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Dear Ms Richards

APRA Discussion Paper: Counterparty credit risk for ADIs

The Australian Bankers' Association (**ABA**) appreciates the opportunity to provide comments on APRA's Discussion Paper Counterparty credit risk for ADIs (**discussion paper**), APRA's proposed revisions Prudential Standard APS 112 Capital Adequacy: Standardised Approach to Credit Risk (**revised APS 112**) and the new Prudential Standard APS 180 Capital Adequacy: Counterparty Credit Risk (**draft APS 180**).

With the active participation of its members, the ABA provides analysis, advice and advocacy for the banking industry and contributes to the development of public policy on banking and other financial services. The ABA works with government, regulators and other stakeholders to improve public awareness and understanding of the industry's contribution to the economy and to ensure Australia's banking customers continue to benefit from a stable, competitive and accessible banking industry.

Our response is structured as follows:

- The main submission covers responses to questions posed by APRA in the discussion paper and key concerns of industry on the Standardised Approach – Counterparty credit risk (**SA-CCR**) along with a number of issues that require clarification in the revised APS 112 and in the draft APS 180.
- Appendix 1 contains data on the use of multi-level client structures in Australia.
- Appendix 2 contains information outlining the significant challenges in the implementation of SA-CCR, particularly when combined with a large number of other significant regulatory changes coming into effect concurrently.

In the discussion paper, APRA invited views on four particular points, the ABA's views on the questions asked are as follows:

APRA's proposed application of SA-CCR to all ADIs transacting in OTC derivative transactions, exchange traded derivative transactions, and long settlement transactions

The ABA agrees with APRA's proposal.



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APRA's proposed initial implementation date of 1 January 2018, as opposed to the Basel Committee's implementation date of 1 January 2017

It remains ABA's strong preference that all Australian ADIs with material counterparty credit risk (CCR) exposures be subject to an implementation date for SA-CCR exposure calculations that is the later of:

- 1 January 2019; or
- Two years from the finalisation of APRA rules and reporting requirements.

It is the ABA's view that a 1 January 2018 deadline, in the absence of APRA's final standards and reporting requirements for SA-CCR, represents too short a timeframe to allow institutions to implement the required technology and operational changes in a robust and efficient manner. The ABA requests that APRA gives consideration to extending the implementation timeframe and aligning the SA-CCR reforms with other Basel Committee on Banking Supervision (BCBS) changes which banks will need to implement in the near future.

Given the breadth of the current BCBS reform agenda, requiring a standalone SA-CCR change unnecessarily increases the costs and regulatory burden on industry (see Appendix 2). APRA has the ability to assist industry to minimise the costs of regulatory change without any compromise to Australia's stable, efficient and competitive financial system. Such consideration by APRA is in line with current government policy.

The ABA notes the current government recently agreed to adopt Recommendation 31 of the Financial System Inquiry which requires all government agencies to provide industry appropriate time to implement regulatory change.

To give context to our request, the SA-CCR change is a fundamental and complex change to a decades-old current-exposure method (CEM) for the calculation of credit equivalent amounts for derivatives, it is not simply a calculation change. Analysis of the BCBS SA-CCR requirements shows that the SA-CCR will require a significant number of new data elements across multiple IT systems for each bank. While some banks will elect to build internal IT solutions, others may elect to deploy vendor packages. As APRA would appreciate, it takes time for a bank to get a business case approved, build and deploy IT systems, and complete external assurance and obtain management and board sign-offs.

The BCBS recognised¹ their SA-CCR policy as a significant change in methodology from the current non-internal model method approach and expressly acknowledged that jurisdictions will need adequate time to implement these changes in their respective capital frameworks.

Allowing an ADI with immaterial counterparty credit risk exposure to apply for approval to defer its implementation date for SA-CCR to 1 January 2019

The ABA welcomes clarification as to what level of materiality will be applied by APRA in determining whether an ADI has an 'immaterial counterparty credit risk exposure' such that they can apply for this deferral. The ABA is supportive of APRA extending the application of the current credit valuation adjustment (CVA) simplified approach for Australian ADIs who have already been granted a dispensation by APRA.

APRA's proposal that all ADIs should transition to the SA-CCR methodology by 1 January 2019 without exception

In the discussion paper APRA invited views on the merit of introducing a simpler alternative such as a modified CEM or a flat rate capital add-on. APRA noted that for smaller institutions the cost of implementing the full SA-CCR as proposed in draft APS 180 will be a financial burden when a simpler approach can achieve a comparable outcome without the cost.

¹ BCBS, (March 2014), *The standardised approach for measuring counterparty credit risk exposures*, Page 3, Section D, Transitional Arrangements, <http://www.bis.org/publ/bcbs279.pdf> (rev. April 2014)



The ABA welcomes APRA's pragmatic view on this issue. The ABA recommendation would be to keep the current CEM approach with an additional add-on charge to proxy the new approach. Smaller ADIs noted they only had a handful of OTC derivative transactions and the counterparty credit risk exposure under the current CEM approach is immaterial, they also noted their CVA risk weighted assets (**RWA**) is between 0.1 per cent to 0.4 per cent of their total RWA.

The ABA suggests that a variation of the current CEM approach could be developed by substituting some of the complexities embedded within the proposed SA-CCR formulae by an all-inclusive haircut.

The ABA would be happy to facilitate further discussion between our smaller members and APRA on this topic.

General comments on the SA-CCR proposals

Early adoption of SA-CCR in Australia

The ABA understands that other comparable jurisdictions have not sought to implement SA-CCR in isolation of the other BCBS reforms. The ABA requests APRA considers adopting the same pragmatic approach to minimise the regulatory costs and burden on the Australian banking industry.

If Australia introduces these rules ahead of other jurisdictions, such as the US, UK and Europe, then Australian ADIs will be at a competitive disadvantage given that SA-CCR is more conservative and is likely to lead to an increase in capital requirement for most derivative activities when compared to CEM.

The ABA maintains that the early adoption of SA-CCR by the Australian jurisdiction has the real risk of compromising the competitiveness of all Australian ADIs. There is the potential to see the market share of the local derivative markets (in which Australian ADIs are market-makers) lost to foreign interests and/or hedge funds. This is an undesirable outcome for ADIs and the Australian economy. The ABA urges APRA to continue engaging with both Treasury and ASIC to fully understand the negative consequences to our financial markets if Australia is an early adopter of SA-CCR, and the unintended consequences of Australia potentially deviating from major jurisdictions who have yet to decide on how and when to implement SA-CCR.

