

Technical note on  
**EMIR 3.0**  
Final version

1. Regulatory Context

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2. Main changes

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# 1

## Introduction

### Executive summary

EMIR 3.0 will enhance transparency, reduce systemic risks, and streamline reporting for a more resilient derivatives market



#### Context

- The legislative proposal, known as EMIR 3.0, was launched by the EC in **December 2022** as part of the wider Capital Markets Union (CMU) Clearing. On **7 February 2024**, the EP, the Council and the EC reached an agreement on the final text of the proposal for a review of the EMIR. On **24 April 2024**, the final text was approved.
- In addition, on **November 2024**, ESMA launched a CP on the **draft RTS for the** , Active Account Requirements (**AAR**) under EMIR 3.0.
- In this context, the Council has adopted rules on the **revision** of the **EMIR Regulation and Directive**.



#### Objective

- The aim of EMIR 3.0 is to increase the **safety** and **efficiency** of EU **CCPs** by **improving** their **attractiveness**, encouraging clearing in the EU and **reducing the dependence** on foreign CCPs.
- The proposal seeks to address specific operational and regulatory challenges, **AAR**, to ensure the **stability and resilience** of the EU financial market.



#### Enforceability

- **24 December 2024**. Entering into force
- **27 January 2025**. The RTS consulting period closes,
- Entities must report derivative exposures to the relevant NCAs with a **six-month** transition period for Level 1 requirements until **24 June 2025**.
- **25 June 2026**. Ending of the transposition period for EMIR 3 Directive.



#### Main impacted topics

##### Centralised clearing – AAR

Counterparties require EU-CCP clearing for OTC IR swaps and STIR derivatives

##### Treatment of PTRR

PTRR services reduce counterparty and operational risks

##### Validation of IM Models

Enhances oversight for consistent, transparent IM models

##### Treatment of intragroup

Intragroup exemptions end for high-risk third-country counterparties

##### Cost transparency

Clearing service providers must disclose fees and Union CCP options

##### Reporting sanctions

Authorities may penalize entities for repeated reporting errors



## 2 | Main changes General overview

The main changes in the EMIR regulatory framework are in some areas such as: i) centralized clearing; ii) treatment of PTRR; iii) validation of IM models; iv) treatment of intragroup; v) cost transparency; and vi) reporting sanctions



### Centralised clearing - AAR

- Financial counterparties must **maintain resilient clearing accounts** with EU-authorized CCPs for OTC IR swaps and STIR derivatives.
- Key requirements include **operational readiness**, representative clearing activity, and biannual **reporting of activities** and exposures to NCAs, ensuring transparency and compliance.



### Treatment of PTRR

- Post-Trade Risk Reduction (PTRR) services aim to **enhance market stability** by reducing counterparty and operational risks.
- The regulation defines exemption criteria, outlines the **characteristics of eligible exercises**, and tasks ESMA with drafting standards to ensure **transparency**, neutrality, and effective monitoring of PTRR activities.



### Validation of IM models

- The regulation sets rules for Initial Margin (IM) models, requiring **clear governance frameworks, regular monitoring, and thorough documentation** of assumptions, including non-linear factors and exclusions.
- The framework **strengthens regulatory oversight** to ensure consistency, transparency, and effective risk management in IM model implementation.



### Treatment of intragroup

- Intragroup transactions were **excluded from settlement obligations** and margin requirements by Regulation (EU) No 648/2012.
- However, with the implementation of EMIR 3.0, some intragroup transactions will no longer be eligible for exemption if the counterparty is located in a **high-risk third country**.



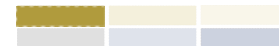
### Cost transparency

- The regulation mandates clients provide clearing services to improve transparency by informing their clients about all **associated clearing services fees**, as well as about the possibility to clear their contracts through a **Union CCP**.



### Reporting sanctions

- The competent authority reserves the right to **impose administrative penalties** or periodic penalty payments on the entities subject to the **reporting obligation** where the details reported repeatedly contain **systematic manifest errors**.



The new rules require financial counterparties to maintain active clearing accounts at EU-authorized CCPs for OTC IR swaps and STIR derivatives denominated in EUR, in compliance with the AAR, and to report clearing activities



### Centralised clearing - AAR

#### Operational readiness

- The account needs to be **permanently functional** (IT connections, the needed internal processes in place...).
- The account needs to be resilient enough to always allow clearing of **large volumes** of derivative contracts.
- These operational requirements should be **stress-tested** at least once a year.

