

ESMA CONSULTATION PAPER ON THE EMIR 3 DRAFT RTS ON PARTICIPATION REQUIREMENTS

[Consultation on the EMIR 3 draft RTS on Participation Requirements](#)

Target participants

The consultation paper (CP) will be of interest to central counterparties (CCPs), and direct or indirect participants of CCPs (as well as potential participants of CCPs), both financial counterparties and non-financial counterparties (NFCs).

Information Note

This CP specifies how CCPs should set participation requirements and assess the ability of non NFCs to meet margin requirements and default fund obligations, including under stressed market conditions. The proposals implement amendments to Article 37 of EMIR¹ introduced by EMIR 3², requiring non-discriminatory, transparent and objective admission criteria that ensure sufficient financial resources and operational capacity, with access restrictions permitted only for risk control purposes.

The draft RTS outline core elements for membership criteria: transparent, fair and open access; assessment of adequate financial resources (including liquidity, collateral access, credit lines and loss-absorbing capacity); robust operational capabilities across IT, payment and settlement access, and business continuity; plus additional legal and compliance considerations such as AML/CFT and cross-border enforceability. They also address clearing members that provide client clearing, sponsored membership models, and tailored criteria to facilitate prudent direct access for NFCs, noting that NFCs acting as clearing members may offer client clearing only to NFCs within the same group. ESMA plans to consider feedback in Q1 2026 and expects to publish a final report and submit the final draft RTS to the European Commission by the end of that quarter.

The CP is organised into **four** parts:

- **Section 1** provides background and the legislative references.
- **Section 2** details some introductory matters on the Article 37 framework after EMIR 3.
- **Section 3** outlines the core RTS elements for CCP participation requirements, including specifications for admission criteria, financial resources and operational capacity. It also frames the detailed elements regarding specific rules for client clearing, sponsored models, and NFC participation.

¹ Regulation (EU) No 648/2012

² Regulation (EU) 2024/2987



- **Section 3** includes the annexes to this CP comprising the summary of all questions posed in this Consultation Paper (Annex I), the legislative mandate for the development of this draft RTS (Annex II), the cost-benefit analysis (Annex III), and the the draft RTS (Annex IV).

Submission of comments

The deadline for submitting comments is **5 January 2026**.

Respondents may send their comments through ESMA's website: www.esma.europa.eu. The paper of this consultation (ESMA91-1505572268-4364) 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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