



ΕΠΙΤΡΟΠΗ ΚΕΦΑΛΑΙΑΓΟΡΑΣ Ν.Π.Δ.Δ.

Διεύθυνση Οικονομικών Υπηρεσιών

13PROC001566600 2013-08-01

ΑΝΑΡΤΗΤΕΑ ΣΤΟ ΔΙΑΔΙΚΤΥΟ ΚΑΙ ΣΤΟ ΜΗΤΡΩΟ

ΠΛΗΡΟΦΟΡΙΕΣ:	Α. Βλάχος	Αθήνα, 01/08/2013
ΤΗΛ.:	2103377185	Αρ. Πρ. 3055
Fax	2103377173	
e-mail	a.vlachos@cmc.gov.gr	
Εξειδικευμένες	Η. Σεγούρα 210 3377171	
Πληροφορίες:	i.segoura@cmc.gov.gr	
	Κ. Νταιή 210 3377176,	
	k.ntai@cmc.gov.gr	

**ΠΡΟΚΗΡΥΞΗ ΠΡΟΧΕΙΡΟΥ ΜΕΙΟΔΟΤΙΚΟΥ ΔΙΑΓΩΝΙΣΜΟΥ**

Διενέργεια πρόχειρου μειοδοτικού διαγωνισμού, με κριτήριο τη χαμηλότερη τιμή, σε ευρώ, για την ανάθεση του έργου: «Ανάληψη από ελεγκτικές ή συμβουλευτικές εταιρείες της αξιολόγησης των κινδύνων της Εταιρείας Εκκαθάρισης Συναλλαγών Χρηματιστηρίου Αθηνών Α.Ε. (ΕΤ.ΕΚ.), στο πλαίσιο της αδειοδότησής της, σύμφωνα με τον Κανονισμό (Ε.Ε.) αριθ. 648/2012.», και σύμφωνα με τις διαδικασίες της περίπτωσης (δ) του άρθρου 4 της κανονιστικής απόφασης 1/491/14.11.2008 της Επιτροπής Κεφαλαιαγοράς Ν.Π.Δ.Δ. «Κανονισμός Προμηθειών της Επιτροπής Κεφαλαιαγοράς Ν.Π.Δ.Δ.» (ΦΕΚ Β΄/2425/1.12.2008)

**Η Επιτροπή Κεφαλαιαγοράς, αφού έλαβε υπόψη :**

1. Την υπ' αριθ. 8496/Β΄ 3113/13.2.2009 Απόφαση του Υπουργού Οικονομίας και Οικονομικών «Κανονισμός Οικονομικής Διαχείρισης του Ν.Π.Δ.Δ. Επιτροπή Κεφαλαιαγοράς» (ΦΕΚ Β΄/320/23.2.2009) και ειδικότερα την περίπτωση (ιθ) του άρθρου 3 του ως άνω Κανονισμού.
2. Την περ. δ του άρθρου 4 της υπ. αριθμ. 1/491/14-11-08 Απόφασης του Δ.Σ. της Επιτροπής Κεφαλαιαγοράς Ν.Π.Δ.Δ. (ΦΕΚ Β΄ / 2425 / 1-12-08) αναφορικά με την προμήθεια υπηρεσιών και υλικών με συνοπτικές διαδικασίες – πρόχειρος διαγωνισμός - όταν η προϋπολογιζόμενη δαπάνη υπολείπεται των ορίων κατώτερης αξίας των κοινοτικών διατάξεων αλλά υπερβαίνει το εκάστοτε όριο ποσού της διαδικασίας διαπραγμάτευσης.
3. Το στοιχείο (χνί) της περίπτωσης (α) της παραγράφου 1 της κανονιστικής απόφασης 7/513/18.6.2009 της Επιτροπής Κεφαλαιαγοράς «Μεταβίβαση αρμοδιοτήτων στην Εκτελεστική Επιτροπή, στους Α΄ και Β΄ Αντιπροέδρους, στο Γενικό Διευθυντή και στους Προϊσταμένους Διευθύνσεων, Τμημάτων, Γραφείων και λοιπών Υπηρεσιακών Μονάδων της Επιτροπής Κεφαλαιαγοράς» (ΦΕΚ Β΄/1279/29.6.2009), όπως

- τροποποιήθηκε με τη νεότερη απόφαση 14/597/23.9.2011 (ΦΕΚ Β'/2179/29.9.2011).
4. Την περίπτωση 16 της παραγράφου 4 του άρθρου 2 του ν. 3861/2010 «Ενίσχυση της Διαφάνειας με την υποχρεωτική ανάρτηση νόμων και πράξεων των κυβερνητικών, διοικητικών και αυτοδιοικητικών οργάνων στο διαδίκτυο «Πρόγραμμα Διαύγεια» και άλλες διατάξεις» (ΦΕΚ Α'/112/13.7.2010).
  5. Το άρθρο 11 του ν. 4013/2011 περί σύστασης Κεντρικού Ηλεκτρονικού Μητρώου Δημόσιων Συμβάσεων κ.λπ. (ΦΕΚ Α'/204/15.9.2011) και την περίπτωση 2 της παραγράφου 2 του άρθρου 3 της κοινής Υπουργικής Απόφασης με αριθ. Π1/2380/2012 «Ρύθμιση των ειδικότερων θεμάτων λειτουργίας και διαχείρισης του Κεντρικού Ηλεκτρονικού Μητρώου Δημόσιων Συμβάσεων του Υπουργείου Ανάπτυξης, Ανταγωνιστικότητας, Υποδομών, Μεταφορών και Δικτύων» (ΦΕΚ Β'/3400/20.12.2012).
  6. Την απόφαση που ελήφθη στη 1186η/29.05.2013 συνεδρίαση της Εκτελεστικής Επιτροπής της Επιτροπής Κεφαλαιαγοράς Ν.Π.Δ.Δ.
  7. Το από 29.07.2013 (ΑΔΑΜ: 13REQ001560764) πρωτογενές αίτημα – εισηγητικό σημείωμα διενέργειας πρόχειρου μειοδοτικού διαγωνισμού της Διεύθυνσης Φορέων της Επιτροπής Κεφαλαιαγοράς Ν.Π.Δ.Δ.
  8. Την 2/1201/30.7.2013 απόφαση της Εκτελεστικής Επιτροπής της Επιτροπής Κεφαλαιαγοράς Ν.Π.Δ.Δ., (ΑΔΑ: ΒΛΩΒΟΡΡΠ-ΖΗΜ) (ΑΔΑΜ: 13REQ001566476) περί έγκρισης διενέργειας πρόχειρου μειοδοτικού διαγωνισμού, για την ανάθεση του έργου: «Ανάληψη από ελεγκτικές ή συμβουλευτικές εταιρείες της αξιολόγησης των κινδύνων της Εταιρείας Εκκαθάρισης Συναλλαγών Χρηματιστηρίου Αθηνών Α.Ε. (ΕΤ.ΕΚ.), στο πλαίσιο της αδειοδότησής της, σύμφωνα με τον Κανονισμό (Ε.Ε.) αριθ. 648/2012.», σύμφωνα με τις διαδικασίες της περίπτωσης (δ) του άρθρου 4 της κανονιστικής απόφασης 1/491/14.11.2008 της Επιτροπής Κεφαλαιαγοράς «Κανονισμός Προμηθειών της Επιτροπής Κεφαλαιαγοράς (Ν.Π.Δ.Δ.)» (ΦΕΚ Β'/2425/1.12.2008).
  9. Το γεγονός ότι η παρούσα δαπάνη θα βαρύνει τον Κωδικό Αριθμό Εξόδων **0439 «Λοιπές αμοιβές νομικών προσώπων που εκτελούν ειδικές υπηρεσίες»** του προϋπολογισμού της Επιτροπής Κεφαλαιαγοράς Ν.Π.Δ.Δ. του οικονομικού έτους 2013.
  10. Τον υπ'αριθμ. 648/2012 κανονισμό του Ευρωπαϊκού Κοινοβουλίου και Συμβουλίου της 4ης Ιουλίου 2012 «για τα εξωχρηματιστηριακά παράγωγα, τους κεντρικούς αντισυμβαλλομένους και τα αρχεία καταγραφής συναλλαγών».(Ε.Ε. L201/27.07.2012).
  11. Τα στοιχεία (γ), (ε) και (στ) της παραγράφου 2Ε του άρθρου 2 του Π.Δ. 65/2009 (ΦΕΚ Α'/88/09.06.2009) «Οργανισμός Επιτροπής Κεφαλαιαγοράς» σχετικά με τις αρμοδιότητες της Διεύθυνσης Φορέων.
  12. Τον Ν. 2286/1995 «Προμήθειες του Δημοσίου Τομέα και ρυθμίσεις συναφών θεμάτων», (ΦΕΚ 19/Α'/1995).
  13. Τον Ν. 2362/1995 «Περί Δημοσίου Λογιστικού Ελέγχου των Δαπανών του Κράτους και άλλες διατάξεις», (ΦΕΚ 247/Α'/1995).
  14. Το Π.Δ. 118/2007 (ΦΕΚ 150/Α'/10-7-2007) «Κανονισμός Προμηθειών του Δημοσίου».

