

A close-up of an hourglass with blue sand, set against a solid blue background. The sand is flowing from the top bulb to the bottom bulb. The hourglass is positioned on the right side of the frame.

This webinar will begin shortly.

**FIA**



# EMIR 3.0

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ESMA Final Report on the Active Account  
Requirements

July 17, 2025



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# Presenters

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Presentation prepared by **fieldfisher**



# Active Account Requirement

- **New Article 7a**
  - Designed to incentivise clearing of certain Euro and Polish zloty derivatives in the EU and reduce excessive exposures to clearing services of substantially systemic important 3<sup>rd</sup> country CCPs
  - Requires in-scope counterparties to open an active account at an EU CCP for the AAR in-scope transactions and clear a representative number of those transactions in the account together with associated reporting obligations
- **In-scope counterparties**
  - FC+s and NFC+s who are subject to the clearing obligation AND who exceed the clearing threshold (individually or in aggregate) for the AAR in-scope transactions
  - Certain exemptions apply
- **AAR in-scope transactions**
  - Interest rate derivatives denominated in euro and Polish zloty
  - Short-term interest rate derivatives denominated in euro (STIRS)
  - EC (following ESMA recommendation) empowered to amend in-scope transactions
- **The story so far...**
  - EMIR 3.0 mostly entered into force on 24 December 2024
  - AAR requires RTS to provide the detail for a number of the requirements
  - Consultation Paper published by ESMA on RTS required for the AAR on 20 November 2024
  - Final Report published on 19 June 2025
  - Now passes through the rest of the European legislative process so precise timetable for entry into force of RTS uncertain
  - ESMA Q&A on 14 July 2025
  - **NOTWITHSTANDING THAT THE ACTIVE ACCOUNT OBLIGATION IS NOW LIVE**



# Operational Conditions – Article 7a(3)(a)

- **Article 7(a)3(a)**
  - Requirement that the account is permanently functional, including with legal documentation, IT connectivity and internal processes associated to the account being in place
- **Final Report**
  - Counterparties will need to *demonstrate the existence* of:
    - a contractual arrangement, including in relation to cash and collateral accounts, with an authorised CCP, clearing member or client providing client clearing services
    - internal policies and procedures relating to the contractual arrangements
    - an IT system with connectivity to an authorised CCP, clearing member or client providing client clearing services
- **Changes from the Consultation Paper**
  - Requirement to ***demonstrate the existence*** of rather than ***establish***
  - Internal policies and procedures linked to the contractual arrangement rather than access to the CCP
  - Requirement for cash and collateral accounts with sufficient resources removed and now linked to the contractual arrangement
- **Timing**



# Operational Conditions – Article 7a(3)(b) and (c)

- **Article 7(a)3(b)**
  - Requirement that the counterparty has systems and resources available to be operationally able to:
    - use the account for large volumes of derivative contracts subject to the AAR even at short notice; and
    - receive a large flow of transactions from positions held at a Tier 2 CCP in a short period of time
- **Article 7(a)3(c)**
  - Requirement that all new trades in derivative contracts subject to the AAR can be cleared in the account at all times
- **Final Report**
  - Counterparties will need to
    - set up internal systems and arrangements to monitor and support a large flow of transactions from positions in a Tier 2 CCP under different scenarios assessing any legal and operational barriers
    - demonstrate that they possess necessary human resources to support the proper functioning of the clearing arrangement at all times
    - provide their NCA with a written statement in relation to the relevant CCP's operational capacity and their or their clearing service provider's operational capacity to clear a three-fold increase in derivative contracts subject to the AAR
  - Clarification that written certifications may be provided electronically
  - Clarification in the Final Report but not in the RTS that the CCP certification may be made publicly available or readily available to counterparties
- **Changes from the Consultation Paper**
  - Replacement of requirement to appoint at least one staff member with a requirement to demonstrate that they possess necessary human resources
  - Simplification of the certification process
- **Timing**



