

May 20, 2022

VIA ELECTRONIC SUBMISSION (tfde@oecd.org)

Tax Treaties, Transfer Pricing and Financial Transactions Division

Centre for Tax Policy and Administration

OECD

Re: The OECD Public Consultation Document “Pillar One – Amount A: Regulated Financial Services Exclusion”

The Global Association of Central Counterparties (“CCP12”) is the international association for CCPs, representing 41 members who operate over 60 individual central counterparties (CCPs) across the Americas, EMEA, and the Asia-Pacific region.

CCP12 appreciates the opportunity to respond to the OECD Public Consultation Document “Pillar One – Amount A: Regulated Financial Services Exclusion”¹ (“the Consultation”). We already alluded to some of the aspects of the proposed solution to the tax challenges of the digitalisation of the economy in the CCP12 response² to the OECD Public Consultation Document “Reports on the Pillar One and Pillar Two Blueprints”³. With this submission, we would like to yet again comment on the scope of entities which should be excluded from the scope of application of Amount A.

As currently proposed, the Model Rules assume the exclusion from the scope of Amount A the revenues and profits from Regulated Financial Institutions which include Depository Institutions, Mortgage Institutions, Investment Institutions, Insurance Institutions, Asset Managers, Mixed Financial Institutions and RFI Service Entities. We consider however, that the Consultation would benefit from an explicit exclusion of Central Counterparties (“CCPs”) and the Exchanges they serve. We suggest an exemption for CCPs that are registered, regulated, authorised, or supervised in a jurisdiction or do not need to be registered, regulated, authorised or supervised by virtue of falling outside the requirement to be so by the competent authorities.

CCPs are risk management entities at the centre of financial markets. They are highly regulated entities, with global standards, local legislation, and regulations which outline their governance, operational requirements, functions, and role in ensuring market transparency and fairness. The use of central clearing services provided by CCPs has been promoted by the International Monetary Fund (“IMF”) and

¹ OECD, Public Consultation Document “Pillar One – Amount A: Regulated Financial Services Exclusion” (May 2022), available at [Link](#)

² CCP12, Response to OECD Public Consultation Document “Reports on the Pillar One and Pillar Two Blueprints” (December 2020), available at [Link](#)

³ OECD, Public Consultation Document “Reports on the Pillar One and Pillar Two Blueprints” (October 2020), available at [Link](#)

the global financial standard setting bodies, following the G20 commitments to increase their use in the aftermath of the Great Financial Crisis of 2007-2009⁴.

It is the clear view of CCP12 and its members that the regulated central clearing space of finance is a sector where the policy challenges of digitalisation do not present themselves and that the OECD work would benefit from an explicit exclusion. Clarity around it would be beneficial not only for CCPs, but also Banking, Insurance and Asset Management companies that are often the primary participants in the markets for which CCPs provide clearing services.

CCP12 believes that exclusion of CCPs is warranted on the basis of the following key attributes:

- CCPs are highly regulated entities, subject to local regulatory requirements in their home jurisdiction that are consistent with international standards (i.e., PFMLs⁵) that are driven by the G20 and other multilateral organisations. These requirements cover, among other things, governance, membership, operations, risk management and geographical scope. Similarly to banks, a number of CCPs are also formally authorised credit institutions subject to additional prudential requirements.
- The markets that CCPs serve include, amongst others:
 1. Government and corporate bond markets (primary, secondary, repo markets, and derivatives), including with Public Treasuries, Debt Management Offices and Central banks as members or participants;
 2. Equity markets (primary, secondary, securities financing markets, and derivatives markets); and
 3. Commodities markets (including cash-settled and physically settled and delivered agricultural goods and soft commodities, energy products such as oil and natural gas, and a wide variety of metals).

In addition to these primary considerations, we would note that if CCPs were to be considered in the scope, attention would need to be paid to the specific nature of CCPs' fee policies. CCPs interpose themselves between trades conducted by their members, acting as buyer to every seller and seller to every buyer. CCPs do not have positions of their own, but the entire members' trading volume is processed by the CCP. Thus, substantial technical consideration would be required to consider what the correct metrics, if any, would be for CCPs.

