



## **ESMA consultation paper on the first report on central clearing solutions for pension scheme arrangements.**

**Link to the paper: ESMA first report for consultation - central clearing solutions for Pension Scheme Arrangements (PSA).**

### **1.- Target audience (potential stakeholders)**

This consultation is addressed, in particular, to:

- Pension scheme arrangements.
- Central Counterparties (CCPs) and clearing members.
- Other market participants.
- Other stakeholders.

The CNMV would appreciate it if all the above-mentioned potential stakeholders were to send a copy of their responses to the consultation to the following email address:

[Documentosinternacional@cnmv.es](mailto:Documentosinternacional@cnmv.es)

### **2.- Information Note**

Regulation 2019/834 (hereinafter, 'EMIR Refit') has introduced a number of amendments to the EMIR Regulation, one of them being the extension of the temporary exemption from the central clearing obligation for pension scheme arrangements (PSAs).

This extension of the temporary exemption was introduced due to the challenges that PSAs would have to face to provide cash for the variation margin calls related to their centrally cleared derivative contracts.

However, this extension has been established with the aim of ensuring that progress is made by stakeholders in addressing these challenges and to enable them to develop viable technical solutions for the transfer by PSAs of cash and non-cash collateral as variation margins for central clearing.

As part of this objective, the EMIR Refit Regulation provides that the European Commission should prepare a report assessing whether these technical solutions have been developed and the need for any measures to facilitate them.

For this purpose, ESMA, in cooperation with EBA, EIOPA and the ESRB, are required to prepare a first report for the European Commission, within six months from the entry into force of EMIR Refit, documenting the progress made towards central clearing solutions for derivatives contracts of PSAs.

The document (first report) submitted for consultation constitutes a preliminary report. ESMA shall submit at a later date a more comprehensive input to the European Commission in a second phase. The deadline for this first report has not allowed sufficient time for other authorities to provide their views. Therefore, this report represents ESMA's current understanding of the issues faced by PSAs in dealing with cash variation margins, and the issues encountered by CCPs and clearing members in providing viable alternatives and potential solutions.

ESMA has considered the work and the discussions of the Expert Group set up by the European Commission as required under EMIR Refit. Following this consultation, and for the purpose of preparing a second report for the European Commission, ESMA intends to cooperate closely with EBA, EIOPA and the ESRB.

In addition, for the appropriate preparation of the second report to be submitted in one year's time, feedback from stakeholders is sought. For this purpose, a set of questions has been included in Annex 2.

The report has the following structure and content:

- .- Section 2 provides an introduction to this consultation paper.
- .- Section 3 presents the regulatory context of this report, the next regulatory steps following the implementation of the EMIR Refit Regulation and their implication for ESMA.
- .- Section 4 describes the issue addressed in the report: the rationale for the usage of derivatives by PSAs, the issues caused by CCPs' requirement to have variation margin calls fulfilled exclusively in cash and its quantitative impact.
- .- Section 5 refers to the current exemption of central clearing for PSAs.
- .- Section 6 explores the different solutions envisaged to date to facilitate PSAs to centrally clear their OTC trades. Specifically, the solutions described are the following: 1) CCPs accepting non-cash collateral for variation margin settlement; 2) Relying on the ancillary services of collateral transformation of clearing members; 3) The market-based repo solution through platforms managed by the CCPs themselves, or using other procedures with the aim of enabling CCPs to have access to liquidity through the temporary transfer of their high credit quality assets; and 4) Alternative emergency liquidity arrangements in stress scenarios that could be set up between PSAs and entities that have access to (standard or emergency) central bank liquidity facilities, such as banks (e.g. the PSAs' clearing service providers or third liquidity providers) or the CCPs. These alternative arrangements could ensure that PSAs can be provided with the required liquidity in stressed market conditions.
- .- Section 7 describes the next steps. Together with this first report, ESMA has launched a consultation paper with the questionnaire included in Annex 2. This paper will allow ESMA to gather input from stakeholders and to progress in the

issue submitted for consultation. As mentioned above, the feedback received to this consultation and the additional discussions of the expert group will serve as the basis for preparing the second report due by December 2020. ESMA intends to cooperate closely with EBA, EIOPA and the ESRB in the preparation of this second report.

.- Annex 1 provides the articles of the EMIR Refit Regulation related to central clearing obligations for PSAs.

.- Annex 2 presents the questionnaire with respect to central clearing obligations for PSAs, and more specifically, solutions to facilitate PSAs discharging their variation margin requirements.

### **3.- Submission of comments**

The deadline for submitting comments is **15 June 2020**.

Respondents may send their comments through ESMA's website:

[www.esma.europa.eu](http://www.esma.europa.eu). The paper of this consultation (ESMA 70-151-2852) is available in the section [Your input-Consultation](#).

ESMA invites stakeholders, in particular, to reply to the 31 questions included in Annex 1.

Likewise, as mentioned above, the CNMV would appreciate it if stakeholders could send a copy of their responses to the consultation to the following address:

[Documentosinternacional@cnmv.es](mailto:Documentosinternacional@cnmv.es)

**Dirección de Asuntos Internacionales**

**CNMV**

**c/ Edison 4**

**28006 Madrid**