

## **Joint DAT/BCBS Qualitative Surveys on incentives to centrally clear: Responses to clarification questions received (25 January 2018)**

This document sets out responses to clarification questions that have been received regarding the joint BCBS/DAT qualitative surveys on incentives to centrally clear, published on 14 December 2017.

**This document is intended to facilitate the completion of the Derivatives Assessment Team (DAT) questionnaire(s) and is not to be construed as an official interpretation of other documents published by the DAT or any member of the DAT.**

1. [Client survey, Q6a] There is a case that a firm is a client to a clearing member in some products/regions and direct clearing member in other products/regions. In this case, should the firm include both trades, client cleared and direct cleared in question 6a, or only client trades?

*Response: The response should include only client trades (and correspondingly, only trades cleared as a direct clearing member in the dealer and CCSP surveys).*

2. [Dealer survey, Q5c] Should the bank report as mandatory cleared when the bank is not mandated but the counterparty is mandated to centrally clear? Or should the bank supposed to report mandatory clear only when the bank is mandated?

*Response: Where the respondent knows that the counterparty is mandated to clear a trade even if the respondent is not, it should still be counted as a trade where central clearing is mandatory.*

3. [All surveys], we would like to know whether we should consider FX forwards cleared through CLS as OTC derivatives or not. Could you kindly provide us with a feedback?

*Response: For the purposes of the survey, FX forwards settled through CLS should not be counted as OTC derivatives.*

*More generally, for the purposes of this survey FX deliverable forwards, spot FX and exchanged traded FX should not be counted as OTC derivatives.*

***As noted above, this response is intended to facilitate the completion of the DAT questionnaire(s) and is not to be construed as an official interpretation of other documents published by the DAT or any member of the DAT. In particular, it does not address the legal interpretation of the term "OTC derivative" or "swap" in any legislative instrument, FAQ or official sector guidance.***

4. [Client survey, questions 10-12] Questions 12 and 13 refer to whether “yes” was the answer to “Q10”. However Q10 has no “yes” or “no” component that I can see. Is it supposed to refer to “11A”?

*Response: Correct, it should refer to Q11A.*

#### **New responses – added 17 January 2018**

5. [CCP survey, question 24] the CCP survey seeks feedback on the impact of G20 reforms to “Funding Liquidity”. In the context of this survey (with consideration to CCP perspective), how should we be considering ‘funding liquidity’?

*Response: For the purposes of this survey, Funding Liquidity refers to the ability to convert collateral deposited with the CCP into funds to cover CCP's obligations to its members.*

6. [Dealer survey, question 7] The section requires to rank the top 5 drivers for changes in volume of OTC derivatives activity, among the possible drivers one can find the “Clearing mandate”. We kindly ask you to clarify whether this means the requirement to clear certain derivatives through an authorised central counterparty (e.g. ref. Dodd-Frank Act), a mandate in the context of an offered clearing service (i.e. clearing broker) or something different.

*Response: The reference to 'clearing mandate' should be interpreted as "A regulatory/ legal requirement for specified standardised OTC derivatives products to be centrally cleared, unless subject to certain exemptions. Sometimes known by other terms such as 'clearing obligation' " ; also see the Glossary of Terms in Annex A of the Instructions document.*

7. [Client Clearing Service Provider survey, Q17] In the client clearing service provider survey, Q17 states "What is the typical notice period for termination of your client clearing service arrangements (not included a breach of terms by the client)?" How would they like us to respond, given there is no option to break out our response between ETD and OTC?

*Response: If there are significant differences in typical notice periods between ETC and OTC clients, please note these in the response to Q47.*

8. [CCP Survey, Q6b] Footnote 8 in relation to this question does not appear consistent with the definition of ‘voluntary clearing’ given the Glossary section of the instructions. Please could you clarify this.

*Response: Footnote 8 to the CCP survey should read as follows: “OTC-voluntary refers to all other product types within the specified asset class that is ~~not~~ offered for clearing and*

which is currently not subject to a clearing mandate in a jurisdiction in which the CCP has members.”

9. [CCP survey, Question 5b and 9] These questions requests the distribution of “bank” and “non-bank” clearing members. In what category would bank branch/affiliate clearing members and/or, for example, Futures Commission Merchants be best suited? In most cases these are sub-entities of banks (in the way the footnote describes) but may not themselves hold a banking license.

***Response: Following industry feedback it has been agreed to change the definition of ‘bank clearing member and ‘non-bank clearing member’ (currently stated in footnotes 5 and 6) for the purpose of these two questions i.e. 5b and 9 in the CCP survey.***

***Therefore, the definition of “bank clearing member” is amended to “a clearing member that is a bank clearing member, or an affiliate of a bank or bank holding company, and may include other authorised or approved deposit taking institution even if it is not called a ‘bank’.”***

***The definition of “non-bank clearing member” is amended to “a clearing member other than which is not a bank clearing member, nor an affiliate of a bank or bank holding company”.***

***The following part of the instruction to question 5b is amended: “For these purposes, count clearing members individually on a legal entity basis, ~~and classify clearing members that are non-bank affiliates of banking groups as non-banks.~~”***

#### **New response – added 19 January 2018**

10. [Client survey, Question 6 et passim] In the client clearing service provider survey, Q6 states "In each category below, please rank the size asset classes from 1 to 6 (measured by aggregated gross notional outstanding as at end-2017) cleared by your firm on behalf of your internal and external clients with '1' being the largest".  
Is it appropriate for us to exclude such instruments as OTC commodities, TBAs, etc. from consideration in our “centrally cleared OTC derivatives” notional?

***Response: OTC derivatives on commodities are included within the scope of this survey, but forward contracts, including TBAs, are not.***

#### **New Response – added 24 January 2018**

11. [All surveys] As the instructions state, the survey seeks responses to both OTC and exchange-traded derivatives activity, unless a question otherwise specifies. Most interest rate swaps are now traded on CFTC-regulated SEFs and MTFs/OTFs in the EU. To provide an accurate response to a question that distinguishes between the two, should firms

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characterize swaps that are subject to a trade execution requirement on such trading venues as exchange traded or OTC?

*Response: For the purposes of the survey, swaps/ derivatives that are traded on SEFs, MTFs or OTFs should be characterised as OTC derivatives and not as exchange traded derivatives.*

**New Response – added 25 January 2018**

12. [Client Clearing Service Provider survey, Q10] Should internal clients/ affiliates be included for this question?

*Response: No, internal clients and affiliates should be excluded for the purposes of answering this question.*