

FIA response to the ESMA consultation on the reporting framework under EMIR for clearing activity at recognised third-country CCPs (EMIR Article 7d reporting)

9 October 2026

(submitted electronically via ESMA portal)

1. General comments

FIA and its members support ESMA's overarching approach of limiting new reporting obligations to information that is not already available through existing reporting frameworks and supervisory data collections. We welcome ESMA's recognition that national competent authorities (NCAs) generally consider existing reporting regimes, particularly EMIR Article 9 reporting, to provide sufficient information for most supervisory purposes and that any new reporting requirements should be carefully assessed against the operational burden imposed on market participants.

We agree that the implementation of EMIR Article 7d should be guided by three core principles:

- a. no duplication of information already available to ESMA, NCAs or other EU authorities;
- b. maximum reliance on existing systems, data sets and reporting methodologies; and
- c. proportionality, especially where reporting requires information to be sourced from third-country affiliated clients or clearing members.

While we understand that ESMA needs to work within the confines of Level 1, we reiterate our long-standing view that it is unclear which policy objectives EMIR Article 7d reporting is trying to achieve and whether the residual reporting requirements proposed under the draft RTS provide sufficient supervisory value to justify the implementation costs that will be incurred by in-scope entities, in particular by EU headquartered groups, and also by NCAs in charge of collecting and aggregating this data. We share NCAs' views that data to be reported under EMIR Article 7d has no supervisory benefit and indeed may unnecessarily divert regulators' resources in obtaining and processing this data, and only serves to create a compliance burden for in-scope firms, with EU headquartered groups being impacted by this requirement more than their non-EU competitors. To our knowledge, no other major financial jurisdiction has a reporting regime that is equivalent to EMIR Article 7d.

We note that the residual justification offered at paragraph 16 of the Consultation Paper (that the information "*could be relevant to support a broader understanding of EU exposures and dependencies... in particular in the current geopolitical context*") is, in our view, difficult to reconcile with the principle of proportionality enshrined in Article 5(4) of the Treaty on European Union and Protocol No 2

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thereto, which requires that the content and form of Union action does not exceed what is necessary to achieve the objectives pursued. A recurring reporting obligation imposing compliance costs on market participants should be justified by reference to a defined regulatory objective, such as the mitigation of an identified risk, or a specific supervisory action or decision dependent on the data, rather than a generalised and open-ended interest in “understanding” a phenomenon. This justification was, moreover, introduced only after ESMA's own consultation with NCAs found no supervisory necessity for the underlying data (paragraph 15), and it identifies no defined objective, mechanism, or dependent action that the data would serve.

We are conscious that ESMA itself has no power to amend or repeal a Level 1 provision, and that EMIR Articles 7d(2) and (3) impose an unconditional mandate on ESMA to develop the RTS and ITS regardless of any view ESMA may hold on the merits of the underlying obligation. We also recognise that ESMA has, on previous occasions, used its powers under Regulation (EU) No 1095/2010 to bring concerns about the design or necessity of Level 1 requirements to the attention of the Commission and co-legislators.

Separately, and irrespective of the above, we note that Recital 17 of Regulation (EU) 2024/2987 imposes a distinct and more specific instruction on ESMA in exercising its Level 2 mandate: that ESMA “*ensure that the obligation does not create additional reporting requirements, unless necessary*”. We observe that the gap analysis in Section 6 of the Consultation Paper addresses only whether information is already *available* through existing reporting frameworks, it does not, and cannot, in itself establish that collecting whatever remains unavailable is *necessary* within the meaning of Recital 17: availability and necessity are analytically distinct questions, and the Consultation Paper does not revisit the necessity question once a gap has been identified. We ask that, for each individual data element retained in the final RTS, ESMA identify the specific regulatory purpose it is intended to serve, consistent with Recital 17, rather than relying on data availability (or its absence) alone as the basis for inclusion.