διενεργεί:

### ΠΡΟΧΕΙΡΟ ΔΙΑΓΩΝΙΣΜΟ

με σφραγισμένες προσφορές, συνολικής δαπάνης ύψους έως **€55.350,00 (ευρώ πενήντα πέντε χιλιάδες τριακόσια πενήντα ) συμπεριλαμβανομένων του Φ.Π.Α. και των νόμιμων κρατήσεων (€45.000,00 πλέον Φ.Π.Α.)**, για την ανάθεση του έργου:

«Ανάληψη από ελεγκτικές ή συμβουλευτικές εταιρείες της αξιολόγησης των κινδύνων της Εταιρείας Εκκαθάρισης Συναλλαγών Χρηματιστηρίου Αθηνών Α.Ε. (ΕΤ.ΕΚ.), στο πλαίσιο της αδειοδότησής της, σύμφωνα με τον Κανονισμό (Ε.Ε.) αριθ. 648/2012.». Η ανάδειξη της μειοδότης εταιρείας θα γίνει με κριτήριο την **ΧΑΜΗΛΟΤΕΡΗ ΤΙΜΗ**. Επισημαίνεται ότι η εν λόγω δαπάνη υπόκειται στις εξής κρατήσεις:

- i. Επί της καθαρής τιμολογιακής αξίας ποσοστό κρατήσεων 3,072% (υπέρ Μ.Τ.Π.Υ. μετά του αναλογούντος χαρτοσήμου και ΟΓΑ χαρτοσήμου)
- ii. Επί της καθαρής τιμολογιακής αξίας και αφαιρουμένου του συνόλου των παραπάνω κρατήσεων γίνεται παρακράτηση φόρου εισοδήματος σε ποσοστό 8% για παροχή υπηρεσιών, σύμφωνα με το άρθρο 24 του ν.2198/94 (ΦΕΚ 43 Α/ 22.3.94).
- iii. Επί της καθαρής τιμολογιακής αξίας ποσοστό κρατήσεων 0,10% για τις λειτουργικές ανάγκες της Ενιαίας Ανεξάρτητης Αρχής Δημοσίων Συμβάσεων, σύμφωνα με τη παράγραφο 3 του άρθρου 4 του Ν. 4013/2011 (ΦΕΚ Α' / 204/15.09.2011)

Οι μεν παραπάνω κρατήσεις βαρύνουν το μειοδότη, ο δε Φ.Π.Α.23% βαρύνει την Επιτροπή Κεφαλαιαγοράς Ν.Π.Δ.Δ.

Κατόπιν της κατακύρωσης υπογράφεται σύμβαση ανάθεσης έργου με τον μειοδότη. Η εκτέλεση του έργου θα πρέπει να έχει ολοκληρωθεί σύμφωνα με το χρονοδιάγραμμα που περιγράφεται στα Παραρτήματα Α' και Β' της παρούσης προκήρυξης, μετά την υπογραφή της σχετικής σύμβασης και μετά την κατακύρωση του εν λόγω διαγωνισμού. Η έκδοση του τιμολογίου από τον ανάδοχο γίνεται κατόπιν της υπογραφής της σύμβασης και της οριστικής παραλαβής του έργου της προκήρυξης. Η πληρωμή της αξίας του έργου θα γίνει μετά την οριστική παραλαβή του έργου από την αρμόδια επιτροπή παραλαβών της Επιτροπής Κεφαλαιαγοράς Ν.Π.Δ.Δ. και την κατάθεση των αποτελεσμάτων, όπως φαίνονται αναλυτικά στα Παραρτήματα Α' και Β' της παρούσης προκήρυξης.

Σε περίπτωση ενδιαφέροντος, η οικονομική προσφορά, θα πρέπει να υποβληθεί μέχρι την καταληκτική ημερομηνία του διαγωνισμού, ήτοι την **Δευτέρα 26.08.2013**, και ώρα **11.00 πμ** υπόψη κ. **ΑΡΒΑΝΙΤΗ ΕΜΜΑΝΟΥΗΛ** στο Πρωτόκολλο της ΕΠΙΤΡΟΠΗΣ ΚΕΦΑΛΑΙΑΓΟΡΑΣ Ν.Π.Δ.Δ., (1ος όροφος, Κολοκοτρώνη 1 & Σταδίου, 10562 Αθήνα), μέσα σε **ΕΝΑΝ ΕΝΙΑΙΟ ΚΛΕΙΣΤΟ ΚΑΙ ΣΦΡΑΓΙΣΜΕΝΟ** φάκελο (μαζί με τα σχετικά δικαιολογητικά) στον οποίο θα αναγράφονται ευκρινώς τα ακόλουθα:

- i. Η ένδειξη "**ΠΡΟΣΟΧΗ - ΝΑ ΜΗΝ ΑΝΟΙΧΘΕΙ Ο ΦΑΚΕΛΟΣ**" με κεφαλαία γράμματα
- ii. Η λέξη "**ΠΡΟΣΦΟΡΑ**" με κεφαλαία γράμματα
- iii. Υπόψη κ. **ΑΡΒΑΝΙΤΗ ΕΜΜΑΝΟΥΗΛ**.
- iv. **ΤΑ ΣΤΟΙΧΕΙΑ ΤΟΥ ΑΠΟΣΤΟΛΕΑ**
- v. Αφορά: "**Διαγωνισμό του έργου: «Ανάληψη από ελεγκτικές ή συμβουλευτικές εταιρείες της αξιολόγησης των κινδύνων της Εταιρείας Εκκαθάρισης Συναλλαγών Χρηματιστηρίου Αθηνών Α.Ε. (ΕΤ.ΕΚ.), στο πλαίσιο της αδειοδότησής της, σύμφωνα με τον Κανονισμό (Ε.Ε.) αριθ. 648/2012.»**"

