Response to the ESMA consultation paper

Draft Guidelines on CCP recovery plan indicators (Article 9(5) CCPRRR)

Introduction

The Futures Industry Association (FIA) and the International Swaps and Derivatives Association (ISDA), together the Associations, represent the largest number of global and national participants in clearing, banking and financial markets. The Associations appreciate this opportunity to comment on this consultation.

This consultation response covers the positions of our members that are clearing members and their clients. The paper does not reflect the views of many CCPs, and many of the CCPs are in disagreement with the views expressed herein.

Questions

Guideline 1 Question:

Q1 *: Do you agree with the overarching principle and objectives of the guidelines for the framework of CCP recovery plan indicators as set out in the proposed Guideline 1?*

We agree with the proposed framework of recovery indicators. This framework is especially important for non-default losses, as the invocation of recovery measures for default losses is mostly hard-coded in the rulebook of a CCP.

Guideline 2 Question:

Q2 *: Do you agree with the proposed Guideline 2 and the categorisation of CCP recovery plan indicators into the three categories? Would you propose a different categorisation?*

We agree with the proposed categories of indicators. Many of these indicators will already likely be part of a CCPs' risk management processes, albeit in different structures.

Guideline 3 Questions:

Q3 *: Do you agree with the proposal to link each recovery plan scenario of a CCP with at least one 'indicator that provides early warning for recovery actions' and one 'indicator that signals the move from Business- as-Usual risk management to the recovery phase'? Would you propose a higher number of indicators for each scenario?*

We agree in principle with the proposal to link each recovery plan scenario of a CCP with at least one 'indicator that provides early warning for recovery actions' and one 'indicator that signals the move from business-as-usual risk management to the recovery phase. We do not propose a higher number of indicators. We believe that CCPs will have implicit indicators already built into their risk management framework. Formalising these indicators with a "one size fits all" structure containing more types of indicators might force a CCP's risk management into a structure that is not suitable for that particular CCP.

The current proposal provides sufficient and suitable indicators that enable focus to CCP management and visibility to supervisors, while still allowing sufficient flexibility for the CCP.

Q4 *: Do you agree with the list of proposed indicators for each scenario as set out in Table 1? Would you add/delete any?*

We agree with the lists of indicators set out in Table 1.

In the table of indicators under section 5, ESMA refers to the first early warning indicator "Failure of one or more members whose combined effect would represent a significant challenge to the CCP's funding". We recommend ESMA to be more precise and refer to liquidity, as funding is a slightly different concept.

Under section 6 in the table, it should be made clearer what indicators examine a suitable provision of liquidity provisions (for instance "Loss/removal of a liquidity service") and actual events that crystallize the liquidity provision by requiring actual liquidity (like "Operational or financial failure of a third-party entity").

Q5 *: Do you agree with the degree of granularity of the proposed indicators (as set out in Table 1) or should these be more prescriptive? Example: to assess the reduced liquidity of a market and the increased likelihood of being unable to reach a balanced book, the indicators could be the withdrawal of one or several market participants, the trading volumes, and the typical transaction costs.*

We understand the proposed indicators as set out in Table 1 as a high-level list and would expect CCPs to provide additional details as relevant to their business model and risk management framework. We certainly agree that such an additional level of detail is required but believe that it is difficult to specify too narrowly what should be examined.

On the topic of “assessing the reduced liquidity of a market and the increased likelihood of being unable to reach a balanced book, the indicators could be the withdrawal of one or several market participants, the trading volumes, and the typical transaction costs” (in question 5), we would expect the CCP to monitor whether there is sufficient market liquidity and likelihood of a balanced book on an ongoing basis to make sure all products the CCP clears can be cleared safely. This should be BAU and not be a recovery indicator.

Q6 *: Do you agree with the proposed approach for the ‘indicators that signal the usage of specific recovery measures?*

We agree with this concept. While many ‘indicators that signal the usage of specific recovery measures’ will be obvious, it will be helpful to document these implicit assumptions.

Guideline 4 Question:

Q7 *: Do you agree with the proposed Guideline 4 on the integration of CCP recovery plan indicators with the CCP’s monitoring system, and with the list of risks, entities and issues that should be monitored?*

We agree that the indicators should be integrated into CCPs’ monitoring system.

We expect that CCPs already monitor all relevant risks as part of their current risk management framework but identifying these indicators will be helpful to focus on recovery planning and is also relevant for appropriate supervision. For default losses, many of the indicators are implicit in the default management process and already set out in a CCP’s rulebook.

We agree that a CCP should review “the liquidity and of the number of active market participants for the activities they clear and for the assets they hold as collateral or investments; and any trend in the number and severity of incidents at the CCP and at FMIs to which the CCP is exposed”, but believe that CCPs already follow this approach as part of their BAU risk management.

Guideline 5 Question:

Q8 *: Do you agree with the proposed Guideline 5?*

Yes, we agree with the proposed guideline 5.

Cost and Benefit Analysis Questions:

Q9 *: Do you agree with the Option 3, if not please explain? Have you identified other benefits and costs not mentioned above associated to the proposed approach (Option 3)?*

We agree with option 3.

Q10 *: If you advocated for a different approach, how would it impact the cost and benefit assessment? Please provide details.*

We don’t advocate for a different approach.

About FIA

FIA is the leading global trade organization for the futures, options and centrally cleared derivatives markets, with offices in Brussels, London, Singapore and Washington, D.C. Our membership includes clearing firms, exchanges, clearinghouses, trading firms and commodities specialists from about 50 countries as well as technology vendors, law firms and other professional service providers.

Our mission: To support open, transparent and competitive markets, protect and enhance the integrity of the financial system, and promote high standards of professional conduct.

About ISDA

Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 960 member institutions from 78 countries. These members comprise a broad range of derivatives market participants, including corporations, investment managers, government and supranational entities, insurance companies, energy and commodities firms, and international and regional banks. In addition to market participants, members also include key components of the derivatives market infrastructure, such as exchanges, intermediaries, clearing houses and repositories, as well as law firms, accounting firms and other service providers. Information about ISDA and its activities is available on the Association's website: www.isda.org. Follow us on Twitter, LinkedIn, Facebook and YouTube.