’s risk appetite, when assessing individual contributions and require the CCP to provide a clear explanation in its submission for an accelerated procedure.

We also respectfully request ESMA to consider that simulations consider the elements that are directly affected as set out below:

* For changes to margin models: conditions laid down in Article 2 and Article 3 would need to be analysed
* For changes to stress testing models: conditions laid down in Article 1 and Article 4 would need to be analysed
* For changes to liquidity stress testing models: conditions laid down in Article 5 and Article 6 would need to be analysed
* For changes to collateral haircut models: conditions laid down in Article 7 would need to be analysed.

For an easier overview of proposed linkage, we have prepared the following table:

|  |  |  |
| --- | --- | --- |
| **Changes to:** | **Check (1). Change in:** | **Check (2), Change in:** |
| **Margin models** | Total margin requirements for a specific clearing service or default fund (Art. 2 RTS) | Total margin requirements for the financial instruments subject to portfolio offsets (Art. 3 RTS) |
| **Stress Testing models** | CCP’s total pre-funded financial resources (Art. 1 RTS) | Size of any of the default funds or of any individual default fund contribution (Art. 4 RTS) |
| **Liquidity Stress Testing models** | Estimated liquidity needs in any currency or the total liquidity needs (Art 5. RTS) | CCP's overall liquidity exposure to a counterparty  (Art. 6 RTS) |
| **Collateral haircut models** | Total value of collateral (Art. 7 RTS) |  |

<ESMA\_QUESTION\_VALID\_9>

1. Do you agree with the proposed elements to be considered when assessing whether condition (b) is met?

<ESMA\_QUESTION\_VALID\_10>

While the proposed elements under Article 8(1) of the draft RTS appear to be mostly appropriate, we make suggestions in respect of (b) and (c) below.

We suggest removing the element under Article 8(1)(b), which should be subject only to the accelerated procedure under Article 49a of EMIR. In the hypothetical cases where a change would only concern the filtering scheme and would not trigger any of the conditions from (a) to (h), the change would have proven to have a significantly low impact, at each date, over the last 6 to 12 months. From CCE’s perspective, this demonstrates that an accelerated procedure under Article 49a would be more consistent with a risk-based approach.

We suggest that Article 8(1)(c) of the draft RTS should be modified to capture only those changes where the confidence level is reduced i.e. to be less conservative. Changes deemed more conservative should be subject only to the accelerated procedure under Article 49a of EMIR.

<ESMA\_QUESTION\_VALID\_10>

1. Do you agree with the proposed elements to be considered when assessing whether condition (i) is met?

<ESMA\_QUESTION\_VALID\_11>

Article 9(1)(a) intends to capture under Article 49 a change to a CCP’s risk models in order to accommodate a new type of participant or a new clearing access model. As such a change would also likely trigger a procedure under Article 17 of EMIR, we reiterate our point made in our introduction that a CCP should not be required to submit two applications in respect of the same change. CCE therefore would welcome such a clarification and the ability to combine the application procedures and information to be provided such that it is not duplicative.

Under Article 9(1)(b) of the draft RTS, we would agree with the proposed elements under (i), (ii) and (iii). Note that under (iv) and (v), CCE is of the view that the risks associated with the changes they intend to capture are relatively low, i.e. the risk associated with accepting collateral issued by corporates where the CCP currently only accepts collateral issued by sovereign issuers, and vice versa. A CCP that has the capacity to manage collateral issued by a corporate issuer will most likely have the capacity to manage collateral issued by a sovereign, and vice versa. We would therefore consider elements (iv) and (v) as good candidates for the accelerated procedure.

<ESMA\_QUESTION\_VALID\_11>

1. Do you agree with the proposed change to models that can be considered as already covered by the approved model?

<ESMA\_QUESTION\_VALID\_12>

We agree with the proposed change to models that can be considered as already covered by the approved model; however, note that the conditions included under a and b of Article 11 of the draft RTS seem unnecessarily prescriptive.

<ESMA\_QUESTION\_VALID\_12>

1. In your view, are there any other changes that should be considered as already covered by the approved model?

<ESMA\_QUESTION\_VALID\_13>

CCE would welcome a section clarifying that changes ‘already covered’ under a procedure under Article 15, 17, 17a of EMIR or ‘exempted’ under Article 17a of EMIR can be considered as ‘already covered’ or ‘exempted’ for purposes of Article 49 and 49a as applicable, such that a CCP will not be required to submit two applications in respect of the same change. As such an outcome would increase regulatory burden, we would welcome the ability to combine the application procedures and information to be provided such that it is not duplicative and a CCP undergoing an approval procedure under Article 49 or Article 49a of EMIR will not also need to submit an application under Article 17 or Article 17a of EMIR.