It is clear Basel jurisdictions across the world are struggling with the adoption of SA-CCR. Most recently, in April 2016, the European Commission issued two calls² for advice on the adoption of a framework for SA-CCR and FRTB into European legislation and also sought recommendations on implementation. On 3 November 2016, the European Banking Authority (**EBA**) responded³ to the European Commission. The EBA report recommendations are comprehensive and telling in two aspects. The implementation of SA-CCR in the EU is in its earliest stages and has not progressed. The EBA also considers SA-CCR a *“radically new international standard... which may require regulatory monitoring and fine-tuning in the first years of implementation and remain subject to industry changes and innovations in practice”*. The EBA recommended an approach akin to 'hasten slowly' via a flexible implementation so as to allow the EBA to reflect key changes in regulation in a timely fashion that, if left unaddressed, would threaten the prudent implementation needed and consistency in the application of regulation in the EU.

Additionally, if Australian regulatory requirements for SA-CCR both deviate and are super-equivalent to the BCBS rules, Australian ADI's will need to explain such deviations. The experience of ABA members shows that these inconsistencies are an unhelpful distraction for Australian banks and international investors, and is also likely to add complexity to the important work to ensure Australia's banks are viewed as 'unquestionably strong'.

² Call for advice to the EBA to assist the Commission's implementation of the standardised approach for counterparty credit risk under the CRR review [https://www.eba.europa.eu/documents/10180/1466081/\(EBA-2016-E-%20668\)%20CfA+Com+implementation+counterparty+credit+risk.%20Ares\(2016\)1900009.pdf/2c59c7ee-06bc-41fe-ad02-4dcca04cfe](https://www.eba.europa.eu/documents/10180/1466081/(EBA-2016-E-%20668)%20CfA+Com+implementation+counterparty+credit+risk.%20Ares(2016)1900009.pdf/2c59c7ee-06bc-41fe-ad02-4dcca04cfe)

³ EBA response to European Commission CFA on the SA-CCR and the FRTB, [https://www.eba.europa.eu/documents/10180/1648752/Report+on+SA+CCR+and+FRTB+implementation+\(EBA-Op-2016-19\).pdf](https://www.eba.europa.eu/documents/10180/1648752/Report+on+SA+CCR+and+FRTB+implementation+(EBA-Op-2016-19).pdf)



The ABA considers it prudent for APRA not to move ahead of the larger BCBS jurisdictions with an early adoption of SA-CCR which has the real risk of compromising the competitiveness of all Australian ADIs. The ABA urges APRA to continue monitoring international developments and interpretations pertaining to SA-CCR and shape domestic policy outcomes to ensure Australian banks are not unduly disadvantaged.

Cost of implementation

The ABA surveyed members on the costs and complexity in implementing SA-CCR (and other BCBS reforms). Responses varied due to the fact a few members were able to use an off-the-shelf SA-CCR module from an existing software vendor. Whereas for most other members the *standalone* implementation costs were in excess of \$5 million. Of particular concern to all members was the complexity of the rules, implementation and operational concerns given the fact that other equally complex concurrent reforms, such as FRTB, leverage ratio, margining of non-centrally cleared derivatives, Securitisation, Pillar III Phase 1 & 2, and NSFR etc. touch the same underlying trading, business, finance and reporting systems.

For additional detail please see Appendix 2 – SA-CCR and other regulatory reforms

Alignment with BCBS standards

Should APRA decide to exercise national discretions that vary the application of SA-CCR in Australia from that of the final BCBS standards, the ABA is of the view that APRA should detail these separately, so those variations can be incorporated into the internationally comparable capital ratios of impacted ADIs. However the approach preferred by members is that there be no variation from the final BCBS standard.

The ABA also requests that APRA include and reference the BCBS SA-CCR FAQs of August 2015⁴ in the final Australian standards, such that the same answers would apply to the relevant sections of the finalised APS 180. The ABA also suggests that APRA reference FAQs in a Prudential Practice Guide, together with guidance and clarification on any point which APRA deems is better addressed outside APS 180.

As an example:

PFE calculation for binary options

SA-CCR FAQ 11 specifies a treatment for binary options is to set the PFE equal to the binary payoff amount. This treatment is not mentioned in the draft APS 180 and the ABA would welcome guidance from APRA on the treatment of binary options.

Reporting requirements

The discussion paper notes that APRA, after finalising its prudential requirements for counterparty credit risk, intends to consult on proposed amendments to its reporting framework related to counterparty credit risk exposures for ADIs. The ABA notes that APRA's proposed changes to the reporting framework will also reflect amendments resulting from the introduction of margin requirements for non-centrally cleared derivatives in *Prudential Standard CPS 226 Margining and risk mitigation for non-centrally cleared derivatives*.

⁴ Bank for International Settlements, (August 2015), *The standardised approach for measuring counterparty credit risk exposures: Frequently asked questions*, <http://www.bis.org/bcbs/publ/d333.htm>



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The ABA maintains that the reporting requirements are a critical aspect of designing and implementing a solution for the new capital requirements. To substantially minimise cost and regulatory burden on ADI's, the implementation of reporting requirements needs to occur at the same time as the implementation of the rules. This is one of the reasons why the ABA continues to recommend an implementation date of:

- 1) 1 January 2019; or
- 2) Two years from the finalisation of APRA rules and reporting requirements.

The ABA also encourages APRA to prioritise the consultation of these reporting requirements as soon as possible.

Multi-level client structures

For clarity and completeness, the ABA considers that APRA's proposals should be adjusted to include BCBS's rules on multi-level client structures; Australian IRB ADIs currently participate in multi-level client structures for central clearing of trades.

The BCBS's rules provide for the same capital approach to be applied to all aspects of the CCP calculations for multi-level client structures. The rules clarify that it is still possible for a client ADI to obtain the concessional risk weights when they deal with a clearing broker who is not directly a clearing member of a CCP. In doing so, the rules expand on the conditions necessary to be satisfied by requiring the legal review to look at the chain of entities between the client ADI and the CCP in determining whether partial or full segregation is achieved.

The ABA submits that for APRA to not make this treatment available to Australian client ADIs puts them at a disadvantage to their global competitors.

For a further explanation of multi-level client structures, the BCBS's rules applicable to them and an overview of Australian ADIs' (IRB banks) involvement in these structures are provided in Appendix 1 - Use of multi-level client structures in Australia.

Transition of QCCPs from c-factors to Kccp calculations

If APRA were to proceed with a 1 January 2018 implementation date, then it will need to confirm that the definition of QCCP continues to include those CCPs still producing c-factors for their members, as required under Basel interim CCP rules. This will ensure Australian ADIs are not at a competitive disadvantage in this regard due to the delayed implementation by other jurisdictions.

