



ESMA Discussion Paper on the Review of the clearing thresholds under EMIR

Link to the paper: [Discussion Paper on the Review of the clearing thresholds under EMIR](#)

1.- Target participants

The consultation paper is primarily of interest to financial (FC) and non-financial counterparties (NFC) entering into OTC derivative transactions, as well as from central counterparties (CCPs).

2.- Information Note

Regulation (EU) 2019/834 (EMIR Refit) introduced a mandate in EMIR for ESMA to periodically review the clearing thresholds and update them where necessary, in order to ensure that the thresholds remain appropriate.

This report, as part of the periodic review, presents statistics on the impact of the current clearing thresholds when looked into at the level of the group structures, the level of the counterparties, FC or NFC counterparty separately and across the different asset classes. Additionally, it includes some projections or simulations to illustrate the changes in terms of notional traded in each asset class and also in terms of the percentage of the population of counterparties that would potentially be above the clearing thresholds if the thresholds were set at a different level.

The report is divided into 12 sections:

- **Section 1** is the introduction and sets the context and walks the reader through the different aspects covered in this discussion paper, and **section 2** explains the purpose of this discussion paper.
- **Section 3** presents the relevant information on the data and methodology and on how the different sources of information used in this report have been treated.
- **Section 4** covers the clearing regime under EMIR and focuses on how counterparties calculate their positions in OTC derivatives for the sake of determining whether they are above or below the clearing thresholds.
- **Section 5** touches upon the impact of Brexit and the international perspective on the EMIR regime, looking at the consequences of Brexit for the clearing thresholds and the regulatory requirements triggered when those are exceeded.

- **Section 6** provides a market overview on how the state of application of the clearing obligation and its evolution.
- **Section 7** focuses on the information gathered from notifications on the clearing obligation submitted to ESMA by counterparties.
- **Section 8** gives an overview of the clearing thresholds applied to the different asset classes (i.e. credit derivatives, interest rate derivatives, commodity derivatives, equity and currency derivatives).
- **Section 9** compiles the information on the outcome inferred from the data analysis on the application and impact of the current clearing thresholds.
- **Section 10** presents simulations on the changes to the population of counterparties captured and notional traded above the clearing thresholds by modifying the current thresholds for the different asset classes and types of counterparties.
- Lastly, **section 11** and **section 12** covers the conclusions derived from this discussion paper and Annex I includes the summary of questions, respectively.

3.- Submission of comments

The deadline for submitting comments is 19 January 2022.

Respondents may send their comments through ESMA's website: www.esma.europa.eu. The paper of this consultation (ESMA91-372-1593) 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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