**Επισημαίνεται ότι οι οικονομικές προσφορές πρέπει να είναι υπογεγραμμένες και σφραγισμένες και να υποβληθούν σε δύο (2) πρωτότυπα και δύο (2) αντίγραφα μέσα σε ξεχωριστό κλειστό και σφραγισμένο φάκελο, εντός του ως άνω ΕΝΙΑΙΟΥ ΚΛΕΙΣΤΟΥ ΚΑΙ ΣΦΡΑΓΙΣΜΕΝΟΥ ΦΑΚΕΛΟΥ. Προσφορές που κατατίθενται μετά την παραπάνω ημερομηνία και ώρα, θεωρούνται εκπρόθεσμες και επιστρέφονται.**

- I. Η διενέργεια του διαγωνισμού θα πραγματοποιηθεί από την αρμόδια Επιτροπή Αξιολόγησης Διαγωνισμών. Η αποσφράγιση των προσφορών γίνεται δημόσια

από την αρμόδια επιτροπή την καταληκτική ημερομηνία και ώρα κατάθεσης των προσφορών στα γραφεία της Επιτροπής Κεφαλαιαγοράς, Κολοκοτρώνη 1 και Σταδίου, Αθήνα ΤΚ 10562, παρουσία όσων εκ των προσφερόντων ή των νομίμως εξουσιοδοτημένων εκπροσώπων τους, το επιθυμούν. Η εξέταση των περιεχομένων των προσφορών από τους συμμετέχοντες θα γίνει κατά την διαδικασία αποσφράγισης των προσφορών, χωρίς την απομάκρυνσή τους από το χώρο της Επιτροπής Κεφαλαιαγοράς και χωρίς να επιτρέπεται η φωτοαντιγραφή. Ο έλεγχος και η αξιολόγηση των προσφορών γίνεται από την αρμόδια Επιτροπή σε κλειστές συνεδριάσεις. Η Επιτροπή Αξιολόγησης μετά την υποβολή των προσφορών στα πλαίσια πρόχειρων διαγωνισμών ελέγχει την συμβατότητα των τεχνικών προσφορών με τις ζητούμενες τεχνικές προδιαγραφές και αποκλείει τυχόν αποκλίνουσες προσφορές. Οι προσφορές που γίνονται τεχνικοοικονομικά αποδεκτές καταχωρούνται σε σχετικό πίνακα κατά σειρά μειοδοσίας. **Η κατακύρωση γίνεται στην προσφορά με την χαμηλότερη τιμή.** Τυχόν ζητούμενες διευκρινίσεις από τους προσφέροντες ζητούνται και παρέχονται εγγράφως. Σε περίπτωση ισότιμων προσφορών η Επιτροπή Αξιολόγησης έχει την διακριτική ευχέρεια είτε να κατανείμει μεταξύ των περισσοτέρων τις υπηρεσίες του έργου, είτε, εφόσον οι υπηρεσίες δεν είναι διαιρετές, να επιλέξει το μειοδότη κατόπιν διαπραγμάτευσης αφού κληθούν όλοι οι προσφέροντες που είχαν ισότιμες προσφορές.

**II.** Οι προσφέροντες υποχρεούνται με την προσφορά τους να καταθέσουν Υπεύθυνη Δήλωση υπογεγραμμένη και νομίμως επικυρωμένη ως προς το γνήσιο της υπογραφής, στην οποία θα δηλώνονται τα εξής:

- i. Έλαβαν γνώση των όρων του διαγωνισμού της προκήρυξης και των παραρτημάτων Α' και Β' αυτής, τους οποίους και αποδέχονται.
- ii. Έχουν εμπειρία στον τομέα της παροχής συμβουλών που αφορούν στην αξιολόγηση και στη διαχείριση των λειτουργικών και λοιπών κινδύνων που αντιμετωπίζουν κεντρικοί αντισυμβαλλόμενοι, ή εκκαθαριστικοί οίκοι, ή αποθετήρια ή πιστωτικά ιδρύματα.
- iii. Δεν έχουν οποιοδήποτε κώλυμα να αναλάβουν το έργο λόγω θεμάτων ανεξαρτησίας και ειδικότερα ότι δεν είναι σύμβουλοι σε έργο σχετικό με τον Κανονισμό (ΕΕ) 648/2012 ή ορκωτοί ελεγκτές σε εταιρεία του ομίλου ΕΧΑΕ κατά την τρέχουσα χρήση.
- iv. Δεν υπάρχουν νομικοί περιορισμοί στη λειτουργία της Επιχείρησής τους.
- v. Δεν έχουν αποκλεισθεί, από την συμμετοχή σε διαγωνισμούς του Δημοσίου.
- vi. Δεν έχουν κάνει ψευδείς ή ανακριβείς δηλώσεις κατά την παροχή πληροφοριών που ζητούνται από την Υπηρεσία
- vii. Δεν έχουν υποπέσει σε σοβαρά παραπτώματα κατά την άσκηση της επαγγελματικής τους δραστηριότητας.
- viii. Ότι θα είναι συνεπείς στην εκπλήρωση των συμβατικών τους υποχρεώσεων που ζητούνται από την Υπηρεσία.

Η μη προσκόμιση των παραπάνω δικαιολογητικών, αλλά και η διαπίστωση κατά τον έλεγχο σοβαρής ανειλικρίνειας των στοιχείων συνεπάγεται τον αποκλεισμό από τον διαγωνισμό. Προς διευκόλυνση των ενδιαφερομένων το κείμενο της προκήρυξης διατίθεται σε ηλεκτρονική μορφή από την ιστοσελίδα της Επιτροπής Κεφαλαιαγοράς, [www.hcmc.gr](http://www.hcmc.gr). Τόσο η πρόσκληση για την υποβολή σφραγισμένων προσφορών (προκήρυξη), όσο και η σχετική για την διενέργεια του διαγωνισμού απόφαση της Εκτελεστικής Επιτροπής της Επιτροπής Κεφαλαιαγοράς Ν.Π.Δ.Δ. έχει αναρτηθεί στον ιστότοπο των προγραμμάτων: ΔΙΑΥΓΕΙΑ (αρθ. 2 ν.3861/2010, ΦΕΚ Α'112/13.07.2010) και Κεντρικό Ηλεκτρονικό Μητρώο Δημόσιων Συμβάσεων (αρθ.11 ν.4013/2011, ΦΕΚ Α'204/15.09.2011 και αρθ. 3 Π1/2380/18.12.2012 ΦΕΚ Β'3400/20.12.2012).