Treatment of default fund exposures (Method 1 under the Interim Basel CCP rules)

In the event that a QCCP does not yet produce a Kccp for clearing members, an ADI clearing member will need to use the QCCP's c-factors and hence apply Method 1 of the Basel interim rules to calculate its default fund capital charge. The ABA strongly recommends that this approach be available to ADI clearing members under APS 180 to cover the transition of QCCP's to Kccp production. The ABA recommends APRA permits the use of Method 1 by ADI clearing members now, ahead of any finalisation of APS 180. This method is currently available to global competitors and has been since 1 January 2013. In addition, the ABA seeks confirmation that the interim measures set out in APRA's 4 June 2013 letter to all ADIs on Membership of Central Counterparties, has ceased to apply.



Incorporation of sold options under SA-CCR

In keeping with the principle that sold options do not generate a credit risk for the seller and are consistent with the Basel SA-CCR FAQ 9⁵, the ABA submits that where sold options are either:

- 1) in their own individual netting set, i.e. not subject to a netting agreement; or
- 2) are the only deals in a netting set,

then the EAD of the netting set is zero assuming no deferred premiums.

Further, in principle where sold options are included in a netting set with other positions, they will reduce/offset the PFE on the other positions in the set and the ABA submits they should never cause or result in a higher PFE for the netting set. This is because sold options can never result in a client owing ADIs money i.e. there is no credit risk on sold options, beyond unpaid premiums which are already captured by RC. The following examples illustrate the above principle:

If the only deals an ADI has are 5 sold options with a counterparty, then the PFE on these deals individually or in aggregate will be zero.

Deal	Asset Class	Face	Long/Short	Sold option	PFE Factor	PFE with SO	PFE
1	NG	500	1	SO	18%	90	0
2	NG	400	1	SO	18%	72	0
3	NG	300	1	SO	18%	54	0
4	NG	200	1	SO	18%	36	0
5	NG	500	1	SO	18%	90	0

If the only deal an ADI has with a counterparty is a forward, then the PFE on this deal would be \$108.

Deal	Asset Class	Face	Long/Short	Deal Type	PFE Factor	PFE
6	NG	600	1	Forward	18%	\$108

However, if all these deals were combined in a single netting set with a counterparty, then without the interpretation for sold options above, the PFE would be \$450 (as below at “PFE with SO”) which is not correct.

This is an incorrect credit risk outcome as the presence of sold options in a portfolio of deals does not lead to increased potential future credit risk. Therefore, the appropriate PFE for the netting set below should be no greater than \$108, which is PFE without sold options.

Deal	Asset Class	Face	Long/Short	Sold option	PFE Factor	PFE with SO	PFE without SO
1	NG	500	1	SO	18%	\$90	0
2	NG	400	1	SO	18%	\$72	0
3	NG	300	1	SO	18%	\$54	0
4	NG	200	1	SO	18%	\$36	0
5	NG	500	1	SO	18%	\$90	0
6	NG	600	1		18%	\$108	\$108
						\$450	\$108

⁵ Bank for International Settlements, (August 2015), *The standardised approach for measuring counterparty credit risk exposures: Frequently asked questions*, <http://www.bis.org/bcbs/publ/d333.htm>



If this principle is not accepted, it will lead to perverse outcomes that will incentivise the splitting of netting sets with counterparties to obtain the appropriate PFE, which is not in keeping with good credit risk management of having a single netting agreement with a counterparty to govern all its deals.

Leverage ratio framework

The ABA notes that in April 2016, the BCBS released a consultation titled *Revisions to the Basel III leverage ratio framework*, which introduced a modified SA-CCR approach in the preparation of the leverage ratio.

If the calculations for exposure for leverage ratio remain on the CEM, this will require banks to maintain two entirely separate exposure calculations for derivatives, the CEM for Leverage Ratio and SA-CCR for capital adequacy purposes. This will add additional complexity to systems and data feeds and require duplicate support and maintenance. The ABA requests APRA considers the introduction of a modified SA-CCR approach for leverage ratio to be implemented at the same time as SA-CCR for capital.

Asset class classification for gold

Source: APS 180, Attachment E, paragraph 3, Table 7: Current exposure method - market-related CCFs.

The ABA seeks confirmation whether gold will continue to be treated as part of the Foreign Exchange (FX) asset class as per previous frameworks e.g. under the CEM as detailed in the current APS 112. The ABA recommends the current treatment continue under SA-CCR.

Under SA-CCR, the supervisory factor for metals is 4.5 times greater than the supervisory factor for FX. If the treatment for gold was changed from the current treatment as FX to metals, this increased supervisory factor would result in an extremely large increase in capital requirements for gold trades, by virtue of a change in classification alone.

For example, for a 1 year gold forward, assuming a par deal with an uncollateralised counterparty:

- Under CEM this trade has a CCF of 1.0% and the PFCE add-on is 1% of trade notional.
- If gold continues to be treated as FX under SA-CCR in APS 180, it will attract a supervisory factor of 4.0%. Taking into account the alpha 1.4 multiplier, the PFE add-on is $1.4 * 4.0\% = 5.6\%$ times the trade notional. This is already a significant increase in exposure between CEM and SA-CCR.
- However, if in addition to this, gold is also treated as a metal under SA-CCR, the PFE add-on would become $1.4 * 18\% = 25.2\%$ of trade notional.

This dramatic increase in capital due to treating gold as a metal rather than FX under SA-CCR would be a negative outcome for Australia as it would cause unnecessary structural changes in the market. In Australia, gold is the 4th largest merchandise export⁶ and therefore of high importance to our economy. An unnecessary increase in cost for transacting gold derivatives would ultimately find its way to the Australian gold producers. As a consequence, there is the potential that risk management of gold producers may well move to non APRA-regulated traders if banks are required to pass on these increased transaction costs. This would not be a prudent outcome, as APRA's ability to monitor this activity would then be lost where the business is not conducted by the banks. It could also be argued that banks will have less incentive to lend to the gold producers if the producer does not manage their revenue through the banks.

Further, treating gold as FX is entirely consistent with the way gold behaves as an asset and is consequently managed (priced and risk managed) internally in all major banks. If gold were to be treated as a metal for the purposes of SA-CCR, this would be inconsistent with the way the market views this asset.

⁶ DFAT, <http://dfat.gov.au/trade/resources/Documents/aust.pdf> (Dec 2015)



Electricity Supervisory Factor

Source: APS 180, Attachment D, paragraph 45, Table 6: Summary table of supervisory parameters

The ABA submits that the electricity supervisory factor of 40 per cent set out in Table 6, should be reduced closer to the 18 per cent supervisory factor applicable to all other commodities.

Over the one year time horizon used by the BCBS for modelling supervisory factors, electricity prices behaved similarly to other energy commodities e.g. oil, gas and coal. On a one year time horizon electricity's expected exposures are significantly lower than 40 per cent and in line with the other energy commodities expected exposures. While the ABA acknowledge that the 40 per cent is a BCBS factor, it does highlight the discrepancy between the standardised supervisory factors and the observed data for electricity. This large factor will likely result in a doubling⁷ in price of electricity hedging instruments for end users compared to other commodities, and hence a reduction in market liquidity.

