



ESMA Public Consultation Paper on the clearing and derivative trading obligations in view of the benchmark transition

Link to the paper: [Consultation Paper on the clearing and derivative trading obligations in view of the benchmark transition](#)

1.- Target participants

All interested stakeholders are invited to respond to this consultation paper. In particular, responses are sought from counterparties of OTC derivatives transactions which are subject to the clearing obligation or to the derivative trading obligation as well as from CCPs and Trading Venues.

2.- Information Note

This consultation paper presents draft regulatory technical standards (RTS) amending the RTS on the clearing obligation (CO) and on the derivative trading obligation (DTO) that ESMA has developed under Article 5(2) of EMIR and under Article 32 of MiFIR, respectively. The draft RTS relate to the benchmark transition away from EONIA and LIBOR and on to new Risk-Free Rates (RFRs).

Following Benchmark reforms, EONIA and LIBOR are due to cease at the end of 2021 with the exception of USD LIBOR1 which publication is scheduled to run until June 2023. In this sense, more specifically with respect to the OTC derivative market, this means that the new derivative contracts are expected to be traded and cleared referencing RFRs such as €STR in EUR, SONIA in GBP or SOFR in USD, from 3 January 2022.

There are currently three Commission Delegated Regulations on the CO and one on the DTO. They mandate a range of interest rate and credit derivative classes to be cleared, and for a subset of these, to also be traded on venue. In view of this transition, there is a need to review the scope of the CO and the DTO for interest rate derivative classes in EUR, GBP, JPY and USD. The draft RTS in Annex II of the CP include the proposed amendments to reflect the changes deriving from this transition.

The paper is structured as follows:

- **Section 2** presents the context for this review of the clearing and trading obligations.
- **Section 3** details the progress in the benchmark transition.
- **Section 4** describes the general approach for the coordinated revision of the clearing and trading obligations.

- **Sections 5** and **6** include the analyses and the conclusions for how to amend the scopes of the clearing and trading obligations respectively and the related implementation timing.
- Finally, **section 7** talks about the way forward.

3.- Submission of comments

The deadline for submitting comments is 2 September 2021.

Respondents may send their comments through ESMA's website: www.esma.europa.eu. The paper of this consultation (ESMA70-156-4454) and the Response Form are available in the section [Consultation](#).

Likewise, please send a copy of your answers to the CNMV to the following email address: documentosinternacional@cnmv.es

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