

## Joint DAT and BCBS Qualitative survey: confidentiality and data handling arrangements

### Introduction

This document sets out confidentiality and data handling arrangements for a joint qualitative survey of market participants ('joint qualitative survey') being undertaken by the Derivatives Assessment Team (DAT) and Basel Committee on Banking Supervision (BCBS) on incentives to centrally clear OTC derivatives. **Please note the deadline for submission of survey responses is now 17.00 CET on Friday 2 February 2018.**

### Overview

The Financial Stability Board (FSB), in close collaboration with the BCBS, the Committee on Payments and Market Infrastructures (CPMI) and the International Organization of Securities Commissions (IOSCO) (the "Committees"), and informed by work carried out by its members and other stakeholders, has developed a framework for the post-implementation evaluation of the effects of the G20 financial regulatory reforms.<sup>1</sup> The first evaluation under the framework is an examination of incentives to centrally clear OTC derivatives. The central clearing of standardised OTC derivatives was a pillar of the G20 Leaders' commitments to reduce systemic risk associated with OTC derivatives markets in response to the financial crisis.

To take this effort forward, the Committees have agreed to conduct a study, including surveys, to examine the incentives to centrally clear for dealers as well as their clients (including financial and non-financial entities). In order for this effort to be a success, it is critical for the study group to have sufficiently granular data as to identify the incentives that may be present for different asset classes or product types. Some of the information requested in the surveys may be non-public and may be considered confidential. As such, strict protocols will be established around how the data will be collected and processed, which are set out below.

This study will be undertaken by a joint BCBS-CPMI-FSB-IOSCO Derivatives Assessment Team (DAT), which will focus on incentives to centrally clear OTC derivatives ('DAT Study'); and the BCBS review of the impact of the leverage ratio on banks' provision of clearing services and any consequent impact on the resilience of central counterparty clearing; under the auspices of the Committees. The OTC Derivatives Coordination Group (ODCG)<sup>2</sup> is the coordinating body

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<sup>1</sup> See *The Framework for Post-Implementation Evaluation of the Effects of the G20 Financial Regulatory Reforms*, ("evaluation framework"), at <http://www.fsb.org/wp-content/uploads/P030717-4.pdf>.

<sup>2</sup> The ODCG comprises the Chairs of the FSB, Committee on Global Financial Systems, Basel Committee on Banking Supervision, International Organization of Securities Commissions, Committee on Payments and Market Infrastructures, and for the DAT, the OTC Derivatives Regulators Group.

14 December 2017

for this work. The CPMI-IOSCO Policy Standing Group (PSG) may identify areas on which the PSG could undertake further work on client clearing based on data collected for this study, which could include individual survey responses or their summaries..

One component of this work is a joint DAT/ BCBS qualitative survey of clearing members, CCPs and end users/clients ('joint qualitative survey'), to which this document relates.<sup>3</sup>

Three surveys for different market participant types have been developed: one for clearing members, one for end users of clearing services (clients) and one for CCPs. The survey for clearing members is further split into two parts: one section for completion by the OTC derivatives dealing business unit and one for completion by the clearing business unit (where applicable).

The joint qualitative survey will inform further consideration by the Committees of possible policy responses or possible further work from DAT findings. The study began in July 2017 and the final report is expected to be completed in late 2018.

If any further work from findings of the DAT study is carried out by any of the relevant Committees (which may be some or all of BCBS, FSB, CPMI or IOSCO), the bodies carrying that further work or review may request access to survey data in accordance with arrangements described here, which in principle could additional amended terms and conditions regarding data access and dissemination.<sup>4</sup>

## Process

Firms requested to complete the joint qualitative survey will be sent the final survey on or around 13 December 2017. The survey will be delivered either by the firm's lead supervisory authority ('national authority'), or by the survey collection secretariat, at the discretion of the national authority.<sup>5</sup> The survey will also be made available for download on the FSB website, and notices will also be published on the BIS and IOSCO websites.

Completion and submission of a survey response is voluntary and subject to the respondent's own legal and contractual arrangements and regulatory framework. By submitting a survey response, a firm consents to the data being submitted by it in the survey being used, handled

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<sup>3</sup> Another component is a DAT quantitative pricing survey to evaluate the relative price-at-trade initiation of centrally cleared trades versus bilateral trades.

<sup>4</sup> The evaluation framework states "The results of the evaluations will not contain any specific policy recommendations, but rather findings for consideration by the appropriate bodies. If their findings warrant, the SSBs and the FSB may recommend that a standard or policy in their respective areas of responsibility be considered for amendment, in accordance with their established policy development processes. The final responsibility for deciding whether and how to amend a particular standard or policy remains with the body that is responsible for issuing that standard or policy."