#### Representativeness requirements

- The volume of trades cleared through the CPP should be **representative** enough with respect to the overall portfolio of trades cleared by the counterparty in a reference period based on different classes of:
  - Derivative contracts
  - Maturities
  - Sizes
- **ESMA** will specify a **maximum of three classes** of derivative contracts and will set a **maximum of five subcategories** per class based on the most relevant trade size and maturity ranges.

#### Reporting requirements

- Entities will need to calculate activities and risk exposures in the categories of derivatives mentioned and **report** this information to the relevant NCA **every six months**.
- The report will also need to include other details linked to the operational requirements, including:
  - Legal documentation
  - Technological connectivity
  - Internal processes and resources
  - Systems that ensure resiliency

- The draft RTS for the AAR is under consultation. Counterparties need to act and begin implementing the AAR, waiting for the final RTS to be published could result in insufficient time for timely implementation.



Post-Trade Risk Reduction (PTRR) services play a crucial role in enhancing the resilience of OTC derivatives markets. By enabling efficient portfolio optimization, these exercises help reduce counterparty and operational risks while ensuring market stability



### Treatment of PTRR

#### Definition and Exemption Criteria

- OTC derivative contracts resulting from PTRR exercises **can be exempt from clearing** obligations if specific conditions are met:
  - The entity performing the PTRR exercise ('PTRR service provider') complies with the requirements.
  - Each participant in the PTRR exercise complies with the requirements.

#### Characteristics of Eligible PTRR Exercises

- Exercises must achieve a **tangible reduction in the risk** of participating portfolios.
- Exercises should **maintain market neutrality** and avoid influencing price formation.
- All methods, algorithms, and cycles must be pre-agreed and follow a **transparent, non-discriminatory approach**.
- Only entities that initially **submitted portfolios** can participate.

#### Development of Standards by ESMA

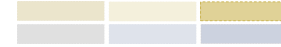
- ESMA shall **develop draft regulatory technical standards** to further specify the following conditions or characteristics of PTRR exercises:
  - What constitutes market risk neutrality.
  - Required risk reduction in submitted portfolios.
  - Requirements regarding the management of the PTRR exercise
  - Process for monitoring the application of the exemption granted.



# 2

## Main changes

### Detailed overview per topic



New rules for the authorisation and validation of margin models by EU regulators are introduced with the goal of strengthening all tasks associated with the implementation and monitoring of the Initial Margin calculation model



### Validation of IM Models

#### Governance requirements

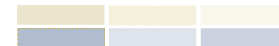
- The Regulation defines as a requirement an internal **governance framework** (definition of roles and responsibilities, reporting committees, senior management involvement) that governs the implementation of the IM model.

#### Model monitoring requirements

- Entities will need to **inform the Regulator** or apply for further approval to any changes or extensions to be applied to the IM model.

#### Model definition requirements

- All processes followed to define and implement the IM model in the entity must be **properly documented** including factors omitted from the model, illiquid factors and treatment of non-linearities.



Intragroup transactions were excluded from settlement obligations and margin requirements by Regulation (EU) No 648/2012. However, with the implementation of EMIR 3.0, some intragroup transactions will no longer be eligible for exemption



## Treatment of intragroup transactions

### Definition for financial & non- financial counterparties)

- An intragroup transaction is an **OTC derivative contract entered into with another counterparty which is part of the same group**, provided that all of the following conditions are met:

#### Financial:

- the financial counterparty is established in the EU or an accepted third country.
- both counterparties are included in the same consolidation on a full basis.
- both counterparties are subject to appropriate centralised risk evaluation, measurement and control procedures.

#### Non - Financial:

- both counterparties are included in the same consolidation on a full basis.
- both counterparties are subject to appropriate centralised risk evaluation, measurement and control procedures.
- the non-financial counterparty is established in the EU or an accepted third country.

### Conditions for Exemptions

- Transactions with counterparties established in any of the following third countries **shall not benefit from any of the exemptions** for intragroup transactions:
  - where the third country is a **high-risk third country**, as referred to in Article 29 of Regulation (EU) 2024/1624.
  - where the third country is **listed in Annex I to the Council conclusions** on the revised EU list of non-cooperative jurisdictions for tax purposes.