The importance of the issue of an appropriate design of a taxation framework for CCPs has also been emphasised in the IMF paper "Applying the Central Clearing Mandate: Different Options for Different Markets"⁶. As the authors rightfully observe, "[i]t is important to consider these [domestic and international] tax issues when designing the CCP framework in order to ensure that the tax rules do not create market distortions and inefficiencies that could undermine the clearing process itself." With that in mind, we call for an explicit exclusion of CCPs from the scope of application of Amount A envisaged under the Pillar One rules, as justified above.

⁴ G20 Leaders Statement: The Pittsburgh Summit (Nov. 2011), available at [Link](#)

⁵ CPSS, IOSCO, Principles for financial market infrastructures (April 2012), available at [Link](#)

⁶ International Monetary Fund, "Applying the Central Clearing Mandate: Different Options for Different Markets" by John Kiff, Alessandro Gullo, Cory Hillier, and Panagiotis Papapaschalis, WP/22/14 (January 2022), available at [Link](#)

About CCP12

CCP12 is the global association for CCPs, representing 41 members who operate over 60 individual central counterparties (CCPs) across the Americas, EMEA, and the Asia-Pacific region.

CCP12 promotes effective, practical, and appropriate risk management and operational standards for CCPs to ensure the safety and efficiency of the financial markets it represents. CCP12 leads and assesses global regulatory and industry initiatives that concern CCPs to form consensus views, while also actively engaging with regulatory agencies and industry constituents through consultation responses, forum discussions and position papers.

For more information, please contact the office by e-mail at office@ccp12.org or through our website by visiting www.ccp12.org.

CCP12 Members



CCP12 Primary Members	Website
Australian Securities Exchange	http://www.asx.com.au/
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Camara de Riesgo Central de Contraparte de Colombia, S.A.	http://www.camaraderiesgo.com
Chicago Mercantile Exchange Group	http://www.cmegroup.com/
China Securities Depository & Clearing Corporation Ltd	http://www.chinaclear.cn/english/en_index.shtml
Clearing Corporation of India Ltd	http://www.ccilindia.co.in
Comder, contraparte Central S.A	http://www.comder.cl
Depository Trust & Clearing Corporation	http://www.dtcc.com
Dubai Clear LLC	www.dubaiclear.ae
Dubai Commodities Clearing Corporation	http://www.dccc.co.ae/
Eurex Clearing Group	http://www.eurexclearing.com
Hong Kong Exchanges and Clearing Limited	http://www.hkex.com.hk
Indonesia Clearing and Guarantee Corporation	https://www.idclear.co.id/en
Intercontinental Exchange, Inc.	http://www.theice.com
Izba Rozliczeniowa Gield Towarowych S.A.	https://www.irgit.pl/en
Japan Securities Clearing Corporation	http://www.jpx.co.jp
JSE Clear Pty (Ltd.)	http://www.jse.co.za
KDPW_CCP S.A.	https://kdpwccp.pl/en
Korea Exchange	http://www.krx.co.kr
London Stock Exchange	http://www.lseg.com
Multi Commodity Exchange Clearing Corporation Limited	www.mcxcl.com
Minneapolis Grain Exchange, Inc.	http://www.mgex.com
Nasdaq Clearing AB	http://www.nasdaq.com
NSE Clearing Limited	https://www.nsclindia.com/
New Zealand Clearing and Depository Corporation Limited	https://www.nzx.com/services/nzx-clearing
Options Clearing Corporation	http://www.theocc.com
Shanghai Clearing House	http://www.shclearing.com
Singapore Exchange Limited	http://www.sgx.com
Taipei Exchange	http://www.tpex.org.tw
Taiwan Futures Exchange	http://www.taifex.com.tw
Taiwan Stock Exchange	http://www.twse.com.tw
Takasbank	https://www.takasbank.com.tr/en
Thailand Clearing House	https://www.set.or.th/tch/en
The Securities Clearing Center Company	https://muqassa.sa/
TMX Group	https://tmx.com/
Vietnam Securities Depository	https://vsd.vn/en/
CCP12 Observer Members	Website
Argentina Clearing S.A	http://www.argentinaclearing.com.ar/
Bursa Malaysia Berhad	https://www.bursamalaysia.com/
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