In addition, we support a proposal to leverage the format of quantitative conditions set out in Articles 1 to 7 of the draft RTS to further designate “further changes to models that can be considered as already covered by the approved model”:

* + In Article 1, use a threshold of 10% of total pre-funded resources
  + In Article 2, use a threshold of 10% of total margin as a CCP level
  + In Article 3, use a threshold of 10% of the total margin requirements for the financial instruments subject to portfolio offsets
  + In Article 4, use a threshold of 10% of the size of any of the default funds
  + In Article 5, use a threshold of 10% total liquidity needs
  + In Article 6, use a joint threshold of 10% of the CCP’s liquidity exposure to individual counterparty AND 5% of the aggregate liquid resources
  + In Article 7, use a threshold of 5% of the CCP’s total value of collateral (assuming clarification this should not be affected by changes to margin & default fund requirements arising from changes to margin and stress testing models rather than collateral haircut model, see our answer to Q8 above).

Examples of “further changes” that are in line with the above are the following:

* Recalibration of collateral haircuts – If using existing approved methodologies, this should not be considered a model change and should be exempted. Presenting it for regulatory approval may even lead to questions that require the CCP to justify why they intend to change the parameters despite the CCP following its existing-pre-approved calibration methodology. Furthermore, this also risks causing a delay in the implementation of parameters required to ensure that a CCP has sufficient resources.
* Certain model recalibrations – CCP risk models recalibrate levels of risk for a given equity on an ongoing basis, without manual intervention, based on an approved validated framework (a parameter calibrated dynamically in this fashion should be exempted). As mentioned above, it is paramount to avoid risking causing a delay in implementation of parameters required to ensure a CCP has sufficient resources, especially in times of crisis and high volatility.
* Corporate actions-driven – Corporate actions such as split or mergers may necessitate clearing of new financial instruments that are stemming from those corporate actions to ensure continuity of trading and clearing.
* Minor extensions within a group – A CCP clearing single stock options needs to be able to smoothly extend its portfolio by adding additional individual underlying stocks with risk characteristics similar to existing products. Same applies for CCPs which clear simple equity index options.
* Change in parameters within collateral risk framework – Changes in parameters that are not necessarily quantifiable as the output of a model, e.g. change of concentration limits within the collateral risk framework.
* Managing exposures and limits – A CCP needs to be in a position to risk manage their exposures, and limits (e.g. concentration limits, uncovered limits, overall credit limits towards a clearing member) are one of the key tools in active risk management. Forcing credit committees or emergency committees to follow even the simplified approval process appears counter to that and would lead to effective shift of responsibility from the CCP to the respective authorities and any potential failures caused by delays.
* Amendment of scenarios suite – Any amendment to CCP scenarios suite below the thresholds identified in the context of Art. 49(1g).
* Any extension of a model to new underlying - We believe that any introduction of new underlyings which do not require changes to the risk model but may necessitate introduction of a new risk factor, but not risk factor type, and a new stress testing shift should not be considered a model change under Art.49.

<ESMA\_QUESTION\_VALID\_13>

1. Question for CCPs: Based on the proposals presented in this Consultation Paper, could you provide an estimate of the number of changes to models and parameters, implemented/applied for by your CCP over the past three years, that would have qualified for i) the standard procedure under Article 49 of EMIR, ii) the accelerated procedure under Article 49a of EMIR, iii) changes to models that can be considered as already covered by the approved model (Article 49(5)(c) of EMIR)?

<ESMA\_QUESTION\_VALID\_14>

In the timeframe that was available to us, we are able to provide the following data: in the last three years, CCE has requested its regulator to approve 3 extensions of authorisation and 8 model changes. While we understand the desire for data to substantiate the approach, we note that it is challenging to provide an accurate figure. We also note, that a lookback is not necessarily indicative of the future, particularly for CCPs that seek to grow and innovate. Based upon the lookback and in the spirit of bolstering clearing in the EU, CCPs may wish to extend their services and activities or make changes to facilitate such a goal. In this case, we believe the number of regulatory approval procedures in total could multiply to between 3 to 6 times as many procedures or even more, presupposing – and noting the complex and burdensome proposed draft RTS – that the CCP is able to assign unlimited time and personnel to this activity.