We note that a number of scoping questions, critical to full assessment of the impact of EMIR Article 7d reporting, remain unanswered. We ask that ESMA, in conjunction with the European Commission if needed, provide clarity on these questions as soon as possible and before the RTS details are finalised.

2. Responses to Consultation questions

Question 1: Do stakeholders agree with ESMA’s assessment of data availability under existing reporting frameworks?

We commend ESMA for conducting a detailed assessment and gap analysis of the existing reporting regimes, and we broadly support ESMA's conclusion that substantial amounts of the information contemplated by EMIR Article 7d are already available through existing reporting frameworks and other supervisory data collections. We particularly support ESMA's conclusion that reporting entities should not be required to report information already available through EMIR Article 9 reporting, SFTR reporting, MiFIR reporting or existing CCP supervisory data requests. However, with respect to securities clearing in particular, we note ESMA's explanation in Section 6.3 of the Consultation Paper as to why information on securities is not available via MiFIR reporting, but we believe the analysis lacks detail regarding the supervisory purpose that collecting this information would serve.

Against this backdrop and as ESMA notes in the Consultation Paper¹, we query whether it would be more appropriate for ESMA to explore how the third country recognised CCP reporting requirements could be adjusted to address some of the gaps more easily, if necessary.

Importantly, a number of gating scope questions remain unanswered, which makes it difficult for market participants to assess the full impact of this new reporting regime. We believe it is critical to clarify all outstanding scope questions before the RTS and ITS rules are finalised, and urge ESMA (and/or the European Commission, as appropriate) to provide such clarity in writing as soon as possible. While ESMA has recently published an answer to ESMA Q&A 2810, we note that as of the date of this response, the ESMA Q&A 2811 on personal scope of EMIR Article 7d, which has been deferred to the European Commission, remains outstanding.

a. Product scope – Union currency denominated instruments only

EMIR Article 7d(1)(b) already refers to reporting of the 'average values cleared over one year per **Union currency and per asset class**'. While the Consultation Paper does not explicitly address this scoping point, ESMA refers to reporting at the level of Union currency in a number of sections (see paragraphs 32, 34, 38, 41, 48, 50, 58, 63, 77, 85, Tables 2 and 3 in Annex to the draft RTS, Table 2 in Annex to the draft ITS).

We understand EMIR Article 7d reporting to be limited to **financial and non-financial instruments cleared at recognised (Tier 1²) third country CCPs that are denominated in a Union currency**. Conversely, instruments denominated in non-Union currencies are out of

¹ Paragraph 58 of the Consultation Paper: *However, the information available through this source remains incomplete for the purposes of Article 7d. For financial instruments other than derivatives and SFTs, information on the type of instruments cleared and average values cleared is available only at a more aggregated level than required under Article 7d.*

² Please see paragraph b. below for arguments as to why we believe that Article 7d reporting should be limited to Tier 1 third country CCPs.

scope of the reporting requirement under EMIR Article 7d. Any other interpretation would make it impossible for in-scope firms to submit complete reports as envisaged by the draft RTS and ITS as they would not be able to complete some of the reporting fields (e.g., an in-scope firm could not complete fields 5, 6 and 7 in Table 2 in the Annex to the draft RTS and ITS with details of an instrument denominated in USD). In other words, we understand that in-scope firms who are not clearing any instruments denominated in a Union currency at a given in-scope CCP, do not need to report for that CCP at all.

While fields 6 ("Average Value Cleared") and 7 ("Average Value Cleared Attributable to Non-EU Entities") of Table 2 of the draft RTS expressly refer, consistently with the Level 1 text, to Union currency-denominated instruments, the treatment of initial margin is less clear, as the reporting of initial margin under Table 3 of the draft RTS appears to also cover non-EU currencies.