Για κάθε διευκρίνιση οι ενδιαφερόμενοι μπορούν να επικοινωνούν με την κα Σεγούρα Ηώ 210.3377171 (i.segoura@cmc.gov.gr) και την κα Νταή Κάτια 210.3377176 (k.ntai@cmc.gov.gr)

Ώρες επικοινωνίας: 10.00 πμ – 14.00 μμ

### III. Ειδικότερα, επισημαίνονται τα ακόλουθα:

- i. Η συμμετοχή στο διαγωνισμό προϋποθέτει και αποτελεί τεκμήριο ότι κάθε διαγωνιζόμενος έχει λάβει πλήρη γνώση και έχει αποδεχθεί ανεπιφύλακτα το σύνολο των όρων που περιλαμβάνονται στην παρούσα Προκήρυξη και στα Παραρτήματα Α' και Β' αυτής.
- ii. Οι συμμετέχουσες εταιρείες έχουν υποχρέωση - επί ποινή αποκλεισμού - να καταθέσουν μία ενιαία προσφορά για το σύνολο του έργου, καθότι θα υπάρξει ένας και μόνο μειοδότης.
- iii. Η ανάδειξη του μειοδότη θα γίνει με κριτήριο τη χαμηλότερη τιμή, η οποία θα εκφράζεται σε Ευρώ και θα είναι **μία και ενιαία για το σύνολο του έργου** μη συμπεριλαμβανομένου του ΦΠΑ. **Ο ΦΠΑ θα δίδεται σε ξεχωριστή στήλη.**
- iv. Προσφορές που το τίμημά τους υπερβαίνει την προϋπολογισθείσα δαπάνη θα απορρίπτονται.
- v. Ο χρόνος ισχύος των προσφορών είναι εκατόν είκοσι (120) ημερολογιακές ημέρες, προσμετρούμενες από την επόμενη της ημέρας διενέργειας του διαγωνισμού.

Ο Προϊστάμενος Διεύθυνσης  
Οικονομικών Υπηρεσιών  
α/α Ο Προϊστάμενος του  
Οικονομικού Τμήματος

ΝΙΚΟΛΑΟΣ ΤΡΙΑΝΤΑΦΥΛΛΟΥ

**ΠΑΡΑΡΤΗΜΑ Α΄**

- 1) Ο ανάδοχος που θα αναλάβει το έργο της αξιολόγησης του κινδύνου της ΕΤ.ΕΚ θα πρέπει να είναι ελεγκτική ή συμβουλευτική εταιρεία και να έχει αποδεδειγμένη εμπειρία στον τομέα της παροχής συμβουλών που αφορούν στην αξιολόγηση και στη διαχείριση των λειτουργικών και λοιπών κινδύνων που αντιμετωπίζουν κεντρικοί αντισυμβαλλόμενοι, ή εκκαθαριστικοί οίκοι, ή αποθετήρια ή πιστωτικά ιδρύματα.
- 2) Ο ανάδοχος θα πρέπει να δηλώσει υπεύθυνα ότι δεν έχει οποιοδήποτε κώλυμα να αναλάβει το έργο λόγω θεμάτων ανεξαρτησίας και ειδικότερα ότι δεν είναι σύμβουλος σε έργο σχετικό με τον Κανονισμό (ΕΕ) 648/2012 ή ορκωτός ελεγκτής σε εταιρεία του ομίλου ΕΧΑΕ κατά την τρέχουσα χρήση.
- 3) Ο ανάδοχος το αργότερο εντός 20 ημερών από την κατάθεση από την ΕΤ.ΕΚ στην Επιτροπή Κεφαλαιαγοράς της αίτησης αδειοδότησης σύμφωνα με τον Κανονισμό (ΕΕ) 648/2012, θα ενημερώσει την Επιτροπή Κεφαλαιαγοράς ως προς την επάρκεια των δικαιολογητικών που περιλαμβάνονται σε αυτή, προκειμένου να αξιολογηθεί η ΕΤ.ΕΚ ως προς όλες τις προϋποθέσεις που θέτουν ο Κανονισμός (ΕΕ) αριθ. 648/2012, και οι κατ' εξουσιοδότηση αυτού Κανονισμοί, για την αδειοδότηση κεντρικού αντισυμβαλλόμενου. Σε περίπτωση κατά την οποία στην πρώτη αξιολόγηση των δικαιολογητικών αυτά κριθούν ως ανεπαρκή και η αίτηση χαρακτηριστεί ότι δεν είναι πλήρης και δοθεί παράταση για τη συμπλήρωσή τους, σύμφωνα με όσα προβλέπει ο Κανονισμός (Ε.Ε.) αριθ. 648/2012, ο ανάδοχος οφείλει να ενημερώσει την Επιτροπή Κεφαλαιαγοράς για τα πρόσθετα δικαιολογητικά που απαιτούνται να κατατεθούν καθώς και να προβεί σε επαναξιολόγηση της επάρκειας αυτών όταν κατατεθούν.
- 4) Ο ανάδοχος θα παραδώσει έκθεση αξιολόγησης του κινδύνου της εταιρείας ΕΤ.ΕΚ το αργότερο 15 ημέρες πριν την καταληκτική ημερομηνία που ορίζει ο Κανονισμός (ΕΕ) αριθ. 648/2012 και θα υποστηρίξει την εν λόγω έκθεση κατά τη διαδικασία αδειοδότησης. Η έκθεση αξιολόγησης του κινδύνου θα βασίζεται στο Template Risk Assessment, το οποίο παρουσιάζεται στο Παράρτημα Β΄, και θα περιλαμβάνει και τα ευρήματα από τους επιτόπιους ελέγχους που θα πραγματοποιήσει ο ανάδοχος στην ΕΤ.ΕΚ, καθώς και σύνοψη των βασικών διαπιστώσεων και διατύπωση τελικής γνώμης από τον ανάδοχο ως προς το βαθμό συμμόρφωσης της ΕΤ.ΕΚ προς το σύνολο των προϋποθέσεων που θέτουν ο Κανονισμός (ΕΕ) αριθ. 648/2012, και οι κατ' εξουσιοδότηση αυτού Κανονισμοί, για την αδειοδότηση κεντρικού αντισυμβαλλόμενου, σύμφωνα με το ελεγκτικό πρότυπο ISAE 3000 (reasonable assurance). Η έκθεση αξιολόγησης κινδύνου θα είναι υπογεγραμμένη από ορκωτό ελεγκτή – λογιστή και θα παραδοθεί και στην αγγλική και στην ελληνική γλώσσα.

- 5) Ο ανάδοχος θα συστήσει ομάδα εργασίας με πρόσωπα τα οποία έχουν γνώσεις και εμπειρία στην αξιολόγηση κινδύνων, την οποία θα γνωστοποιήσει στην Επιτροπή Κεφαλαιαγοράς.
- 6) Ο ανάδοχος θα αναλάβει για το διάστημα, από την υποβολή αίτησης ως την αδειοδότηση της ΕΤ.ΕΚ σύμφωνα με τον Κανονισμό (ΕΕ) αριθ. 648/2012 να αξιολογήσει ως προς τη συμφωνία τους με τον ανωτέρω Κανονισμό, και τους κατ' εξουσιοδότηση αυτού Κανονισμούς, τα ήδη κατατεθέντα δικαιολογητικά καθώς και τυχόν κανονισμούς εκκαθάρισης που θα υποβάλλει η ΕΤ.ΕΚ για έγκριση τους στην Επιτροπή Κεφαλαιαγοράς.
- 7) Σε τακτά χρονικά διαστήματα καθ' όλη τη διάρκεια του έργου ο ανάδοχος οφείλει να ενημερώνει την Επιτροπή Κεφαλαιαγοράς για την πορεία αυτού.

ΠΑΡΑΡΤΗΜΑ Β΄**TEMPLATE RISK ASSESSMENT****Introduction**

Article 19(1) of EMIR provides that within four months of the submission of a complete application (for authorisation) by a CCP, the national competent authority referred to in Article 22 of EMIR (NCA) shall conduct a risk assessment of the CCP and submit a report to the CCP college.