# Stress-testing of the Operational Conditions

- **Article 7a(4)**
  - The operational requirements shall be regularly stress-tested at least once a year
- **Final Report**
  - Counterparties will need to:
    - conduct technical and functional tests verifying the operational capacity and the functioning of the IT connectivity with the CCP, clearing member or client providing clearing services
    - ensure that operational tests are conducted annually to demonstrate that the account can withstand the threefold increase as certified for operational condition (b)
- **Changes from the Consultation Paper**
  - Alignment of the stress-testing with the increase in operational condition (b) rather than an 85% increase
  - Removal of requirement for a signed written statement from the CCP on the stress-test
  - Removal of difference in frequency of stress test for counterparties above and below EUR 100 billion to an annual requirement for all counterparties
- **Timing**





# Representativeness Obligation

- **Article 7a(3)(d)**
  - Counterparties required to clear in the active account trades which are representative of the AAR in-scope transactions that are cleared at a Tier 2 CCP
- **Article 7a(4)**
  - For the representativeness obligation to be fulfilled, counterparties required to clear on an annual average basis at least 5 trades in each of the *most relevant sub-categories per class of derivative contract and per reference period*
  - Representativeness assessed according to the following criteria:
    - Classes of derivative contracts (up to 3 [Article 7a(8)])
    - Maturity ranges (up to 4 [Article 7a(8)])
    - Trade sizes (up to 3 [Article 7a(8)])
  - Relevant subcategories (up to 5 [Article 7a(8)]) will be those containing the highest number of trades during the Reference Period
- **Reference Period [Article 7a(8)]**
  - Not less than 6 months for counterparties with a notional clearing volume outstanding in AAR in-scope transactions of less than EUR 100 billion
  - Not less than 1 month for counterparties with a notional clearing volume outstanding in AAR in-scope transactions of more than EUR 100 billion



# Representativeness Obligation – Classes of Derivatives

- **EUR OTC IRD**

- Final Report unchanged from the Consultation Paper
- Three classes
  - Fixed-floating IRS
  - FRAs
  - OIS

- **PLN OTC IRD**

- Final Report unchanged from the Consultation Paper
- Two classes
  - Fixed-floating IRS
  - FRAs

- **EUR STIR**

- Final Report removes options from the scope of the two classes proposed in the Consultation Paper
- Two classes
  - cash-settled derivatives executed on an EU or non-EU exchange with an underlying of 3-month EURIBOR
  - cash-settled derivatives executed on an EU or non-EU exchange with an underlying of 3-month ESTR



# Representativeness Obligation – Subcategories of Derivatives

- **EUR OTC Fixed-Floating IRS**
  - Final Report unchanged from the Consultation Paper
  - Maturity ranges: 0-5Y, 5Y-10Y, 10Y-15Y, 15Y+
  - Trade size ranges: 0-25M, 25M-50M, 50M+
- **EUR FRAs**
  - Final Report unchanged from the Consultation Paper
  - Maturity ranges: 0-6M, 6M-12M, 12M-18M, 18M+
  - Trade size ranges: 0-75M, 75M-200M, 200M+
- **EUR OIS**
  - Final Report unchanged from the Consultation Paper
  - Maturity ranges: 0-1Y, 1Y-2Y, 2Y-5Y, 5Y+
  - Trade size ranges: 0-25M, 25M-100M, 100M+



# Representativeness Obligation – Subcategories of Derivatives

- **PLN fixed-floating IRS and FRAs**

- Final Report unchanged from the Consultation Paper in terms of maturity and trade size ranges
- Maturity and Trade size ranges:
  - Single category across all maturities and trade sizes
- New provision in Final Report requiring the average trade size and maturity ranges cleared in the EU should reflect the average trade size and maturity of those products cleared by the counterparty in the Tier 2 CCP