A liquid electricity OTC market in Australia is central as a price discovery mechanism for electricity retailers and producers. Australian ADIs play an important role in providing liquidity and risk management products to the electricity market, which helps to support competition and lower prices paid by end users in the economy.

Items for clarification in draft APS 180 and revised APS 112

The following section sets out further questions identified in our review of APRA's draft APS 180 and the revised APS 112. ABA members would welcome the opportunity of further engagement with APRA prior to the standards being finalised.

Draft APS 180 Capital Adequacy: Counterparty Credit Risk

Definition of qualifying CCP (QCCP)

Source: Draft APS 180, definitions, paragraph 10 (u) and revised APS 112, definitions, paragraph 10 (x)

The definition of "Qualifying CCP" has been expanded in line with the BCBS's interim rules to require an additional test that the CCP calculates or provides the data to calculate an ADI's default fund capital charge.

The ABA seeks confirmation that the production of either c-factors under Method 1 of the Basel Committee's Interim CCP rules or Kccp under the final CCP rules by CCPs would equally satisfy this requirement. This will ensure that Australian ADIs who are clearing members of global CCPs will not be at a disadvantage while global CCPs transition to the adoption of Kccp using SA-CCR for EAD.

Further, the ABA submits that this requirement is only of relevance where an ADI is a direct clearing member in order for it to determine the appropriate capital calculation for its default fund or its own exposure otherwise to a non-Qualifying CCP, but not otherwise to its client's cleared trades or to its house trades which are cleared by a third party clearing member (i.e. indirect clearing).

Accordingly, ADIs should not be denied the opportunity for concessional risk weightings where the CCP otherwise meets the criteria for a QCCP under the existing APS 112 simply because the CCP has not yet transitioned to the adoption of Kccp.

Attachment A - Counterparty credit risk requirements for bilateral transactions

No comments.

⁷ Based on a 1 year electricity forward PFE add-on is $1.4 \times 40\% = 56\%$ of notional versus $1.4 \times 18\% = 25.2\%$ for other commodities.



Attachment B - Counterparty credit risk requirements for centrally cleared transactions

Absence of Multi-level Client structures rules

Contrary to the statement in APRA's discussion paper at Section 3.4 that "multi-level client structures are not widely used by ADIs in Australia," Australia's 5 largest IRB banks do participate extensively in multi-level client structures and therefore the ABA requests that APRA's rules be adjusted to include the BCBS rules.

For a more comprehensive discussion on multi-level client structures please see the section on page 4 titled "Multi-level client structures" of the main submission and also Appendix 1 – Use of multi-level client structures in Australia.

Variation margin

Source: APS 180, Attachment B, paragraph 12(d)

The ABA seeks clarification of the meaning in APS 180 Attachment B, paragraph 12(d) that reads:

"... where a QCCP retains variation margin against certain transactions (e.g. Where the QCCP collects and holds variation margin against positions in exchange traded or OTC forwards) and that the variation margin is not protected against the insolvency of the QCCP, set the transactions maturity factor (MF) under the SA-CCR to that of an unmargined case under paragraph 44 of Attachment D of this Prudential Standard."

Typically, variation margin (**VM**) is not retained by a QCCP/CCP as it is used to pay on margin owing to the clearing members on the other side of the cleared trade. Practically, it will not be possible for market participants to know when a QCCP is retaining VM unless it leads to non-payment of variation margining to other market participants. Further it is very unlikely for the VM (retained or otherwise) to be bankruptcy remote given the purpose for which it was taken. Moreover, even if a QCCP is holding the VM, it is not clear why the MF should revert to the unmargined case, given this does not happen with VM posted with non-QCCP counterparties (e.g. with bilateral counterparties). The ABA suggests this issue would not arise for any QCCP nor CCP as it runs contradictory to the notion of central clearing and therefore suggest this clause be deleted.

Requirement to exclude posted collateral from the trade exposures being subject to their applicable risk weights

Source: APS 180 Attachment B, paragraph 16, 17, 21 & 22

Paragraphs 16, 17, 21 and 22 set out a requirement to exclude posted collateral from the trade exposures being subject to their applicable risk weights and paragraph 18 states that paragraphs 24 to 27 are to apply the relevant risk weights to posted collateral.

The ABA welcomes clarification on how this is to be done when the trade exposures will be subject to the new SA-CCR exposure methodology that embeds posted collateral in the calculation of RC for the exposure amount. Collateral is defined to include Net Independent Collateral Amount (**NICA**) and as such all posted collateral is captured in the SA-CCR EAD with the exception of posted collateral held in a bankruptcy manner. Further, as the risk weights applied to trade exposures and posted collateral do not differ except in relation to posted collateral held in a bankruptcy remote manner, it has no material effect on the calculation of capital.

The ABA requests that only posted collateral that is bankruptcy remote be called out for separate treatment (using zero risk weight), but all other collateral with QCCPs be treated in the same way as collateral for bilateral counterparties. Namely, all posted and received collateral (other than posted collateral that is bankruptcy remote) be included in the RC calculation, via both the collateral term C and the NICA term in the RC formula:

$$RC = \max\{V-C, TH+MTA-NICA,0\}$$



Treating VM posted to QCCPs separately, as is stipulated in the current wording of the draft APS180, does not materially differ from the calculation proposed here, but APRA's proposals create unnecessary complexity for the system implementation and confusion as to how to treat received VM. On any given day, there will be both posted and received VM amounts with any QCCP. The ABA asks APRA to clarify if posted VM is treated separately, should received VM then be included in the RC? Or should ADIs first net all VM amounts and then if net, ADIs receive VM, then this is included in the RC but if net, we post VM, and ADIs should treat this separately?

The ABA assumes this exclusion of posted collateral might only be relevant for disclosure purposes in the future and in this context we wish to point out that due to the proposed SA-CCR exposure methodology ADIs will only be able to identify and report the posted collateral held in a bankruptcy remote manner that is otherwise subject to 0 per cent risk weight under draft APS 180 Attachment B paragraphs 26(a) and 27(a). No other collateral amount can be 'excluded' from trade exposures due to the SA-CCR methodology.

The ABA requests APRA's confirmation that there is no intention for disclosure of posted collateral when it is embedded in the EAD exposure calculations under SA-CCR.

Definition of custodian

Source: Draft APS 180 Attachment B, paragraph 26(a) and associated footnote 13

Some, but not all QCCPs take collateral as trustee. The ABA welcomes clarification on whether the definition of "custodian" applies to a CCP where it holds collateral in a trustee capacity, such that the collateral held is eligible for 0 per cent risk weighting - noting the provision of the meaning of "custodian" in footnote 13. The ABA seeks confirmation that, based on this footnote guidance to paragraph 26(a), if a QCCP takes collateral as trustee and therefore rendering the collateral legally bankruptcy remote from its own assets, the QCCP satisfies the definition of custodian and hence makes the collateral eligible for 0 per cent RW.

