**Question 1**

The inclusion of large NFC- in the same category as NFC+ is not always valid. A particular case in point is the In-House Bank (IHB) structure. For the avoidance of doubt these are not "banks" in a regulatory sense. This is a common corporate treasury structure whereby all of a Group's derivative and financing arrangements are organised and routed centrally. Individual group entities are typically obliged by virtue of the group's treasury policy to conduct their derivative dealing with the IHB who in turn aggregate trades and conduct larger offsetting trades with third parties. The intention of the IHB structure is to centrally manage trading and to increase efficiencies by offsetting trades where possible. The alternative to the IHB structure is where each group subsidiary trades directly with counterparty bank resulting in a single set of trades. With the IHB structure, the IHB will act as counterparty to all group trades and will thereby have as many trades as the totality of all the entities within the group. In addition, the IHB will also have the offsetting trades with its banks. The objective of the IHB structure is to concentrate trading in order to reduce risk, but this will result in an increase in trading activity and volumes. In the absence of the IHB structure, you may have a Group comprising entities who do not breach any criteria individually, but with the introduction of the IHB, the IHB by its activities has non-speculative gross trading positions exceeding the EMIR clearing threshold. It is important to understand that nothing about the Group has changed, merely how it organises the execution of its derivative trading activities yet this IHB would now fall within the same regulatory framework as an NFC+. The imposition of this type of regulatory burden will undoubtedly act as a disincentive to locating centralised treasury structures such as IHB's in Ireland.

**Question 2.**

The proposed NFC- categorisation is simplistic. The combination of the SI threshold and the EMIR clearing threshold results in the same proposed regulatory regime applying to;

(a) NFC- who engage exclusively in speculative trading but who do not breach the relevant EMIR clearing thresholds
(b) NFC- who may potentially have large derivative portfolio and who engage exclusively in hedging activities who will undoubtedly exceed the SI threshold criteria.
(c) NFC- with limited derivative activity all of which is hedging but who happen to breach any one of the SI threshold criteria, i.e., have 101 outstanding OTC contracts for small nominal values or who might not be able to delegate all reporting to third parties by virtue of intra-group trading for example.

The SI threshold condition results in the same regulatory treatment applying for large NFC- who engage in quite extensive speculative trading as to a small trader who happens to have a large number of small value hedging derivatives positions. Clearly this one "size fits all" approach is self-evidently overly simplistic. Furthermore the question as to whether to raise the any or all of the SI threshold levels cannot distinguish between any of the 3 qualitatively distinct examples provided above. At best, the raising or lowering of the SI limits serves only to remove the marginal NFC-, in particular NFC-s who are examples of case (c) above. Any sensible risk-based regime should seek to identify large NFC- and smaller NFC- who engage in proportionately higher risk profile trading either by virtue of the gross notional value in its totality or by virtue of their speculative trading.

A further point that needs to be made here is that the requirement that an NFC- satisfy **ALL 3** of the SI threshold criteria may lead to quite undesirable results. In particular, one could have a situation where a very small NFC- trips any one of the criteria having the same regulatory requirements as case a. or b. above. This can happen very simply. In particular, if an NFC- engages in a large number of very small individual trades with low nominal value or the entity cannot completely delegate all reporting by virtue of intra-group trading.

I would argue further that condition (c) of the SI threshold, that the NFC- has delegated reporting throughout the entire reporting period, is not relevant in the same way as the other SI conditions in so far as the other conditions indicate the size of positions and frequency of trading, whereby the fact of whether an NFC- delegates trade reporting does not.

Finally, the proposed regulatory framework does not distinguish between publically quoted PLCs, who have extensive disclosure requirements in respect of their hedging activities and positions, their policies in relation to risk management and accounting and position valuation and who are the subject of extensive audit by third party auditors, and other company forms who are not the subject of the same stringent scrutiny and disclosure requirements. While it is likely that this type of company will most likely fall into categories (a) and (b) above by virtue of the anticipated size of the business, we would suggest that the proposed regulatory framework should reflect the existing regulatory and accounting disclosure requirements. In summary, the company form and the applicable regulatory and accounting disclosure regime should constitute a further dimension in devising an appropriate risk-based regulatory framework.

**Question 4**

Tailored submission dates should absolutely be accommodated particularly for any company required to file annual accounts. The completion of the ERR, in whatever form, could be dovetailed to the financial year-end and the completion of the ERR be conducted in conjunction with the audit process. To adopt a single ERR submission date would undoubtedly result in a degree of inefficiency where this did not coincide with the financial year-end date and therefore further additional costs.

**Question 6**

The proposal to adopt a single ERR does not reflect the various concerns and observations outlined above. It is not appropriate to treat an NFC- who is a quoted Plc in the same way as a private company engaged in extensive speculative trading. Following on from this, the consequent information requests should be tailored according to the relative risk profile. We would argue as a Plc with a policy of not engaging in ANY speculative trades that a simple confirmation of our NFC- status and that we have been compliant with our obligations under EMIR should be sufficient. We understand that regulators in other EEA jurisdictions have adopted a similar suggestion to that outlined here.

**Question 8**

It is absolutely critical that the costs associated with this additional regulatory burden be minimised to the extent possible. In particular, we were particularly heartened by the suggestion that our Internal Auditors would be eligible to act as the Third Party Assessor. This would be a very positive step and would moderate the costs associated with compliance.