<sup>5</sup> 'Survey collection secretariat' refers to members of the FSB Secretariat (no more than three in number) that will receive and anonymise those survey responses that are sent to the DAT survey mailbox, as well as passing queries to/from such firms and survey analysis teams, in accordance with the arrangements set out in this document. These FSB survey collection secretariat staff will not be part of the survey analysis teams or be involved in any other analysis of survey responses.

14 December 2017

and stored as set out in this document; and confirms and represents that such submission is permitted under the respondent's own legal and contractual arrangements and regulatory framework to which it is subject.

Respondents are requested to complete and submit their survey responses by **17.00 CET on Friday 2 February 2018, replacing the previous deadline of 26 January 2018**. Details on data confidentiality and handling arrangements are below. Logistical details and instructions about where and how to send surveys, and how they will be transmitted for review and analysis, can be found in **Annex A**.

### **Anonymisation**

All survey responses will be anonymised before they are made available to survey analysis teams, i.e. the firm name in the file name will be replaced with an anonymisation code, and the firm name in the survey response background/respondent information section replaced with the anonymisation code. The contact details will also be removed from the response but separately retained only by those carrying out anonymisation should there need to be further contact with the responding firm. Where a firm responds to more than one survey, the same code will be applied to all such responses.

The anonymisation and retention of contact information will be carried out by national authorities before responses are transmitted to the Bank for International Settlements (BIS); or by the survey collection secretariat for responses sent to the DAT mailbox, before the following steps occur.

Anonymised survey responses will be provided to specified members of the Departmental Research Support Team in the Monetary and Economic Department of the BIS via a restricted folder on a BIS server. These members will have access to these survey responses solely for the purpose of collating (including preparation of charts and statistics) survey responses and running initial completeness and consistency checks. These members will not otherwise be involved in the analysis of responses and will not have access to these survey responses for any other purposes including broader BIS research.

Review and analysis of individual, anonymised survey responses will be carried out by survey analysis teams (SATs), comprising BIS, central bank, bank supervisor or market regulator members of the DAT or their nominated alternates from the same authority. The DAT, BCBS and PSG may establish separate SATs, but any and all such teams will be subject to the conditions set out in this document; see Annex C for lists of members. Secretariat members will not be part of survey analysis teams.

Any further work by the Committees from DAT findings must also adhere to the processes and conditions set out in this document.<sup>6</sup>

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<sup>6</sup> i.e. individuals of the review teams from the BIS, central banks, bank supervisors or market regulators or their nominated alternates from the same authority would only have access to individual anonymised survey

14 December 2017

SAT members<sup>7</sup> will travel to the BIS premises in Basel to undertake analysis of survey responses. These SAT members will have access to individual anonymised survey returns for review and analysis.

The SAT(s) will be supported by one or more BIS employees, drawn from the BCBS, CPMI or FSB secretariats, but not any members of the survey collection secretariat.<sup>8</sup> Additionally, if technical support is needed, the DAT will be assisted by BIS IT specialists or members of the aforementioned BIS Departmental Research Support Team.

Before being able to access survey returns, each SAT member will be required to:

- be approved by either the BCBS or DAT, depending on how the response has been transmitted;
- sign a confidentiality agreement (see Annex B); and
- sign the BIS code of conduct for contractors (available at <http://www.bis.org/suppliers/cocfc.pdf>).

BIS employees including Secretariat staff, Monetary and Economic Department staff and IT specialists providing support are already subject to a BIS Code of Conduct, which includes explicit confidentiality requirements, and have passed a credential checking process, as conditions of employment at the BIS.

Analysis of individual anonymised survey responses will only be processed at the BIS premises in Basel. A secure, restricted folder with access for SAT(s) will be created on a BIS server. Individual anonymised responses as well as the collated and cleaned responses will be downloaded into the secure, restricted folder ready for use by the SAT(s).

A dedicated room or rooms will be provided in the BIS premises for the SAT(s) to undertake its work. Each SAT member will be required to log-in to a designated computer, with user access to the restricted folder. Use of webmail/social media, external e-mail and USB sticks (or other file transfer peripherals) on such designated computers is not permitted.

### **Analysis and reporting**

The SATs will prepare summaries of responses that contain aggregated and/or masked data which does not reveal, either directly or indirectly through the use of additional analyses or data, the identity of or any non-public information about any specific entity. These summaries will be prepared by the SAT(s) in Basel.

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responses when physically present in Basel and after they had signed the relevant confidentiality agreements.