The application of a standardised risk weighting of exposures to clients whose deals are cleared on a non-Qualifying CCP

Source: Draft APS 180 Attachment B, paragraph 28(a)

The ABA notes that at paragraph 28(a) APRA has explicitly included the following wording "*and any exposure to the ADI's clients*". The ABA seeks confirmation that this clause only applies to client trades that are otherwise guaranteed to the client by the ADI such that under the existing and proposed standard they would also be added to the ADI's exposure to a non-qualifying CCP.

The ABA does not agree that the risk weight applicable to an exposure an ADI has to a client in respect of client cleared trades should change to Standardised from IRB in any other circumstance. The ABA note that it is not a requirement included in the BCBS final rules. The BCBS rules, at paragraph 210, state that a bank must apply the Standardised Approach to credit risk in the main framework applicable to the category of the counterparty to their trade exposures to a non-QCCP. Again this is limited to the ADI's exposures to CCPs not their exposures to clients. The ABA recommends that the wording of draft APS 180 Attachment B at paragraph 28 (a) be altered to "... *and any exposures on the CCP that arises due to the ADI guaranteeing a client trade to a client*". Without this amendment or similar, the capital treatment of client cleared trades would deviate between Australian ADIs and overseas competitors. Australian IRB banks who clear clients' trades, directly or indirectly, will hold more capital against client cleared trades under standardised risk weightings if they are ultimately cleared on a non-QCCPs while overseas competitors will not.



An ADI offering clearing to clients whether they are directly or indirectly cleared by the ADI and whether they are cleared ultimately by a non-QCCP or a CCP does not change the nature of the risk the ADI has on its clients. The risk to an ADI of clearing (directly or indirectly) client trades is that the client defaults on its margin obligations to the ADI. This risk does not change when the underlying CCP trade is cleared on changes. Therefore the capital treatment of clearing clients' trades should not change in such circumstances either. This is not the case if the ADI provides a guarantee of the performance of those contracts, and hence the CCP, to the client such that the ADI has to include those trade exposures in its exposures to the CCP.

Potential CVA risk exposure on Clearing Member exposure to Clients

Source: Draft APS 180 Attachment B, paragraphs 19 and 28(b).

The ABA would like to confirm that it is not necessary for an ADI to add in a CVA capital charge on client cleared trades where the ADI does not guarantee the performance of the trade to the client.

The BCBS in their interim CCP rules at paragraph 113 and also in the final rules⁸ at paragraph 195 use the word “potential” CVA risk exposure in the rule that says, “The clearing member will always capitalise its exposure (including potential CVA risk exposure) as bilateral trades”, whereas APRA’s rules have not included the word “potential” in either the current or the proposed rules in draft APS 180 Attachment B, paragraphs 9 (c) nor 19, and therefore the intention of APRA is unclear.

The ABA believes the word “potential” should also be included in APRA’s rules to make the same distinction, or alternatively, APRA should confirm that it is not necessary to include a CVA charge on client cleared trade exposures unless they are cleared exchange traded derivatives guaranteed by the clearing member ADI to the client and therefore are included in the ADI’s exposure to the CCP.

The ABA considers that the reason for the use of the word “potential” CVA risk exposure by the BCBS, is that in the normal course, changes to a client’s credit worthiness does not influence the value/mark to market revaluation of the cleared exchange traded derivative that an ADI is clearing for a client. This is distinct from OTC derivatives between the ADI and clients where the value of the contract with the counterparty is affected by changes to its credit worthiness. Further support for this approach is that client cleared trades are not accounted for as an OTC derivative to which an ADI is a party, and hence there is no incurred CVA booked for these deals. Given there is no incurred CVA for accounting purposes there should not be any CVA capital charge either.

This principle has been re-iterated in the July 2015 BCBS consultative document “*Review of the Credit Valuation Adjustment Risk Framework*”⁹ at page 2 under the heading (ii) Alignment with industry practice for accounting purposes; the paragraph specifically states that the capital treatment of CVA should align with the accounting treatment. Further, in the same document at Section 1 : Scope of Application, the BCBS states that cleared trades are not included in the scope of CVA calculations.

Clarification

Source: Draft APS 180 Attachment B, paragraph 21

The ABA wishes to confirm the existence of a minor drafting error in paragraph 21 which currently references the application of the requirements set out in paragraphs 11 to 15 of this attachment. The ABA believes that this needs to be changed to include paragraph 16 to capture the correct application of 2 per cent risk weighting to exposures in paragraph 21, subject to the subsequent conditions listed.

⁸ BCBS, (April 2014), *Capital requirements for bank exposures to central counterparties - final standard*, <http://www.bis.org/publ/bcbs282.htm>

⁹ BCBS, (July 2015), *Review of the Credit Valuation Adjustment (CVA) risk framework - consultative document*, <http://www.bis.org/bcbs/publ/d325.htm>



Attachment C - Capital charge for default fund exposure to a QCCP

Source: APS 180 Attachment C, Capital Charge for Default Fund exposures

Paragraph 5 of Attachment C requires that “Where a QCCP’s prefunded own resources are shared among product types, an ADI must ensure that the QCCP allocates those funds to each of the calculations, in proportion to the respective product-specific exposure at defaults, when calculating its own default fund exposure to that QCCP.” The ABA requests APRA’s guidance on how ADIs can ensure that QCCPs do this. The ABA holds that this is not a reasonable obligation to put on ADIs, given that they do not exercise control over QCCPs. The ABA cautions that if the CCP does not make the data available then ADIs must apply the current methodology for non-qualifying CCPs in relation to its prefunded default fund contribution.

Attachment D - The standardised approach for measuring counterparty credit risk exposures (SA-CCR)

The definition of replacement cost (RC) does not include cash collateral.

Source: APS 180 Attachment D, paragraphs 9 & 10

The ABA requests APRA’s confirmation that this is a drafting omission and that cash collateral is to be considered part of the RC determination and that it will be fixed in the final version of APS 180. The ABA seeks clarification that given the definition of CH specifically refers to only non-cash collateral, that cash collateral is to be included in the calculation of the total current value of the derivative transactions in the netting set, V, in paragraph 9.

Treatment for effective notional when no offsetting is recognised.

Source: APS 180 Attachment D, paragraph 23(b)

This paragraph provides a treatment for effective notional when no offsetting is recognised. The ABA submits that the word ‘or’ is missing from the paragraph.

Moreover, in all cases, capital will always be larger if no offsetting is recognised. Hence it is not clear why such a treatment would ever be used and why it has been included.