Enhancing cost transparency ensures fair pricing, fosters competition, and promotes market stability in the Union by providing clear insights into all associated costs of clearing services



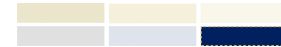
### Cost transparency

#### Information on the provision of clearing services

- Clients that provide clearing services shall inform their clients, where the offer is available, of the possibility to **clear their contracts through a Union CCP**.
- Clients that provide clearing services shall **inform their clients** when they establish a client clearing relationship with a client and **at least on a quarterly basis**.

#### Disclosure of fees

- Clients that provide clearing services shall disclose, in a **clear and understandable manner**, for each CCP at which they provide clearing services, **the fees** to be charged to such clients for the **provision of clearing services** and any other fees charged including fees charged to clients which pass on costs, and **other associated costs** related to the provision of clearing services.
- ESMA, in consultation with EBA, shall develop in 12 months from the date of entry into force of EMIR 3.0 **draft regulatory technical standards** to further specify the type of information to be provided.



The competent authority might impose administrative penalties or periodic penalty payments on the entities subject to the reporting obligation pursuant to Article 9 where the details reported repeatedly contain systematic manifest errors



## Reporting sanctions

### Systematic Manifest Errors

- ESMA, in cooperation with EBA, EIOPA and the ESRB, shall **develop draft regulatory technical standards** to specify what constitutes systematic manifest errors.
- ESMA shall submit the draft regulatory technical standards in **12 months from the date of entry** into force of EMIR 3.0.

### Periodic Penalty Payment

- The periodic penalty payment **can not exceed a maximum of 1 % of the average daily turnover** for the preceding business year which, in the case of an ongoing infringement, the entity shall be obliged to **pay for every day that the infringement continues**, until compliance with the obligation is established or restored.
- The periodic penalty payment may be imposed for a **maximum period of six months** from the date set out in the decision of the competent authority requiring the termination of an infringement and imposing the periodic penalty payment.

### Administrative Penalties

- Where the legal system of a Member State does not provide for administrative penalties, the penalty might be **initiated by the competent authority and imposed by judicial authorities**, while ensuring that those legal remedies are effective and have an equivalent effect to the administrative penalties imposed by competent authorities.
- In any event, the penalties imposed shall be **effective, proportionate and dissuasive**.

# 3

## Why Management Solutions?

### Differential value

Experience leading projects related to **EMIR, MiFID II and DFA**, including **identification of needs**, diagnosis and **design of solutions** as well as their implementation and transfer to BAU to meet reporting requirements.

*Regulatory reporting knowledge and experience*

*Close contact with the regulator*

Continuous **contact with the regulator** and concern to be up to date with regulatory developments **through its regulatory competence centre**, in addition to its continuous experience in regulatory compliance projects (Adaptation to MAR/MAD II, Dodd Frank, EMIR, MIFID II, FRTB)

Extensive experience with major European entities and **deep knowledge of the different businesses** (Retail, CIB, AM) and areas (Risks, T&O, Front and Middle Office...) as a result of recurring collaborations

*Established relationship with main banking entities*

*Experience in ensuring the correct implementation of solutions*


Proven **delivery capability**, ensuring implementation projects; including conception, milestones definition, coordination, risk and problem mitigation, execution and handover to the business unit. **Extensive experience leading complex regulatory projects** in local and global financial institutions.






  
International  
One Firm

  
Multiscope  
Team

  
Best practice  
know-how

  
Proven  
Experience

  
Maximum  
Commitment

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# A | Annex

## Abbreviations

Abbreviation	Meaning
AAR	Active Account Requirements
AM	Asset Management
BAU	Business as Usual
CCP	Central Counterparty
CIB	Corporate and Investment Banking
DFA	Dodd-Frank Act
EBA	European Banking Authority
EIOPA	European Insurance and Occupational Pensions Authority
EMIR	European Market Infrastructure Regulation
ESMA	European Securities and Markets Authority
ESRB	European Systemic Risk Board
EU	European Union

Abbreviation	Meaning
FRTB	Fundamental Review of the Trading Book
IM	Initial Margin
IR	Interest Rate
MAD II	Market Abuse Directive II
MAR	Market Abuse Regulation
MiFID II	Markets in Financial Instruments Directive II
NCA	National Competent Authority
OTC	Over-the-Counter
PTRR	Post-Trade Risk Reduction
STIR	Short-Term Interest Rate
T&O	Technology and Operations

# A | Annex Calendar

The EMIR regulatory framework has been continuously evolving since its first publication in 2012, with EMIR Refit coming into force in 2019 and EMIR 3.0 officially published in December 2024