<sup>7</sup> SATs of the different reviews may or may not be present at the BIS premises at the same time.

<sup>8</sup> For data handled in accordance with the Framework for Basel Committee Data Collection Exercises, support may only be provided by the BCBS Secretariat.

14 December 2017

A prime consideration for the SAT(s) will be that any output is constructed in such a way that no identities of specific individual entities will be able to be discerned from the information it produces.

Following review to ensure the above aggregation and/or masking conditions are satisfied, summaries may be shared with the following groups (including supporting secretariats) (1) members of the DAT; (2) academic subject matter experts appointed to support the DAT;<sup>9</sup> (3) the FSB Steering Committee; (4) the FSB Plenary; (5) the CPMI; (6) the IOSCO Board; (7) the CPMI-IOSCO Policy Steering Group (PSG); (8) the CPMI-IOSCO Steering Group; (9) the Global Economy Meeting (GEM); (10) the Economic Consultative Committee (ECC); (11) the BCBS; (12) the BCBS Policy Development Group; and (13) subject to future consents and approvals, bodies/groups set up by the Committees to carry out any further work by the Committees from DAT findings. The DAT will prepare a report based on its findings including the summaries/outputs of survey analysis for discussion and review by the Committees of the study, i.e. BCBS, CPMI, FSB and IOSCO as well as the ODCG as coordinating body for the review.

As part of the work to evaluate incentives to centrally clear OTC derivatives, it is intended that the DAT will prepare a report for publication and consultation. Before publication, the Committees will review the report including to ensure they are comfortable that no information in the report allows the identification of individual entities.

Members of the Committees and their staff, and secretariat staff of the Committees, must exercise all due care and caution and take all reasonable measures to prevent access to survey responses and data by unauthorised persons and prevent accidental loss or disclosure of such survey responses and data.

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<sup>9</sup> As part of the DAT Study, two academic subject matter experts have been appointed to provide feedback on the methodological approaches, empirical analysis and preliminary findings. These experts have signed the BIS Code of Conduct for contractors and additional non-disclosure agreements.

## **Annex A: Data collection for DAT - Explanatory notes for respondents to the Joint Qualitative Survey**

### **Submission of survey responses**

Survey responses should only be submitted in the original file format and structure, and in accordance with instructions. **Please do not change the formatting or structure in the survey form; any changes may invalidate the survey response and result in the submission being excluded from analysis.** Different file formats (e.g. pdf) or amended document files (e.g. modifications made to the structure of the Word template) may be rejected for inclusion in analysis. As discussed further below, where the responding entity is part of a group (e.g. a dealer entity of a consolidated holding company or group), we ask that a single survey response is prepared for, and as far as possible from the perspective of, the whole group. All responses must be provided in English. All files should follow the naming convention '[firmname]\_ccpdatsurvey.docx' for responses to the CCPs survey, '[firmname]\_dealerdatsurvey.docx' for responses to the OTC derivatives dealers survey, '[firmname]\_servicedatsurvey.docx' for the client clearing service providers survey, and '[firmname]\_clientdatsurvey.docx' for responses to the clients survey.

There will be two modes of survey submission; where national authorities have decided to intermediate the survey responses, each authority is responsible for all communication with the respective firms, collection and anonymisation of the data, and submission of responses to the FSB Secretariat via e-FSB or, where the firm is a bank, to the BCBS Secretariat via e-BIS at the discretion of the national authority; and 'direct' submission from the respondent to the DAT mailbox ([datsurvey@bis.org](mailto:datsurvey@bis.org)).

Pricing survey responses that an intermediating national authority chooses to deliver to the BCBS via e-BIS and any other survey responses that are analysed together with such responses, will additionally be treated in accordance with the Basel Committee's framework for data collection exercises as amended for a term sheet specific to this exercise.

Where survey templates are delivered to a firm, the mode applicable to each firm will be communicated to the firm when the final survey is made available to them or shortly thereafter.

Any responses from industry associations should be submitted to the DAT mailbox.

**Where a firm downloads the survey from the FSB website and it is a firm subject to regulation or supervision by a central bank, prudential supervisor or market regulator ('national authority'), to facilitate coordination and consistent treatment in the survey response process, the firm should contact its group's lead national authority as soon as possible to enquire whether that national authority may wish either to intermediate or receive a copy of the firm's survey response.**

14 December 2017

**If the national authority is intermediating, the national authority should contact [datsurvey@bis.org](mailto:datsurvey@bis.org) to obtain an account in e-BIS or e-FSB as well as details on how responses should be anonymised (see below).**

*Survey response process for national authority intermediation*

In the case of this process, survey respondents will send their completed survey response to their group's national authority. The process by which the respondent delivers the completed data template to the national authority is for mutual agreement between the national authority and the respondent.