In October 2012, PTSC identified that production of a common template for the risk assessment report would facilitate consistent supervisory practices and approaches across CCP colleges and ensure that CCP colleges add real value to the authorisations process.

This template risk assessment report does not cover all of the CCP requirements in EMIR. **NCA**s are encouraged to use this template risk assessment report as a starting point to provide the basis for their full risk assessment report for authorisation under EMIR. The full risk report provided to the CCP college should consider and provide a detailed summary of the CCPs compliance with all of the organisational, conduct of business and prudential CCP requirements in EMIR, the risks that arise and how they have been mitigated.

**General Requirement: Capital**

Legal references: Articles 16 and 47(2) of EMIR and Commission Delegated Regulation (EU) No 152/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on capital requirements for central counterparties (Capital Requirements RTS)

**1. Capital requirements:**

- A) The amount of the CCP's capital requirement for winding down or restructuring its activities as calculated in accordance with Article 3 of Capital Requirements RTS and a description of the inputs into this calculation (i.e. the CCP's annual gross operational expenses, time span for winding down or restructuring, etc);
- B) The amount of the CCP's capital requirements for operational and legal risk as calculated in accordance with Article 4 of Capital Requirements RTS and a description of the inputs into this calculation (i.e. which measurement approach is used, deductions etc);
- C) The amount of the CCP's capital requirements for credit, counterparty and market risks as calculated in accordance with Article 5 of Capital Requirements RTS and a description of the inputs into this calculation (i.e. the CCP's risk-weighted exposure amounts for credit and counterparty credit risk, the method used for calculating non-covered market risk, the CCP's exposures to another CCP under the conditions referred to in Articles 52 and 53 of EMIR, etc);
- D) The amount of the CCP's capital requirements for business risk calculated in accordance with Article 5 of Capital Requirements RTS and a description of the inputs into this calculation (i.e. the reasonably foreseeable adverse scenarios relevant to its business model, etc).
- E) The value of the notification threshold, if different to that specified in Article 1 of Capital Requirements RTS.

**2. Capital position:**

- A) The amount of capital held by the CCP at the date of writing of the risk assessment report.
- B) The minimum and maximum amount of capital held by the CCP during the twelve months preceding the date of application for authorisation/extension of authorisation under EMIR and a description of the stability of the amount of capital held over the course of that period.
- C) An analysis of the CCP's procedures for calculating and monitoring the amount of capital that it holds.
- D) An analysis of the procedures the CCP has in place to identify business risks including reputation, strategic or any other risk that may arise from the economic or business environment and that may impact its on-going functions and its revenues, expenses and level of capital.
- E) An analysis of how the CCP's capital is invested, including details of the time needed to liquidate and access capital, in particular in light of the proposed wind down plan.

## Organisational Requirements

Legal references: Articles 26, 27, 28, 29, 30, 33, 34, 35, 36, 37 and 38 of EMIR and Articles 3, 4, 5, 6, 7, 8, 9, 10 and 11 of Commission Delegated Regulation (EU) No 153/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on requirements for central counterparties (Organisational Requirements RTS)

A) An analysis of the corporate and organisational structure, governance arrangements, risk management and internal control mechanisms, including the compliance function, internal auditing and information technology structure.

B) General provisions

a. Details of the processes that are designed to effectively identify, manage, monitor and report the risks to which the CCP is or might be exposed, including:

- i. key components of the CCP's governance arrangements;
- ii. adequacy of staff;
- iii. lines of responsibility and reporting lines;
- iv. implications of the group for the CCP's own governance arrangements; and
- v. the appropriateness of risk management tools.
- vi. An organisational chart.

b. Details on how the appropriateness and proportionality of systems, resources and procedures is ensured by the CCP.

c. Details of the remuneration policy and in which way it is designed to promote a sound and effective risk management.

d. Details on the adequacy of information technology systems and how the security, integrity and confidentiality of information is maintained.

C) Senior management and the board

a. Details on experience so as to ensure the sound and prudent management of the CCP.

b. Details on the assessment with respect to the independence of board members.

c. Details on the composition of the board.

d. Details on the authority and formalisation of terms of reference of the CCP's governance arrangements.

e. Confirmation that the governance bodies of the CCP receive adequate information flows to enable them to function effectively.

D) Risk committee

a. Details on the composition of the risk committee, including details on the experience and competence of committee members.

b. Details on the independence of the board member chairing the risk committee.

- c. Details on how it is ensured that the risk committee is consulted on developments impacting the risk management of the CCP, including in emergency situations.
  - d. Details on how members of the risk committee are bound to confidentiality.
  - e. Details of client representation on the risk committee, or the CCP's justification for not having client representation on the risk committee.
  
- E) Shareholders and members with qualifying holdings
  - a. Analysis on the due diligence performed by the CCP to ensure shareholders with qualifying holdings are suitable.
  
- F) Conflicts of interest
  - a. Details on the assessment of the CCP with respect to potential conflicts of interest and any conflicts of interest existing at the time of writing of the risk assessment report.
  - b. Details on the assessment that the procedures of the CCP aimed at resolving possible conflicts of interest are adequate.
  
- G) Outsourcing
  - a. Details of the outsourcing by the CCP of any functions relevant to EMIR requirements.
  - b. An analysis of the outsourcing of operational functions, services or activities and how the requirements under Article 35 are met.
  - c. An analysis of how full responsibility of the CCP for discharging all of its obligations under EMIR is ensured.
  
- H) Record keeping
  - a. Details on how the requirements according to Article 29 EMIR and the general requirements according to art. 12 RTS is ensured (specifically re the accessibility, durability and granularity of information);
  - b. Details on how full access to records is ensured where the CCP maintains records outside the European Union.
  
- I) Participation requirements
  - a. Details of the criteria to become a clearing member and a demonstration of their fairness, objectivity, their relation and proportionality to risk including the provisions of client clearing services.
  - b. Details of the process and procedures in place to allow the on-going assessment of, and yearly comprehensive review of compliance with, those criteria and management of cases where those requirements are not fulfilled anymore.
  
- J) Transparency
  - a. Evidence of the availability of CCP governance arrangements and governing rules including, amongst others:
    - i. admission criteria;

- ii. operational and technical requirements related to communication protocols and message formats;
- iii. access denial/suspension;
- iv. a description of the clearing members (and client when applicable) rights and obligations and associated risks;
- v. prices and fees related to the services provided including discounts and rebates;
- vi. price information used to calculate end-of-day exposures;
- vii. volumes of cleared transactions for each class of instruments on an aggregated basis;
- viii. breaches by clearing members of the participation criteria under the condition stated in Article 38(5) of EMIR;
- ix. complaint procedures

**Organisational Requirement: Business Continuity**

Legal references: Articles 34 of EMIR and Articles 17, 18, 19, 20, 21, 22 and 23 of Commission Delegated Regulation (EU) No 153/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on requirements for central counterparties (Business Continuity RTS)