Calculation of the adjusted notional amount in relation to amortising swaps

Source: APS 180 Attachment D, paragraph 40(c)

The ABA seeks clarification that the calculation of time weighted average notional is consistent with the equivalent calculation under the framework proposed by the BCBS.

Principal resetting cross-currency swaps

Source: APS180 Attachment D, paragraph 40(f)

The ABA recognises that this paragraph is an adaptation of current APS 112 Attachment B, paragraph 6. The ABA seeks clarification on its applicability. Principal resetting cross-currency swaps (**PRCS**) effectively settles their outstanding FX exposure on every reset date and, if originally dealt at a fair value of zero and with both legs floating, this will see their fair value differ from zero only due to changes in cross-currency basis (Bills/LIBOR). Given their primary risk factor is FX, and that APRA has previously approved for some Australian ADIs (under the current APS 112) the use of the “next reset date” for the purposes of calculating the credit exposure amount for PRCS, the ABA is of the view this needs to be incorporated into the final APS 180.



Supervisory delta adjustment for options

Source: APS 180 Attachment D, paragraph 42 & Table 4: Supervisory delta adjustment for options

The ABA requests APRA's clarification on the calculation of supervisory delta values for options:

- a) In the context of negative interest rates and/or negative strikes for a Pi or Ki value the calculation of $\ln(Pi/Ki)$ is undefined; and
- b) Where a strike price Ki equals zero, the calculation of (Pi/Ki) is undefined.

The ABA suggests setting $\ln(Pi/Ki)$ to zero in these undefined cases. This is equivalent to assuming the option is ATM. Given the broad approximations already inherent in this delta calculation (e.g. the volatility used, that it uses a vanilla formula for exotics, etc.) this seems a reasonable approximation to make.

The division of netting sets' hedging sets by margining agreement for the purposes of PFE

Source: APS 180 Attachment D, paragraph 47

The ABA acknowledges the need to calculate RC on a margin agreement basis given that many of the terms required in that calculation, such as TH and MTA, are determined and can differ at the margin agreement level. The RC for the netting set is simply an aggregation of the margin agreements' RCs.

The ABA acknowledges that this paragraph follows the BCBS final rules (paragraph 185). The ABA questions the requirement to further split netting sets' hedging sets with a counterparty by margin agreements for the purposes of PFE of the netting set, including multiplier, when legally in the event of counterparty default all deals will be netted and all collateral held at that point in time, regardless of which margin agreement it was collected under, is available to be used against all deals in the netting set.

Therefore, the ABA submits that the calculation of PFE, including the multiplier should be done on a netting set basis and not split further if there are multiple margining agreements.

There are a few instances where there will be multiple margin agreements for a single netting set or where deals with a counterparty are not governed by a margining agreement for practical reasons. For example, short term FX or spot FX not covered under a CSA; and when the mandatory OTC margining regime is introduced it is likely for there to be two variation margin agreements under each netting set. One governing the margining arrangements for existing deals and one governing the margining arrangements for all deal post compliance date.

The ABA proposes the following treatment for these cases. A separate RC should be calculated for each margin agreement under a single netting agreement and a single RC should also be calculated for all trades under the netting agreement but not under any margin agreement. The total RC for the netting set should be calculated as the sum of these individual RCs under the netting agreement. The PFE for the netting set should be calculated across all trades under the netting agreement, without splitting this into individual netting sets.

The ABA would like to propose the following approach instead:

The RC for the netting set will be the sum of each margin agreement's RC and the RC applicable to any non-margined deals under the same netting agreement.

The AddOn for each asset class will be calculated based on the hedging sets for the netting set, not split further by margining agreements.

The multiplier, m , for the netting set should allow for the use of all and any excess collateral (post haircut) available under the netting agreement.

Therefore, $V - C$ in the multiplier, m should be calculated using the V for all transactions in the netting set and C should be the sum of all the haircut collateral collected under the netting agreement.

$$\text{ie. } V - \Sigma(\text{CH}(1 \text{ year}) + \text{CH}(\text{MPOR}))$$



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Attachment E - The current exposure method (CEM)

Please see our comments on the asset class classification for gold and the electricity supervisory factor on pages 7 & 8.

Attachment F - Counterparty credit risk for bilateral and centrally cleared transactions (formerly Attachment C of APS 112)

Source: APS 180 Attachment F, paragraph 22

The ABA queries how an ADI that is a clearing member can assess through appropriate scenario analysis and stress testing whether the level of capital held against exposures to a QCCP adequately relates to the inherent risks of those transactions. The ABA holds that it is impossible for an ADI to comply with this requirement as they do not have details on the QCCP exposures as a whole.

The same conceptual flaw as set out above also applies to APRA's proposals in paragraph 26.



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Prudential Standard APS 112: Capital Adequacy: Standardised Approach to Credit Risk

Definition of Qualifying CCP

Source: Definitions, paragraph 10 (x) – definition of Qualifying CCP.

In order for a CCP to be a QCCP, it must calculate or make available the necessary data to allow for the calculation of an ADI's default fund capital charge. Please see our earlier comments at page 9.

Attachment A – Risk weights for on-balance sheet assets

No comments.

Attachment B - Credit equivalent amounts for non-market related off-balance sheet exposures

No comments.

Attachment C - Counterparty credit risk capital requirements

No comments.

Attachment D - Residential mortgages

No comments.

Attachment E - Unsettled and failed transactions

No comments.

Attachment F - Short-term and long-term credit ratings

No comments.

Attachment G - Guarantees

No comments.



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Attachment H - Simple and comprehensive approaches to the recognition of collateral

Definition of 'net collateral held'

Source: APS 112 Attachment H, Paragraphs 27, 28, 29 and 31 & Table 8: Standard haircuts

In the comprehensive approach to the recognition of collateral, the adjusted exposure amount in paragraph 27 is calculated with reference to "net collateral held". This same phrase is used in an identical context in the current APS 112. However, paragraph 29 in the revised APS 112 standard makes accommodation for collateral held to be negative, suggesting that collateral posted, not just held, must be a consideration when calculating "net collateral held". The ABA requests APRA's confirmation that VM, both held and posted, as well as IM held and IM posted to an unsegregated account, should all be included in the calculation of net collateral held.

For clarity and symmetry with revised APS 112 Attachment H, paragraph 28, the ABA suggests that paragraph 29 be adjusted as follows:

"In the case of OTC derivatives, under the standardised approach for measuring counterparty credit risk exposures (SA-CCR, refer to Attachment D of APS 180), the $E \times (1 + H_e)$ above in paragraph 27 is replaced by the exposure at default (EAD) APS 180, Attachment D paragraph 5. Further, the $C \times (1 - H_c - H_{fx})$ above in paragraph 27 is to be replaced with the following haircut applied to the current value of the net collateral (C) held by an ADI before being incorporated within the SA-CCR as set out in Attachment D of APS 180 ..."