An individual at the national authority will be nominated by the national authority to have an account requiring a second authentication using a hardware token to upload documents to a designated page on e-FSB or e-BIS, identical secure communication channels. This individual will be required to agree to e-FSB or e-BIS Terms and Conditions, which will grant access to the designated e-FSB or e-BIS page as appropriate.

The nominated individual will upload the completed survey response to e-FSB or e-BIS. Only anonymised responses will be uploaded. The design of the file transfer system for both e-FSB and e-BIS means that this individual is not able to view any information or files of users from other authorities. The submitted survey responses will be held securely on the system until downloaded to a restricted folder on a BIS server by nominated members of the BCBS Secretariat (for responses transmitted via e-BIS) or FSB Secretariat (for responses transmitted through e-FSB). Once the survey exercise has been completed, the individual's access to the designated page will be removed.

If agreed by the respondent and national authority, the response may alternatively be sent by email in accordance with the 'direct submission' instructions given below, after anonymisation by the national authority.

*Survey response process for direct submission to the FSB survey collection Secretariat*

Where a national authority does not intermediate in the transmission of survey responses, completed survey responses must be sent as password protected Word attachments to the email address [datsurvey@bis.org](mailto:datsurvey@bis.org), a dedicated, secure mailbox solely established for the purposes of this review. Passwords for those password-protected files should be sent to the same email address but in a separate message (i.e. a message to which the corresponding completed survey response file is not attached). Only a limited number of survey collection secretariat members (and no more than three) will have access to the [datsurvey@bis.org](mailto:datsurvey@bis.org) email account.

Where a respondent wishes to additionally encrypt its response, it can do so using PGP encryption but should contact [datsurvey@bis.org](mailto:datsurvey@bis.org) in advance to notify intent to encrypt its response in this manner.

14 December 2017

The survey collection secretariat will access the mailbox, unlock/decrypt and anonymise responses, and download these to a restricted folder on a BIS server for collation and analysis. All responses will then be handled in the manner described in this document.

### **Survey deadline**

The deadline for survey responses is **17.00 CET on Friday 2 February 2018, replacing the previous deadline of ~~26 January 2018~~**.

Survey responses received after the deadline may not be accepted and included in the analysis. For respondents submitting survey responses via national authorities, these must be sent to the national authority by the same deadline.

### **Clarification questions on survey responses**

Questions about these guidelines or any other aspects of the joint qualitative survey should be emailed to [datsurvey@bis.org](mailto:datsurvey@bis.org) or, where a national authority is intermediating, sent to that national authority for either responding directly or anonymisation and delivery to the DAT Secretariat. Questions will be collated and anonymised by the DAT Secretariat and shared with a joint 'FAQs' team comprising members of the DAT and BCBS for discussion and response. Questions that may be relevant to other respondents to the survey will be anonymised and circulated periodically to potential respondents, or national authorities where they are intermediating.



14 December 2017

## Annex B: Confidentiality agreement to be signed by survey analysis team members for the joint qualitative survey

To facilitate the analysis of the DAT Study/ BCBS review/ CPMI-IOSCO PSG work on client clearing [delete as appropriate]<sup>10</sup>, individual, anonymised survey responses from participating market participants will be collected at the Bank for International Settlements. These responses will be made available to you as a member of the Survey Analysis Team on the condition that the data must be kept strictly confidential. To help ensure that Survey Analysis Team members uphold their pledges of confidentiality to participating firms, please complete the information requested below and return the signed form to the FSB Secretary General (E-mail: svein.andresen@fsb.org or, after 15 January 2018, dietrich.domanski@fsb.org; Fax: +41 61 280 9100).

I hereby take note that data provided by individual firms in their survey responses must be kept **strictly confidential** and must not be made available to **anyone** except other members of the Survey Analysis Team who are subject to this confidentiality agreement and BIS support staff who are subject to the BIS Code of Conduct. In particular, the data provided by individual firms is intended to be used solely for the purposes of the DAT Study/ BCBS review/ CPMI-IOSCO PSG work on client clearing [delete as appropriate; see footnote 10] and any other purposes described in the document *Joint DAT and BCBS qualitative survey: confidentiality and data handling arrangements* including Annexes and may **not** be transferred from the premises of the Bank for International Settlements by any means whatsoever, e.g. electronically or physically.