- A) An analysis of the CCP's business continuity policy and the main elements of the disaster recovery plan of the CCP. An analysis of the CCP's procedures for ensuring the timely and orderly settlement or transfer of the assets and positions of clients and clearing members in the event of withdrawal of the authorisation.
- B) Details on the business continuity policy and the disaster recovery plans, including:
- a. Details of the governance and approval process of the business continuity policies and the frequency and processes linked to the independent review. Reference to how this policy is documented and implemented.
  - b. Details of the critical business functions and systems that the policies refer to, the criteria used for their identification and the methods employed to assure their continuity.
  - c. Reference to the interrelation and dependencies with other external systems and services outsourced, including how the CCP manages possible business risk that both may involve. An analysis of the overall impact of a disruption of the CCP on the market serviced by it.
  - d. An analysis of the scenario analysis and the tests that the CCP performs and the risks covered by them, their frequency and the process for actualising them and how the clearing members and relevant stakeholders are involved in those tests.
  - e. Details of the processes, objectives and time periods contained in the disaster recovery plan and whether they satisfy the limits established in EMIR RTS and allow all payment obligations to be met in due time. Details of the human resources available for recovery, including the number, the capabilities, the adequacy and situation of the secondary sites and other recovery arrangements.
  - f. Details on the crisis management function, its compositions and the relevant processes for addressing a crisis event.
  - g. Details on the communication plan including how the communications needs of all relevant stakeholders of the CCP are to be met during a crisis event.
  - h. Details of business continuity and disaster recovery testing arrangements and results, including frequency and arrangements for taking into account and implementing any lessons learned following a test.

**Conduct of business rules: Segregation and Portability**

Legal references: Articles 39 and 48 of EMIR

- A) A description and analysis of the CCP's rules, procedures and commercial terms to:
- a) Separately identify and record all assets and positions for the account of a given clearing member from the assets of the CCP and from the assets and positions for the account of other clearing members.
  - b) Ensure that all assets and positions that the CCP has been informed are for the account of clients of a given clearing member are held segregated from the assets and positions for the house account of the clearing member in question.
  - c) Ensure that all assets and positions that the CCP has been informed are for the account of an individual client of a clearing member where the individual client in question has elected for its assets and positions to be held on an individual segregated basis are held segregated from the assets and positions for the house account of the clearing member in question and for the account(s) of the other clients of the clearing member in question.
  - d) Ensure that positions and assets held in a given account can in no situation be netted with positions or assets held in another account, or exposed to losses arising from another account.
- B) In case the CCP offers segregated client accounts in forms additional to than omnibus client segregation and individual client segregation;
- a) Confirmation that the CCP also provides the choice of accounts that enable a client of a clearing member to elect for its assets and positions to be held on either omnibus client segregation or an individual client segregation basis.
  - b) A description and analysis of the additional form(s) of segregated account that the CCP makes available to clearing members, including a confirmation that the form(s) of account in question provide at least an equivalent level of segregation and protection of assets and positions for the account of the clients as the CCP's arrangements to hold client assets and positions on an omnibus client segregation basis.
- C) Details of all fees or charges the CCP will charge for use of each form of account it offers for the purpose of holding client positions and assets and an analysis of whether such costs are reflective of the cost incurred by the CCP in providing such forms of account and can be considered commercially reasonable.
- D) A description and analysis of the CCP's arrangements to make publically available details on the level of protection offered to a client that each form of client account it provides, including details of how the form of account in question interacts with the insolvency law applicable to the operation of the CCP.
- E) A description and analysis of the CCP's arrangements for, in the event of the default of a clearing member,:
- a) Attempting to port the positions and assets for the record of an account held by the defaulted clearing member on an omnibus client segregation basis to another clearing member; and (should such attempts fail),
  - b) For the liquidation of such positions and the return of the collateral to the clients in question (if known to the CCP) or to the clearing member for the account of the clients.
- F) A description and analysis of the CCP's arrangements for, in the event of the default of a clearing member,;

- a) Attempting to port the positions and assets for the record of an account held by the defaulted clearing member on an individual client segregation basis to another clearing member; and (should such attempts fail),
- b) For the liquidation of such positions and the return of the collateral to the client in question (if known to the CCP) or to the clearing member for the account of the client.

### Prudential Requirement: Margins

Legal references: Article 41 of EMIR and Articles 24,25,26,27 and 28 of Commission Delegated Regulation (EU) No 153/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on requirements for central counterparties (Margins RTS)

- A) An analysis of the methodology adopted for the calculation of initial margins, including how it has been verified that the initial margins are not lower than those would be calculated using a confidence interval of 99%, a time horizon for the calculation of historical volatility of 1 year and a time horizon for the liquidation period of 2 business days (5 business days for OTC derivatives) and the evidence that the methodology complies with the relevant referred to in the above paragraph as applicable.

In case the CCP adopts portfolio margining then an analysis of the composition of the portfolio per asset class, including an indication of the materiality of the resulting margin reductions.

- B) An analysis of the risk management measures adopted by the CCP, including:
- a) The criteria considered when determining the confidence interval to be applied to the calculation of the margins for each class of financial instruments, including OTC derivatives.
  - b) The time horizon used for the calculation of historical volatility and the confidence interval, including the data used to calculate this.
  - c) If historical observations are not available, the conservative assumptions used instead.
  - d) The liquidation period adopted, highlighting the criteria to be followed when making such a selection.
 

If offsets or reductions in the required margins are allowed, the approach followed on portfolio margining, providing statistical evidence of the correlation between the financial instruments and an indication of the materiality of the resulting margin reductions.
  - e) An analysis of the stress testing programme carried out on margin reductions.
  - f) The options chosen to limit procyclicality in calculating initial margins.
- C) Details of the previous independent review of the CCPs model, including details of who performed the review, the results of the review and when the next review is due.
- D) A summary of the CCP's margin backtesting results for the period of six months prior to the writing of the risk assessment report.

## Prudential Requirements: Default Fund and Default Waterfall

Legal references: Articles 42, 41, 43 and 45 of EMIR and Articles 24, 25, 26, 27, 28, 35 and 36 of Commission Delegated Regulation (EU) No 153/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on requirements for central counterparties (Default Fund and Default Waterfall RTS)

- A) An analysis of the methodology adopted for the calculation of default fund size for each default fund maintained by the CCP, including:
- a) An analysis of the CCP's definition of extreme but plausible market conditions and the CCP's framework for defining and reviewing the type of extreme but plausible market conditions that could expose it to greatest risk and its framework for reflecting market movements and the corresponding evidence that under extreme but plausible market conditions the default fund would enable the CCP to withstand the default of the clearing member to which it has the largest exposures or of the second and third largest clearing member if the sum of their exposure is larger;
  - b) the minimum amount below which the size of the default fund is not to fall under any circumstances;
  - c) the criteria to calculate each clearing member's contribution and evidence of their proportionality to clearing members' exposures.
- B) The current value of the margin and default fund contributions held per clearing member as at the time of writing the risk assessment report and evidence that the corresponding amounts are pre-funded.
- C) Details of the minimum clearing member contribution required towards the default fund.
- D) Details of how and when the default fund is calculated and how soon a clearing member is expected to contribute additional funds after calculation.
- E) CCPs governance procedure of the default fund and waterfall to ensure its appropriateness
- F) Evidence that the CCP's dedicated own resources are duly indicated separately on the CCP's balance sheet. If the CCP has established more than one default fund, then evidence of separate indication of the CCP's dedicated own resources required under EMIR allocated proportionately to each default fund.
- G) Evidence of the calculation of the amount of the CCP's dedicated own resources.
- H) Details of the composition of the CCP's dedicated own resources and how these are invested such that the resources are freely available.
- I) Evidence of the CCP's procedures for notifying its NCA about breaches of its dedicated own resources requirements and of its replenishment plan in such situations.
- J) Evidence that the CCP maintains 'cover 2' protections in each default fund it operates at all times, including the frequency of resizing the default fund and details of the CCP's arrangements for resizing and/or replenishing the default fund when required .
- K) Details of how client positions are included in the CCP calculation of the required size of each default fund maintained by the CCP. If not all client positions are included in the sizing calculation, a justification for the exclusion of the relevant client positions.

