FINANCIAL STABILITY BOARD

SECRETARIAT

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Jurisdictions' declared approaches to central clearing of OTC derivatives

Secretariat information note

This note provides a summary of responses received from jurisdictions to the FSB Chairman's 28 August letter (PLEN/2012/98) about their approaches to central clearing.

The letter asked jurisdictions to indicate their approach to central clearing, and specifically requested information on whether the approach to central clearing would be based on the use of domestic clearing infrastructure or of infrastructure located in other jurisdictions (or some combination of both). It also asked whether authorities will impose mandatory clearing requirements or intend to rely initially on economic incentives, reserving the introduction of a mandatory requirement as a potential backstop measure. The letter also asked jurisdictions to outline the timeframe for implementation.

Responses with declared approaches have been received from all national authorities and the European Commission.[1] The responses are summarised in the attached table. The individual responses are available on e-fsb at https://e-fsb.org/rooms/asteering/CD/BG/Pages/default.aspx.

Decisions by jurisdictions

All FSB member jurisdictions have made a decision about their approach to central clearing of OTC derivatives. The majority of countries (16) report that they will adopt mandatory clearing requirements or a combination of mandatory clearing requirements and incentives to meet the G20 commitment to have all standardised OTC derivative contracts centrally cleared. Jurisdictions that report using a combination generally state that mandatory clearing requirements will apply to standardised products and, consistent with the Basel III requirements, strong incentives will be put in place to encourage the central clearing of other products. Several of the jurisdictions that plan to use both mandatory clearing requirements and incentives note that the mandatory requirements will be phased in, beginning with the products that are already most standardised.

Several countries (seven) note that they anticipate initially using incentives to meet the G20 commitments. These jurisdictions generally said that, based on assessments of their respective

[1] The six EU Member States that are also FSB members (France, Germany, Italy, the Netherlands, Spain and the UK) each described an approach consistent with the approach set forth in EMIR. The references to numbers of countries in the text include these six individually.

markets, this would be an appropriate approach to meeting the commitments given the characteristics of their market. These jurisdictions also note having the authority to require central clearing, if such requirements should be needed based on market developments.

Most jurisdictions (17) also note that market participants from their jurisdiction will be able to use either domestic or cross-border CCPs, as clearing services may vary. Still, several jurisdictions anticipate that, because of the characteristics of the domestic market, their participants will (at least initially) clear through domestic CCPs. For example, in some jurisdictions, the products subject to mandatory clearing requirements are only offered for clearing on domestic CCPs (see Mexico's response). Two jurisdictions note that they anticipate that their market participants will rely on cross-border CCPs, since domestic CCPs are not available for clearing OTC derivatives.

Next steps

All countries have now finalised their decision-making on the approach to central clearing. This demonstrates the collective commitment of FSB members to implement the commitment to central clearing of all standardised derivatives, and the information on approaches will provide additional information to assist markets in their preparations.

Jurisdictions need to rapidly put in place the needed legislation and regulations to implement the decisions made, to meet the end-2012 G20 deadline.

Given that the majority of responses anticipate the sole or partial use of cross-border CCPs by market participants in their jurisdiction, authorities that regulate cross-border CCPs need to continue their implementation of the four safeguards.

The FSB Chairman will report this, together with a summary of jurisdictions' planned approaches, to the 4-5 November G20 Finance Ministers and Governors.

Summary of approaches to central clearing of OTC derivatives by jurisdiction

Country	Declared approach to central clearing	Anticipate use of domestic CCPs[2]	Anticipate use of cross-border CCPs[3]	Anticipate use of either type of CCP	Incentives/requirements	Time frame
Argentina	●	●			Incentives are currently in place to use CCPs supervised by the Central Bank; Central Bank is also working to implement the Basel reforms regarding capital for credit risk.	Regulations already in place. No time frame given for additional amendments.
Australia	●			●	Incentives provided by compliance with Basel III, supplemented by mandatory clearing obligations if/where necessary..	Legislative framework in place by end -2012. On-going assessments to identify where central clearing is appropriate and to monitor market progress.
Brazil	●	●			Central clearing is currently based on incentives, but periodic assessments will be carried out to determine whether mandatory clearing requirements are needed.	Regulations already in place. No time frame given for additional amendments.
Canada	●			●	Incentives provided by compliance with Basel III as well as some mandatory clearing requirements.	Basel III implementation by 1 January 2013.
China	●	●			The criteria being considered are in connection with mandatory clearing requirements; specifically in determining which products would be suitable for mandatory clearing requirements. Will also consider additional steps to support central clearing.	End-2012

2 "Domestic" CCPs refer to CCPs that are headquartered, operating and supervised by authorities within the jurisdiction specified.

