

APRIL 2025

ESMA CONSULTATION ON RTS TO FURTHER
DETAIL THE NEW EMIR CLEARING THRESHOLDS
REGIME

AFG's reponse



AFG



The AFG federates the asset management industry for 60 years, serving investors and the economy. It is the collective voice of its members, the asset management companies, whether they are entrepreneurs or subsidiaries of banking or insurance groups, French or foreigners. In France, the asset management industry comprises 700 management companies, with €4600 billion under management and 102,000 jobs, including 27,000 jobs in management companies.

The AFG commits to the growth of the asset management industry, brings out solutions that benefit all players in its ecosystem and makes the industry shine and develop in France, Europe and beyond, in the interests of all. The AFG is fully invested to the future.

Q1 Do you agree that the aggregate thresholds should only be set for those asset classes subject to the CO i.e. IRDs and credit derivatives? If not, please elaborate.

Yes. We agree that the aggregate thresholds should only be set for those asset classes subject to the clearing obligations, namely, IRDs and credit derivatives.

Q2 Do you agree with ESMA's proposal to maintain the aggregate thresholds at the current level i.e. 3 billion EUR for IRDs and 1 billion EUR for credit derivatives? If not, please elaborate.

Yes. We agree with ESMA's proposal to maintain the aggregate thresholds at the current level.

Q3 Do you agree with the proposed uncleared thresholds? If not, please elaborate, explain for which asset class(es) and, where possible, provide supporting data and elements.

AFG thanks ESMA for the opportunity to respond to the consultation on the proposed recalibration of the EMIR clearing thresholds.

New clearing thresholds

AFG supports ESMA's principle that the recalibration should *"not [...] lead to substantial changes in order to ensure that the current coverage of the clearing obligation is not affected by the new methodology"*.

In line with this principle and considering the broader EU objectives of simplification and enhanced competitiveness, AFG strongly opposes the current proposal. Our preliminary assessment indicates that the new proposed thresholds are unlikely to significantly increase the number of entities subject to the clearing obligation. If, ultimately, no new counterparties are expected to fall within scope, we question the rationale for modifying the existing thresholds.

Implementing these changes would introduce considerable operational complexity. It would require adjustments to existing procedures, updates to internal systems already in place, and complicate position monitoring. Collectively, these burdens would make compliance with the clearing obligation more challenging.

Firms are already facing significant pressures from other regulatory requirements, such as representativity, reporting, and stress testing or meeting the 85% of relocation. In this context, changing the thresholds without a tangible benefit undermines the goals of proportionality and efficiency. If the outcome remains unchanged, there is no justifiable reason to impose such costly and disruptive recalibration.

Moreover, it is particularly difficult to understand why the thresholds for equity (and commodity) derivatives have been lowered although currently there are no OTC derivatives

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in the equity and commodity asset classes that are mandatorily clearable. It is therefore even more unclear why the thresholds are lowered if there is no intention to change the current scope of in-scope FCs and NFCs.

Exclusion of FX derivatives

We would like to take the opportunity of this consultation to reiterate a demand excluding FX derivatives from the clearing threshold calculation for financial counterparties, including UCITS and AIFs, as they do not pose systemic risk. These entities often engage in FX activity, primarily for hedging purposes and might fall into the CO although having very little derivatives in other asset classes. This is largely due to the notional-based calculation method, which does not allow netting and inflates FX exposure. Such approach creates high cost of maintaining access to the clearing broker and the CCP while having no direct positive impact on financial stability. We therefore urge ESMA to exclude currency derivatives from the CT calculation for FCs under EMIR.

Q4 Do you agree with ESMA's proposal not to introduce in the RTS separate thresholds for the various commodity derivatives sub-asset classes at this stage? If not, please elaborate.

N/A

Q5 Do you agree with ESMA's proposal to have in the fifth bucket only commodity and emission allowance derivatives? Or do you consider that commodity derivatives should be singled out as a stand-alone category and another category for emission allowance derivatives introduced? Please elaborate.

N/A

Q6 Do you agree with ESMA's proposal not to introduce a sixth bucket for other derivatives at this stage? If not, please elaborate.

N/A

Q7 Do you agree with ESMA's proposal not to introduce more granular thresholds for commodity derivatives based on ESG factors at this stage? If not, please elaborate.

N/A

Q8 Do you agree with ESMA's proposal not to introduce more granular thresholds for commodity derivatives based on crypto-related features at this stage? If not, please elaborate.

N/A

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Q9 Do you consider clarifications should be included in Article 10 of Commission Delegated Regulation (EU) No 149/2013? If yes, please specify and if possible, provide arguments and drafting suggestions.

N/A

Q10 Do you consider other indicators should be monitored and assessed? If yes, please specify and if possible provide drafting suggestion.

N/A



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Investing in
tomorrow together