It is our view that the drafting of the conditions and the proposed thresholds to determine that a change is significant ensure that most changes will be deemed significant and therefore not meet the conditions of an accelerated procedure. This can be seen for example, in the Articles 4 and 6 of the draft RTS, where the double-threshold approach is proposed. The conditions as drafted could have the effect of increasing, not decreasing, the changes that qualify for a full procedure under Article 49 of EMIR, contrary to the goals set out in the EMIR 3.0 review of making EU clearing services and EU CCPs more efficient and competitive. Throughout our responses to this consultation, we have made suggestions to shift the balance such that more changes to models qualify for the accelerated procedure rather than for the full procedure, and also to ensure that CCPs are afforded some flexibility and legal certainty to make other changes without having to undergo a regulatory approval procedure.

<ESMA\_QUESTION\_VALID\_14>

1. Are the general provisions in Chapter I (of Title II of the draft RTS) (language, certification, fees) appropriate and clear?

<ESMA\_QUESTION\_VALID\_15>

CCE respectfully disagrees with the requirement in Article 12(4) of the draft RTS for any application submitted for the validation of a model change to be accompanied by a document approved by the board of the applicant CCP certifying the accuracy and veracity of all the documents submitted in accordance with EMIR. By including a proposal for a board certification requirement, CCE believes that ESMA goes beyond the mandate included in EMIR Level 1. The concerns we understand, ESMA seeks to address are already addressed in both EMIR and local corporate law frameworks. EMIR contains detailed governance requirements for CCPs in both Level 1 and Level 2 (e.g., Articles 27 to 33 of EMIR, Articles 3 to 7 of RTS 153), which are approved at the time of a CCP’s initial authorisation and are subject to ongoing oversight. Requiring such a certification process is extremely prescriptive and is not in the spirit of reducing regulatory burden and improving time to market. As such, we strongly support the removal of Article 12(4) of the draft RTS.

Understanding ESMA’s objective to ensure adequate governance and responsibility for the extensions proposed CCPs, we would suggest as an alternative including a requirement that any application contain language to the effect that the CCP completed its internal governance in respect of the application and the date on which that occurred. As already mentioned, CCP governance arrangements are approved as part of their initial authorisation and are subject to annual and ongoing oversight. Such a confirmation should provide adequate comfort that those governance arrangements have been followed. Additionally, the requirement under Article 12(3) of the draft RTS to provide a correspondence table introduce additional regulatory burden which does not accord with stated aims to streamline and make the regulatory procedures more efficient. These requirements are disproportionate and do not appear to contribute to the assessment of the risk taken if the proposed change is implemented and should therefore be removed.

<ESMA\_QUESTION\_VALID\_15>

1. Is the requirement to submit an index and a correspondence table appropriate and clear?

<ESMA\_QUESTION\_VALID\_16>

Yes, the requirement to submit an index and a correspondence table is clear. However as noted in the response to Q15, the correspondence table disproportionately adds to the regulatory burden for the submitting CCP.

<ESMA\_QUESTION\_VALID\_16>

1. Does the required documentation in relation to the general information provide sufficient detail? Please differentiate between significant and non-significant model changes where relevant in your answer.

<ESMA\_QUESTION\_VALID\_17>

The documents and information detailed in Article 14 of the RTS appear appropriate to establish sufficient detail, notwithstanding:

1. Paragraph ‘a’ should be modified to exclude the requirement for a telephone number, to ensure alignment with the stated aims of the central database pursuant to EMIR Article 17c and recital 33 of Regulation (EU) 2024/2987.
2. While we agree that a high-level timeline is not an unreasonable ask, we are surprised by the level of granularity proposed under paragraph ‘d’, which requires the forecasted timeline of the change implementation with associated milestones, key project risks and mitigating measures. The requirement, which is overly prescriptive, seems to suggest that such matters are informing regulatory approval decisions, and risk diluting the statutory duties of the board.
3. An assessment of the model change against the significance criteria set out in the RTS under paragraph ‘e’ should not be required as the CCP will be submitting the change through the full procedure and should not need to provide an assessment that confirms it should submit the change through the full procedure.

We respectfully disagree with the proposed requirement under paragraph ‘f’ of the draft RTS for CCPs to perform a compliance assessment against all of EMIR each time it submits an application for a model change under Article 49 of EMIR. We note that from the moment of authorisation, a CCP has an ongoing obligation to maintain compliance with EMIR requirements and such compliance is assessed at least on an annual basis in accordance with Article 21 of EMIR. Such obligation to comply with EMIR is not interrupted by virtue of a CCP wishing to make a change to its models. Furthermore, EMIR Art. 17a(3) permits the CCP’s competent authority to rely on part of the assessment previously made pursuant to Art. 21 of EMIR to the extent that the application for extension will not result in a change or otherwise affect the previous assessment for that part. This does not appear to be taken into account in the draft RTS.