Further, the reference for SA-CCR haircuts in the draft APS 180 is APS 112 Attachment H, paragraph 29. The ABA notes that this paragraph specifies $H(t)$ as the haircut appropriate to the collateral using a holding period of t . Holding periods relate specifically to types of securities and hence security haircuts rather than foreign currency haircuts. The ABA requests APRA's confirmation that FX haircuts per APS 112 Attachment H, paragraph 31 and Table 8: Standard haircuts would also apply to the net collateral (C) under SA-CCR.

Attachment I — Credit derivatives in the banking book

No comments.

Attachment J — Netting

No comments.

Conclusion

Should APRA have questions regarding the views of the ABA and its members, we are most willing to assist. The ABA looks forward to a continued dialogue with APRA to ensure an appropriate implementation of SA-CCR.

Yours sincerely

Signed by

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Appendix 1 – Use of multi-level client structures in Australia

Further to APRA's request for information regarding ADIs' multi-level client structure involvement please refer to the following:

Multi-level client structures

- ADIs are clients of clearing members who directly and indirectly clear clients' trades.
- ADIs are direct clearers of house positions.
- ADIs (whether as a client of a clearing member or as a clearing member themselves) also have their house trades indirectly cleared by clearing brokers who are:
 - Direct clearing members of the relevant CCP to the trade;
 - Not direct clearing members of the relevant CCP to the trade and who use another clearing broker to clear trades on the relevant CCP; or
 - Both.

The clearing member used by the clearing broker is commonly a subsidiary or affiliate located in the same jurisdiction as the relevant CCP. The use of third party clearing members by clearing brokers is less likely because the clearing broker has to pay for that service, which would either reduce the clearing broker's profits on the clearing arrangement or increase costs charged to the end client. However, it may be necessary where none of the clearing broker's subsidiaries or affiliates are direct clearing members of the relevant CCPs. The decision to use other clearing members is the clearing broker's decision and not their clients'.

ADIs clients' trades are also indirectly cleared in the same manner as above. However, for capital adequacy purposes an ADI has a risk on the clients in all cases and those trades are not considered an exposure on a clearing broker/clearing member or CCP.

Reasons for multi-level client structures

ADIs typically prefer to enter into a clearing agreement with a single clearing broker to clear its trades, even if the clearing broker is not a direct clearing member of every CCP of the trades, for the following factors:

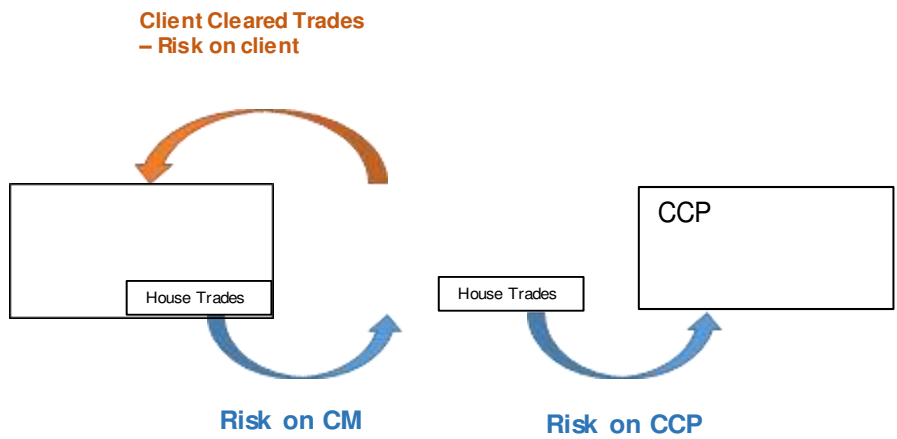
- Volume & market access
 - Consolidating the volume of transactions in multiple markets increases the ADI's bargaining power in pricing discussions, especially if the clearing broker is using a subsidiary or affiliate to clear the trades in relevant jurisdictions.
- Operational ease
 - Access to direct electronic market execution platforms are offered by large clearing brokers, providing access to even markets where they are not direct clearing members.
 - It is operationally inefficient to establish separate clearing agreements, margining and other operational processes with clearing members in every jurisdiction.
- Credit risk of the clearing broker
 - Lower credit risk associated with dealing with a substantial well capitalised clearing broker even if they are not the direct clearer for all the trades.
- Jurisdiction of the clearing broker
 - Some jurisdictions have stronger client monies protection than others.

Multi-level client structures per Basel Final CCP rules (2014)

Multi-level client structures were included in the final Basel CCP rules to clarify the capital treatment applied to them is consistent with that outlined in Basel Interim CCP rules 2012, even with the introduction of additional layers of clients.

The following summary assumes the CCPs involved are Qualifying CCPs.

Figure 1: Interim Basel Rules (2012)



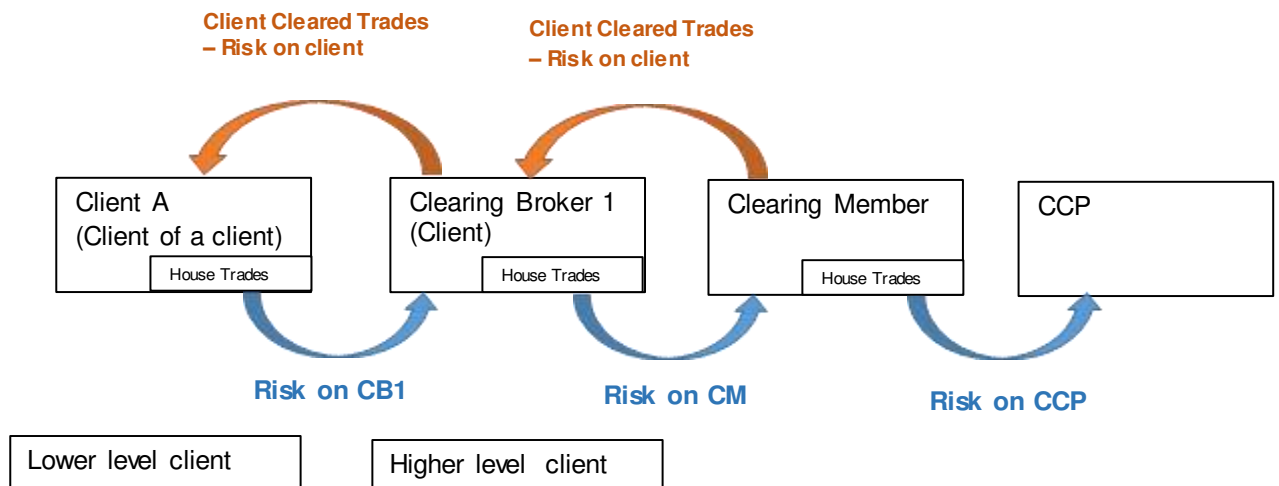
Where the ADI is the Clearing Member (CM) it has:

- Risk on its client, Client A for A’s cleared trades, which are capitalised as a risk on client A, and
- Risk on the CCP for its house trades, which are capitalised as a risk on the CCP at 2% RW.