**Prudential Requirement: Default Procedures**

Legal references: Article 48 of EMIR

- A) A description and analysis of adequacy and enforceability the CCP's rules enabling the CCP to take action to:
- a) Identify an event of default by one of the CCP's clearing members and place a clearing member in question into default.
  - b) Take action to manage the default including, where necessary, realising the collateral of the defaulting member and liquidating its positions.
  - c) Return surplus collateral remaining after finalisation of the management of the default to the CCP to the estate of the defaulted clearing member and/or to the clients of the defaulted clearing member and/or to the account of the clients at the defaulted clearing member as required.
- B) A description and analysis of adequacy and practicality of the CCP's arrangements to:
- a) Implement its default rules, as described in Sections A (a) to (c) of this section;
  - b) Communicate with the NCA with lead regulatory responsibility for the CCP.
- C) A description of any regular testing and verification the CCP performs to evaluate the effectiveness and efficiency of the arrangements, as described in Sections B (a) of this section.

**Prudential Requirement: Liquidity Risk Control Requirements**

Legal references: Articles 44 of EMIR and Articles 32, 33 and 34 of Commission Delegated Regulation (EU) No 153/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on requirements for central counterparties (Liquidity Risk Control Requirements RTS)

A) An analysis of:

- The credit lines or similar arrangements and other resources available to the CCP to cover its liquidity needs, highlighting the concentration limits on each clearing member, parent undertaking, or subsidiary providing such credit lines.
- The CCP's liquidity risk management framework including the assessment of potential liquidity needs under a wide range of stress scenarios referring inter alia to the default of the two clearing members to which the CCP has the largest exposures and the liquidity risk stemming from the CCP's investment policy in extreme but plausible market conditions. This description should include details of and justification of; the scenarios and assumptions used to establish the CCPs business as usual and stressed liquidity needs and the time horizon used by the CCP in calculating its stressed liquidity needs

B) The following information:

- a) Details of the governance process followed by the CCP with regard to establishing and maintaining its liquidity risk plan.
- b) Identification of the types of entities to which the CCP has liquidity exposures and the factors driving this exposure.
- c) An example of the daily and quarterly reports produced by the CCP in respect of its liquidity needs and resources.
- d) A summary of the results of the CCP's liquidity stress testing for the period six months prior to the writing of the risk assessment report, including identification of any breaches identified.
- e) An analysis of the liquid resources available to the CCP as at a certain date, including the quantum of cash deposited at central banks and at authorised credit institutions, the value of committed credit lines and committed repurchase agreement and an analysis of the highly marketable financial instruments available to the CCP and the CCP's plans and arrangements for liquidating such collateral if required.
- f) A report regarding the way liquidity needs in different currencies are managed,
- g) Results of any internal audit or other similar examination of liquidity from the last twelve months.
- h) An analysis of the procedures put in place by the CCP to access liquid financial resources to fulfil its payment obligations during a liquidity shortfall including the results of the tests of the CCP's procedures to access pre-arranged funding arrangements.
- i) An analysis of how the concentration of the CCP liquidity risk exposures is managed, including exposures to the settlement banks, payment systems, securities settlement systems, nostro agents, custodian banks, liquidity providers, interoperable CCPs, service providers.
- j) An analysis of the processes that the CCP will put in place in case of breaches of concentration limits.

**Prudential Requirement: Collateral Requirements**

Legal references: Articles 46 of EMIR and Articles 37, 38, 39, 40, 41, 42, 43 and 44 of Commission Delegated Regulation (EU) No 153/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on requirements for central counterparties (Collateral Requirements RTS)

- A) An analysis of the policies and procedures adopted by the CCP to assess and monitor the liquidity of assets accepted as collateral. The analysis should distinguish between the cash and non-cash collateral.
- B) An analysis of how the CCP manages the currency risk to which it is exposed in holding collateral in the form of cash [by different currency].
- C) The following information:
- a) Analysis of how the CCP has ascertained that the credit and market risk for each type of financial instrument selected for collateral purposes is low.
  - b) Analysis of how the CCP manages the currency risk, if any, stemming from its investment of financial instruments.
  - c) Analysis of how the CCP ensures that the financial instruments accepted as collateral are compliant with the required features provided for in the Collateral Requirements RTS.
  - d) Analysis of how the CCP manages significant wrong-way risk.
  - e) If bank guarantees or gold are collected as collateral, analysis of how the CCP has ascertained that the requirements prescribed in the Collateral Requirements RTS are met.
  - f) If the underlying of derivatives contracts or the financial instruments that originate the CCP exposure are accepted as collateral, analysis of how the CCP has ascertained that it is appropriate and sufficiently prudent to do so.
  - g) An analysis of the CCP's procedures and policies for monitoring the credit quality, market liquidity and price volatility of each asset accepted as collateral and to ascertain the mark-to-market value of those assets.
  - h) An analysis of the procedures and policies established to determine that the CCP's haircuts are prudent and adequate and limit, as far as possible, procyclical effects.
  - i) An analysis of the CCP's procedures and policies to ensure that collateral is sufficiently diversified and in order to ensure that the CCP can liquidate its collateral without a significant market impact.
  - j) An analysis of how the CCP assesses its concentration risk and how it determines appropriate concentration limits, including at the level of:
    - i. individual issuers;
    - ii. type of issuers;
    - iii. type of asset;
    - iv. each clearing member; and
    - v. all clearing members.
  - k) An analysis of the criteria that the CCP has taken into account when setting concentration limits in terms of economic sector, activity, geographic region, credit risk, liquidity and price volatility of the issuer of the financial instruments.
  - l) Details of any other arrangements applied by the CCP to ensure all conditions set out in the Collateral Requirements RTS are observed.

**Prudential Requirement: Investment Policy**

Legal references: Articles 47 of EMIR and Articles 45, 46, 47, 48 and 49 of Commission Delegated Regulation (EU) No 153/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on requirements for central counterparties (Investment Policy RTS)

- A) An analysis of the CCP's investment policy. In particular a breakdown of the percentage of margins that are invested in financial instruments and cash for the period of one month prior to the writing of the risk assessment report. Regarding the portion of margins invested in cash, a breakdown of the percentage of unsecured and collateralised deposits over the same period.
- B) An analysis of the risk management measures adopted by the CCP in investing its financial resources. The analysis should distinguish between the CCP's investments in financial instruments and its deposits of cash.
- C) The following information:
- a) An analysis of how the CCP assesses that all financial instruments in which it invests are highly liquid.
  - b) An analysis of the how the CCP assesses that the credit and market risk for each type of financial instrument selected for investment purposes is low; and, how the CCP is assured that the average time to maturity of its portfolio remains under 2 years.
  - c) A list of financial instruments in which the CCP invests its financial resources weighted by type of financial instrument, individual issuer and type of issuer.
  - d) An analysis of how the CCP manages the currency risk, if any, stemming from its investment in financial instruments.
  - e) Identification of the financial institutions where instruments are deposited and a description of the arrangements by which they are deposited. An analysis of the methodology used by the CCP to assess the credit risk of the financial institution and the arrangements implemented by the CCP to prevent losses due to the default or insolvency of the financial institution.
  - f) An analysis of how the CCP ensures that the financial instruments in which it invests remain sufficiently diversified, including an analysis of how the CCP determines appropriate concentration limits, including at the level of:
    - i. Individual financial instruments;
    - ii. Types of financial instruments;
    - iii. Individual issuers;
    - iv. Types of issuers;
    - v. Counterparties with which the CCP deposits financial instruments.
  - g) how, when considering types of issuers, a CCP takes into account geographic distribution, interdependencies and multiple relationships that an entity has with a CCP, credit risk, and exposures the CCPs has to the issuer through products cleared by the CCP.
  - h) The risk mitigation measures to be applied by the CCP when concentration limits are exceeded.