- **EUR STIR EURIBOR and ESTR**

- Trade size
  - Final Report retained a single trade size from the Consultation Paper
- Maturity ranges:
  - Slightly modified from the Consultation Paper
  - Maturity Ranges: 0-6M, 6M-12M, 12M-24 M [rather than 18M], 24M+ [rather than 18M+]
- New provision in Final Report requiring the average trade size and maturity ranges cleared in the EU should reflect the average trade size and maturity of those products cleared by the counterparty in the Tier 2 CCP



# Representativeness Obligation – Number of Most Relevant Subcategories and Reference Periods

- **Number of Most Relevant Subcategories**
  - Final Report unchanged from the Consultation Paper
  - EUR OTC IRD: 5 for each of the three classes
  - PLN OTC IRD: 1 for each of the two classes
  - EUR STIR: 4 for each of the two classes
- **Reference Periods**
  - Final Report unchanged from the Consultation Paper
  - EUR OTC IRD:
    - 1 month for counterparties with a notional clearing volume outstanding of EUR 100 billion or more
    - 6 months otherwise
  - PLN OTC IRD:
    - 12 months
  - EUR STIR EURIBOR:
    - 1 month for counterparties with a notional clearing volume outstanding of EUR 100 billion or more
    - 6 months otherwise
  - EUR STIR ESTR:
    - 6 months for counterparties with a notional clearing volume outstanding of EUR 100 billion or more
    - 12 months otherwise



# Reporting Requirements – Activities and Risk Exposures

- **Article 7b(1)**
  - Counterparties required to calculate activities and risk exposures in the AAR in-scope transactions and report to its NCA information necessary to assess compliance with that obligation every 6 months
- **Final Report**
  - Counterparties will need to report at an aggregate level the gross notional amount outstanding of the aggregate month-end average positions in the AAR in-scope transactions for the previous 12 months
  - The data must be broken down per class of the AAR in-scope transaction and per CCP
- **Changes from the Consultation Paper**
  - Requirement greatly simplified
  - Information should be sufficient for NCA to assess whether the counterparty is subject to the operational conditions and reporting requirements, the representativeness obligation and what the relevant reference period is



# Reporting Requirements – Operational Conditions

- **Article 7b(1)**
  - The reporting shall also include a demonstration to the competent authority that the legal documentation, IT connectivity and internal processes associated to the active accounts are in place
- **Final Report**
  - Counterparties will need to provide a written statement to their NCA confirming their compliance with the operational conditions
  - Counterparties must have the relevant documentation available to prove compliance should it be required by their NCA
- **Changes from the Consultation Paper**
  - Requirement greatly reduced



# Reporting Requirements – Representativeness Obligation

- **Requirement**
  - Counterparties report to their NCAs information to allow assessment of the “most relevant” subcategories
- **Final Report**
  - Contains in the RTS a new Annex III that sets out tables that should be used to report the number of trades in each of the “most relevant” subcategories
  - Clarification on the reference period to be used to complete the data in Annex III
  - Clarification that this reporting obligation only applies to counterparties that are subject to the representativeness obligation
- **Changes from the Consultation Paper**
  - Requirement greatly simplified including removal of the requirement to report gross and net notional amounts for each subcategory and to report UTIs





# Thank you for joining us today!

## Upcoming Webinar:



**Trends in ETD Trading Q2 2025**  
10:30 – 11:30 AM ET



**Trends in Extraterritorial Enforcement in Derivatives Markets**  
10:00 – 11:00 AM ET



**State Attorneys General**  
10:00 – 11:00 AM ET



# FIA EMIR 3 Resources

- <https://www.fia.org/fia/emir-30-resources>

The logo features the letters 'FIA' in a bold, sans-serif font. The 'F' is dark grey. The 'I' is dark grey with a green triangle on its right side. The 'A' is composed of a green triangle on the left and a blue triangle on the right. The background consists of large, overlapping geometric shapes in shades of green, blue, and grey.

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