<ESMA\_QUESTION\_VALID\_17>

1. Does the required documentation in relation to the description of the model change for both significant and non-significant model changes provide sufficient detail for assessing the impact on CCP risk management? Are additional elements needed to improve clarity?

<ESMA\_QUESTION\_VALID\_18>

CCE proposes deleting the requirement set out under Article 15(c) of the draft RTS, which appears to request the CCP to submit a detailed description of its model description, which it must already publish under EMIR. Where the model description is changing, we would consider that document to need to be submitted under Article 15(i) of the draft RTS, in track changes, which makes Article 15(c) of the draft RTS redundant.

Furthermore, the requirements set out under Article 15(f) and (g) of the draft RTS to provide a comprehensive list of all parameters used in the model with a description of their function in the model and a list of assumptions used in the model, and the consequent limitations, should be limited to those affected by the model change only.

CCE proposes deleting the requirement set out under Article 15(i) of the draft RTS, which requires CCPs to provide the policies, procedures and technical documentation needed to assess the model that is subject to change, including where not amended. As a reminder, CCPs submitting an application for a model change under Article 49 of the RTS are already authorised and subject to ongoing compliance of EMIR requirements. It is in our view disproportionate to request this documentation in connection with an application to effect a model change. If Article15(i) of the draft RTS is to remain, we would suggest in the spirit of proportionality clarifying that it requires “the policies, procedures that are being amended as a result of the model change, and the model description documented to a standard sufficient to enable the reader to replicate the model”. We would consider the requirement to provide policies, procedures and documentation that are not being amended as a consequence of the model change as an example of unnecessary burden.

<ESMA\_QUESTION\_VALID\_18>

1. Are the requirements on documentation in relation to governance of the model change, including independent validation and risk committee advice, clear and adequate to ensure that reliable information on the governance of a review of significant model change is provided? Should ESMA consider requesting additional information on the validation process or clarifying any aspects of the information provided?

<ESMA\_QUESTION\_VALID\_19>

No further information should be required on the validation process. We note that encoding “associated actions planned” pursuant to Article 16(a) of the draft RTS is adding to the complexity and timelines associated with an application under Article 49 of EMIR. This does not accord with making the regulatory procedures more streamlined and efficient.

CCE expresses concern at the level of granularity and scope of Article 16(c) of the draft RTS, and specifically the use of the word “processes” which could then include operational processes for the daily operation of the model. Typically, the regulatory governance and IT implementation run in parallel which means that at the time of the application the CCP does not yet have the operational-level procedures governing daily operations of its systems with regards to new functionalities. Moreover, consistent with our feedback to Q18 above, the detailed description of the processes that the applicant CCP will use to analyse and monitor of the model performance following the model change should be limited to those affected by the model change only.

We believe it is more feasible that at the time of the application the CCP can provide a high-level description on the planned analysis and monitoring of model performance following the model change that are affected by the model change. The full operational-level procedures governing daily operations of its systems with regards to new functionalities and full model scope can be assessed subsequently as part of the ongoing supervision.

<ESMA\_QUESTION\_VALID\_19>

1. Do you agree with the need to submit all policies and procedures with relevance to the model even if these are not amended?

<ESMA\_QUESTION\_VALID\_20>

We do not agree with such a requirement. Please see response to Q18 above.

<ESMA\_QUESTION\_VALID\_20>

1. Is the information related to testing methodologies (e.g., back-testing, stress testing) comprehensive enough to evaluate the robustness of model changes? Should any of the information required in this regard be further detailed or clarified (e.g. in relation to procyclicality)?

<ESMA\_QUESTION\_VALID\_21>

In respect of Article 17(c) of the draft RTS, CCE would prefer and support an outcomes-based approach for explicit clarity.

<ESMA\_QUESTION\_VALID\_21>

1. Is the 12-month period for credit and liquidity stress tests commensurate?

<ESMA\_QUESTION\_VALID\_22>

We recommend that this period is aligned with Q8, and the period for backtesting

CCE encourages ESMA to consider explicitly clarifying that the 6 months period could be “within” the last X months, and aligned with the period set out in Article 10 of the draft RTS. This would permit the applicant CCP a buffer of at least 2-4 weeks between the last observation point and the submission**.**

<ESMA\_QUESTION\_VALID\_22>