Where the ADI is Client A it has:

- Risk on CM for its house trades being cleared by CM which are capitalised as a risk on the CM and can be subject to concessional risk weightings of 4%, 2% and 0% provided certain levels of segregation are satisfied between it and the CM, and certain other criteria are satisfied with respect to the QCCP.

Figure 2: Final Basel Rules (2014)





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Where the ADI is the Clearing Member (**CM**) it has:

- Risk on its client Clearing Broker 1 (**CB1**) for CB1's cleared trades, which are capitalised as a risk on client CB1, and
- Risk on the CCP for its house trades, which are capitalised as a risk on the CCP at 2% RW.

Where the ADI is the CB1 it has:

- Risk on its client A for A's cleared trades, which are capitalised as a risk on Client A, and
- Risk on CM for its house trades being cleared by CM, which are capitalised as a risk on the CM which can be subject to concessional risk weightings of 4%, 2% and 0% provided certain levels of segregation are satisfied between it and the CM and certain other criteria are satisfied with respect to the QCCP.

Where the ADI is Client A it has:

- Risk on CB1 for its house trades being cleared by CB1 which are capitalised as a risk on the CB1 and can also be subject to concessional risk weightings of 4%, 2% and 0% provided certain levels of segregation are satisfied between it and the CB1 and between CB1 and the CM, and certain other criteria are satisfied with respect to the QCCP.



Appendix 2 – SA-CCR and other regulatory reforms

On 18 December 2015 the ABA wrote to APRA regarding our members’ concerns on the complexities and cost of implementing SA-CCR. At that time the ABA requested that APRA provide a two year implementation timeframe, starting from the publication of APRA’s final standards for SA-CCR.

The burden of a very short timeframe for a complex reform such as SA-CCR is also compounded by the significant number of other BCBS reforms. These concurrent reforms will result in significant technology and resources costs for industry, hence the strong desire of industry to see APRA continuing to support its regulated population in implementing reforms in the most efficient and cost effective manner possible.

The SA-CCR reforms do not sit in isolation, but within a context of multiple upcoming reforms (FRTB, FRTB-CVA, VM and IM, CCP default funds, NSFR etc.), all of which involve significant and overlapping sets of data, systems and processes which will require time to implement.

In an environment of so many competing projects, it is a reality that projects within banks are only funded when legislative deadline becomes clear once a government agency finalises the scope and requirements. It is not industry practice to commence the design and build of complex IT systems when the functionality of that system is based upon technical rules not yet finalised.

The regulatory burden facing members

The below table gives a snapshot of the magnitude of overlap of just three BCBS reforms, it also demonstrates how each reform overlaps and requires an ADI to make changes to multiple systems, multiple times, those substantial costs for rework are not reflected here.

Reform	Major systems to be upgraded	Other APRA reforms that will touch the same systems	Complexity	Cost	Time to Implement
SA-CCR	Multiple underlying trading, multiple business & finance systems, central warehouse, capital calculation engine and the external reporting systems.	CCP FRTB Monthly BS Leverage ratio Margining of non-centrally cleared derivatives Securitisation Pillar III Phase 1 & 2 NSFR Daily LCR Basel IV CVA CcyB	High	> \$5m - \$7m	24 months
CCP final rules	Multiple underlying trading, multiple business & finance systems, central warehouse, capital calculation engine and the external reporting systems.	SA-CCR FRTB Monthly BS Leverage ratio Margining of non-centrally cleared derivatives Securitisation Pillar III Phase 1 & 2 NSFR Daily LCR Basel IV CVA CcyB	High	> \$5m	24 months
FRTB	Multiple underlying trading, multiple business & finance systems and all market risk systems.	SA-CCR CCP Margining of non-centrally cleared derivatives Securitisation NSFR Daily LCR CVA CcyB	Extremely High	> \$20m - \$40m	3 years



The expected overlapping data requirements in SA-CCR and FRTB

Both the SA-CCR and FRTB rules will need new and detailed granular data that will require labelling and mapping for the same derivative deal set spanning numerous business systems within a bank. Some of these specific data elements will overlap and will need re-labelling and re-mapping if the SA-CCR and FRTB implementations were to occur separately.

Both sets of rules affect the same deals and the same IT systems regardless of whether the new data requirements are overlapping or not, and the challenges involved are significant. For example, for all newly required data elements, the data may not be currently available 'on the deal', it may be in static data or is available 'on the deal' but not in the correct form. Even where the data currently exists it will need to be converted to a form that is usable by the central downstream systems within the bank (e.g. finance, compliance, reporting). Therefore, the data may require transformation or a completely new derivation as well as the requisite testing.

It would be more efficient to make the system changes for the necessary mappings for both purposes once only, when both sets of requirements are finalised.

For example, and subject to the final APRA rules, some of the expected overlapping data requirements for most, if not all, deals under both regulatory changes are as follows:

- All deals will require an identification of its underlying asset at an appropriate granularity and mapping to the necessary new hedging and asset type classifications depending on the specifics of each set of final APRA rules for SA-CCR and FRTB.
- All derivative deals require identification of whether they are an option or not. Currently this is not necessarily used for the purposes of regulatory capital calculations, so while some labelling may be present on some deals it is not universal nor necessarily in the form required for use in SA-CCR calculations or for FRTB purposes.
- Credit derivative deals will require the specification of the issuer, the issue, its credit rating, product type, whether it is an index or not; equity derivatives deals will require the specification of a single name, product type, whether it is an option or not, whether it is an index or not and if it is, then which one. Again, some, but not all, of these elements are currently present and where they are present there is new mapping required to provide the appropriate granularity and additional feeds will be required to permit the appropriate use of such data.
- Commodities require further specification of commodity type; while FX and interest rate products will require currency and reference rates to be included. These elements are new for the purposes of regulatory calculations and again need to be provided at the right level of granularity and uniformity to ensure the specific SA-CCR and FRTB calculations can be completed.

As stated in the first section of this submission, it is the ABA's view that a 1 January 2018 deadline, in the absence of APRA's final standards and reporting requirements for SA-CCR, represents too short a timeframe to allow institutions to implement the required technology and operational changes in a robust and efficient manner.

The ABA again requests that APRA gives consideration to extending the implementation timeframe and aligning the SA-CCR reforms with other BCBS reforms which banks will need to implement in the near future.

It remains ABA's strong preference that all Australian ADIs with material counterparty credit risk (**CCR**) exposures be subject to an implementation date for SA-CCR exposure calculations that is later of:

- 1) 1 January 2019; or
- 2) Two years from the finalisation of APRA rules and reporting requirements.