3 "Cross-border" CCPs refer to CCPs that are headquartered in a jurisdiction other than the jurisdiction specified. Since CCPs may be registered or exempt from registration in multiple jurisdictions "cross-border" CCPs may still be supervised in the jurisdiction specified, even if they are not headquartered or physically located in that jurisdiction.

Country	Declared approach to central clearing	Anticipate use of domestic CCPs[2]	Anticipate use of cross-border CCPs[3]	Anticipate use of either type of CCP	Incentives/requirements	Time frame
European Union	●			●	Mandatory clearing requirements for standardised and liquid products; and incentives for those products not sufficiently standardised or liquid to be subject to mandatory clearing.	Legislative framework in place; additional implementing rules (standards and decisions) to be finalised primarily in H1 2013.
Hong Kong	●			●	Mandatory clearing requirements will be put in place, particularly for interest rate and non-deliverable forwards. Additionally, there will be some incentives consistent with BCBS.	Target implementation by Q3 2013. Conclusions already published and currently drafting amendments to be introduced to Legislative council early 2013.
India	●	●			Central clearing currently based on a combination of mandatory requirements and incentives. Going forward, a similar combination will be adopted as well.	Q4 2012 for mandatory clearing requirements for USD/INR forwards.
Indonesia	●			●	Will use economic incentives consistent with Basel III to promote central clearing of derivatives, given that regulations limit the use of OTC derivatives. Will implement requirements for central clearing if necessary in the future.	No specific time frame established; closely monitoring market development to ensure timely adoption.
Japan	●			●	Mandatory clearing requirements for all standardised OTC derivatives and incentives for other products.	1 November 2012, for initial stage of implementation.
Korea	●			●	Both incentives and mandatory clearing requirements will be used; intent to slowly expand requirements.	No time frame for implementation given; Financial Investment Services and Capital Markets Act submitted to the National Assembly in Nov. 2011.

Country	Declared approach to central clearing	Anticipate use of domestic CCPs[2]	Anticipate use of cross-border CCPs[3]	Anticipate use of either type of CCP	Incentives/requirements	Time frame
Mexico	●			●	Mandatory clearing requirements for "standardised" OTC derivatives and incentives for other derivatives.	Full implementation by H1 2013.
Russia	●	●			Incentives will initially be used and a decision on whether mandatory requirements are needed will be taken after TR requirements are in effect, providing data to better analyse the market	Economic incentives by early 2013.
Saudi Arabia	●		●		Incentives will be used; no domestic CCP at this time.	End-2012.
Singapore	●			●	Mandatory clearing requirements and incentives (in the form of margining/capital requirements) for those products that are not required to be cleared.	Legislative framework by end-2012; additional time (not specified) for implementing regulations.
South Africa	●			●	Incentive based system, but have authority to mandate requirements if needed.	January 2013.
Switzerland	●		●		Both incentives and mandatory clearing requirements	No time frame for implementation provided; SFC decided on a legislative reform package in August 2012 and public consultation on draft legislation is planned for H1 2013.
Turkey	●	●			Incentives will be used (consistent with Basel III).	Q4 2012/Q1 2013.
United States	●			●	Mandatory clearing requirements for all standardised OTC derivatives and incentives for other products, in accordance with Basel III.	Legal framework in place; partial adoption of implementing rules for mandatory clearing; implementing rules proposed for incentives consistent with Basel III.

Country	Declared approach to central clearing	Anticipate use of domestic CCPs[2]	Anticipate use of cross-border CCPs[3]	Anticipate use of either type of CCP	Incentives/requirements	Time frame
Totals[4]	25	6	2	17		

[4] Totals include each FSB national member who is also a member of the EU (France, Germany, Italy, the Netherlands, Spain and the UK), all of whom indicated that their approach would be consistent with the EU approach set out in EMIR.