All non-public data and information shared by survey respondents must be treated with due confidentiality. Members of the Survey Analysis Team may prepare and provide summaries and analysis for the use of the DAT Study/ BCBS review/ CPMI-IOSCO PSG work on client clearing [delete as appropriate; see footnote 10], but only when such summaries and analysis contain data that are aggregated and/or masked so that the identity of any individual firm, or any non-public information about any specific entity **cannot** be determined or reverse engineered, either directly or indirectly through the use of additional analyses or data. Any information, data or summaries based on survey responses or in any publications produced by DAT Study/ BCBS review/ CPMI-IOSCO PSG work on client clearing [delete as appropriate; see footnote 10] must also be aggregated and/or masked so that the identity of any individual firm, or any non-public information about any specific entity **cannot** be determined or reverse engineered, either directly or indirectly through the use of additional analyses or data, unless required by law or necessitated under the respective legal frameworks applicable to me in my capacity as a representative of my organisation.

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<sup>10</sup> If any review bodies/groups set up by the Committees carry out further work from findings of the DAT study seek access to survey data, the name of the specific review body would be inserted instead.



14 December 2017

I agree that my access to the premises of the Bank for International Settlements or its IT systems in connection with the survey analysis is subject to the policies of the Bank for International Settlements as regards security, confidentiality and general conduct.

*Agreed:*

Name \_\_\_\_\_

Organisation \_\_\_\_\_

Date \_\_\_\_\_

Signature \_\_\_\_\_

## Annex C: DAT list of members

<b>Brazil</b>	Comissão de Valores Mobiliários (CVM)
<b>Canada</b>	Ontario Securities Commission
<b>France</b>	Autorité des Marchés Financiers Banque de France *
<b>Germany</b>	Deutsche Bundesbank
<b>Hong Kong</b>	Securities & Futures Commission
<b>Italy</b>	Banca d'Italia * Commissione Nazionale per le Società e la Borsa (CONSOB) *
<b>Japan</b>	Financial Services Agency *
<b>Russia</b>	Central Bank of the Russian Federation
<b>Singapore</b>	The Monetary Authority of Singapore *
<b>Spain</b>	Banco de España *
<b>Sweden</b>	Sveriges Riksbank
<b>United Kingdom</b>	Bank of England * Financial Conduct Authority *
<b>United States</b>	Board of Governors of the Federal Reserve System * Commodity Futures Trading Commission * Securities and Exchange Commission *
<b>International organisations</b>	Bank for International Settlements * European Central Bank European Commission European Securities and Markets Authority International Association of Insurance Supervisors
<b>DAT Secretariat</b>	CPMI Secretariat BCBS Secretariat FSB Secretariat IOSCO Secretariat

14 December 2017

\* Designated individuals from these authorities, or their alternates from the same authority, may be members of the DAT Survey Analysis Team.

### List of CPMI-IOSCO PSG members

<b>Australia</b>	Reserve Bank of Australia
<b>Belgium</b>	National Bank of Belgium
<b>Brazil</b>	Comissão de Valores Mobiliários
<b>Canada</b>	Bank of Canada Ontario Securities Commission Autorité des Marchés Financiers (Quebec)
<b>China</b>	China Securities Regulatory Commission
<b>France</b>	Autorité des Marchés Financiers Banque de France
<b>Germany</b>	Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin) Deutsche Bundesbank
<b>Hong Kong</b>	Hong Kong Monetary Authority Securities & Futures Commission
<b>India</b>	Securities and Exchange Board of India
<b>Ireland</b>	Central Bank of Ireland
<b>Italy</b>	Banca d'Italia
<b>Japan</b>	Bank of Japan Financial Services Agency
<b>Mexico</b>	Comisión Nacional Bancaria y de Valores
<b>Netherlands</b>	De Nederlandsche Bank
<b>Russia</b>	Central Bank of the Russian Federation
<b>Singapore</b>	Monetary Authority of Singapore

14 December 2017

<b>Sweden</b>	Finansinspektionen
<b>Switzerland</b>	Swiss National Bank
<b>United Kingdom</b>	Bank of England
<b>United States</b>	Board of Governors of the Federal Reserve System Commodity Futures Trading Commission Federal Reserve Bank of New York Securities and Exchange Commission
<b>International organisations</b>	European Central Bank European Securities and Markets Authority International Bank for Reconstruction and Development
<b>Secretariat</b>	CPMI Secretariat IOSCO Secretariat

### List of BCBS members

A list of institutions represented on the Basel Committee on Banking Supervision can be found at [www.bis.org/bcbs/membership.htm](http://www.bis.org/bcbs/membership.htm)