D) The following information:

- a) Where the CCP deposits cash overnight, the methodology used by the CCP to assess the credit risk of the financial institution.
  - b) An analysis of how the CCP manages currency risks, if any, stemming from the deposit of cash.
  - c) For the portion of cash deposits that are collateralised, an analysis of the arrangements for collateralisation and for ensuring that the financial instruments received under the collateralisation arrangement meet the criteria established in the Investment Policy RTS.
  - d) With reference to the portion of cash deposited without collateralisation, an analysis of how the risk arising from such exposures is managed, including how the CCP ensures that it is not exposed to losses due to the default or insolvency of one of its depository financial institutions.
- E) An assessment of the investment policy including how it assures that the framework the avoidance of conflicts of interest with the commercial interests of the CCP.
- F) An analysis of the revenues generated by the investment of financial resources, and, the proportion these represent of the total revenues of the CCP.
- G) Where assets are deposited with a third party, an analysis of how assets belonging to clearing members are identifiable separately from assets belonging to the CCP and from assets belonging to the third party.

**Prudential Requirement: Review of models, stress testing and back testing**

Legal references: Articles 41 and 49 of EMIR and Articles 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63 and 64 of Commission Delegated Regulation (EU) No 153/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on requirements for central counterparties (Review of models, stress testing and back testing Requirements RTS)

**Item 1: Models and Programmes**

- A) The following information:
- a) A summary analysis of the validation process for the CCP's models, methodologies and liquidity risk management framework.
  - b) The summary of the criteria adopted by the CCP to assess whether its models, methodologies and liquidity risk management framework can be successfully validated including the results of such testing.
  - c) A summary analysis of the policies and procedures the CCP uses to assess the appropriateness, accuracy, reliability and resilience of its models, methodologies and liquidity risk management framework.
  - d) The criteria adopted by the CCP to assess the independence of the third party or internal resources that validate its models, methodologies and liquidity risk management framework.

**Item 2: Back testing**

- B) The following information:
- b) An analysis of the CCP's back-testing programme for determining the adequacy of margin coverage adequacy (i.e. ex-post comparison of observed with expected outcomes derived from the use of margin models), the time horizons used for such tests, and the criteria used to assess the results of the CCP's back-testing programme.
  - c) An analysis of the details on CCP's procedures for its back testing programme, including:
    - i. the frequency of back tests;
    - ii. the actions to be taken depending on the results of the back tests;
    - iii. the reporting to be provided to the risk committee following back tests;
    - iv. the availability of results to all clearing members and clients following back tests.

**Item 3: Sensitivity testing and analysis**

- C) The following information:

- a) A summary of the sensitivity tests that the CCP has adopted to assess the coverage of its margin model under various market conditions using historical data from realised stressed market conditions and hypothetical data for unrealised stressed market conditions.
- b) The actions to be taken depending on the results of the tests and analysis.
- c) The reporting to be provided to the risk committee following such tests.

**Item 4: Stress testing**

D) The following information:

- a) An analysis of the CCP's programme of stress tests for the models it uses to estimate its risk exposures, in order to assess the adequacy of its financial resources, including the stress testing scenarios employed by the CCP.

An summary of the details on CCP's procedures for its stress testing programme regarding:

- i. the reporting to be provided to the risk committee following stress tests;
- ii. the availability of analysis to all clearing members and clients following stress tests.

- b) An analysis of the CCP's programme of stress tests for its total financial resources, including:
  - i. The CCP's methodology for ascertaining that its combination of margins, default fund contributions and other financial resources are sufficient to cover the default of at least the two clearing members to which it has the largest exposures under extreme but plausible market conditions (and methodology for ascertaining that its stress tests also take into account the potential losses resulting from the default of entities in the same group as the legal entity that is the clearing member);
  - ii. The CCP's methodology for assessing losses on clearing member positions, including, inter alia, the impact of liquidating the positions on the market, as well as the effect of the default of a clearing member that issues financial instruments cleared by the CCP.

**Item 5: Coverage and using test results**

E) An analysis of the CCP's procedures for:

- a) Adapting its margin requirement calculations to changes in market conditions;
- b) Evaluating the adequacy of its haircuts in observed and extreme but plausible conditions;
- c) Taking into account correlations/offsets among products;
- d) Evaluating the sources of testing exceptions highlighted both by back tests and stress tests and for making changes to its models and recalibrating its parameters;
- e) Taking appropriate action with regard to its models when the results of its back tests indicate that the model does not identify the appropriate amount of initial margin necessary to achieve the intended level of confidence;
- f) Determining the amount of additional margin the CCP may need to collect including on an intraday basis.

**Item 6: Reverse stress test**

- F) The following information:
- a) An analysis of the reverse stress tests that the CCP has adopted to identify the market conditions under which the combination of margins, default fund and other financial resources may provide insufficient coverage of credit exposures and for which its liquid financial resources may be insufficient.
  - b) An analysis of how the CCP uses its reverse stress tests to identify extreme but plausible scenarios for the sizing of its default fund.
  - c) The reporting to be provided to the risk committee following such tests.

**Item 7: Public disclosure**

- A) An analysis of the CCP's procedures for the disclosure of the general principles underlying its models, methodologies and tests, its high level test results, any corrective actions undertaken and the key aspects of its default procedures.

**Prudential Requirement: Settlement**

Legal references: Article 50 of EMIR

- A) Details of a CCP's use of central bank money to settle its transactions, where relevant.
- B) Where central bank money is not used; details of the alternative solutions implemented including, where applicable; name(s) of the commercial bank(s) used, actual or predicative value flows (per currency, per bank), details of cash settlement risks identified by the CCP, details of how these risks are monitored, and an assessment of the adequacy of the mitigation measures implemented.
- C) Details of how the CCP's obligations with respect to deliveries of financial instruments, including whether it has an obligation to make or receive delivery of a financial instrument, is made transparent to clearing members and clients.
- D) Where the CCP has no obligation to make delivery or bear liability for the delivery of a cleared contract, a confirmation that the risk of non-delivery is clearly articulated in the CCP's rule book and what the compensation to participants is (if any) of a delivery failure will be.
- E) Where a CCP has an obligation to make or receive physical deliveries of financial instruments, details of whether such deliveries are effected through:
  - a) the use of delivery-versus-payment mechanisms, or (for contracts for which delivery-versus-payment is not used);
  - b) An analysis of the process for the physical delivery of the contract, details of the extent to which the CCP bears the principal risk and/or guarantees the performance of the delivery and the risks the CCP is exposed to as a result of the delivery mechanism and how these risks are mitigated.