For initial margin purposes, the presence of Union currency-denominated instruments transactions at a Tier 1 CCP and availability of margin information under separate reporting regimes should determine whether that CCP falls within the scope of the reporting obligation. In other words, and consistent with our views below, the reporting obligation for margin only applies with respect to Union currency-denominated instruments cleared at a Tier 1 CCP with the exception of derivatives and SFTs, for which margin data is already available under separate reporting regimes in EMIR (for derivatives) and SFTR (for SFTs). Once firms conclude that they are in scope of margin reporting under EMIR Article 7d, their reporting would be based on the total initial margin posted to the CCP without distinguishing between instruments denominated in a Union currency and those that are denominated in non-Union currencies, excluding derivatives and SFTs, where applicable.

All in all, while we are mindful of ESMA Q&A 2810 and acknowledge that these issues may ultimately require legislative or regulatory changes beyond the scope of the current RTS, we remain convinced that the Article 7d reporting requirement should be more narrowly targeted. In particular, it should:

- (i) exclude non-financial instruments, including spot contracts and crypto-assets that do not qualify as financial instruments. If ESMA considers that information relating to transactions in such instruments is necessary, collection through regulatory frameworks other than EMIR should be explored; and
- (ii) as regards financial instruments, be limited to derivatives and SFTs and exclude transactions in securities. Indeed, securities transactions executed on third-country trading venues and cleared through third-country CCPs do not create the same risk profile as derivatives exposures. Furthermore, in light of recent and ongoing initiatives to shorten settlement cycles to T+1, and potentially T+0 through the development of

tokenisation, their inclusion would generate significant reporting burdens without clear supervisory benefit.

b. CCP scope

The Consultation Paper features inconsistent use of terms and acronyms for ‘third country CCPs’ (TC-CCP) and ‘Tier 1 third country CCPs’ (T1-CCP). For example, Question 4, as well as paragraph 28, 76 and the cost-benefit analysis specifically refer to T1 CCPs. We understand that the *scope* of EMIR Article 7d applies to both Tier 1 and Tier 2 recognised third-country CCPs, consistent with EMIR Article 7d(1)'s tier-agnostic reference to “a CCP recognised under Article 25”. However, we take the view that the *content* of what must be reported should differ: for Tier 2 CCPs, ESMA already holds direct statutory powers (Articles 25f–25p EMIR) to compel the CCP itself to provide data, and already receives exposure datasets, initial/variation margin, and default fund information directly from the CCP as part of its ongoing direct supervisory function (which is likely why Tier 2 CCPs are logically not mentioned in the consultation paper). For Tier 1 CCPs, ESMA's only comparable channel is the annual data request (paras 28–30). We therefore ask ESMA to confirm that firm-side EMIR Article 7d reporting is not required for clearing activity at Tier 2 CCPs, since the relevant data is already available to ESMA directly, and more reliably, from the CCP, consistent with the necessity principle in EMIR Article 7d(2) and Recital 17. In other words, **only clearing activity at Tier 1 CCPs should be reported.**

c. House clearing vs. client clearing

It is not clear from the Consultation Paper or the draft RTS whether in-scope clearing members and clients need to report their house/proprietary clearing activity only or whether they (also) need to report their client clearing activity on recognised third country CCPs. We read EMIR Article 7d(1) of EMIR to only refer to clearing members’ and clients’ own (i.e., proprietary) clearing activity, however a clarification to that effect in the RTS would be help ensure legal certainty. A different interpretation, where a clearing member and its clients needed to report their client clearing activity, along with their house/proprietary clearing business, would appear to be inconsistent with Level 1 (“*Clearing members and clients that clear contracts through a CCP recognised under Article 25 shall report such clearing activity...*”) and would lead to duplicative reporting as in-scope clients of clearing members would report the same clearing activity that their clearing member(s) have also reported. It is only at the client reporting level that ESMA will obtain visibility of clearing activity by clients (e.g., in a scenario where an EU client (or non-EU client part of a EU group) is using a non-EU clearing member). It would also be the case that the data set based on reports of client clearing would be incomplete, in so far as the clearing member/clearing services provider is not an EU entity or part of an EU headquartered group and hence would not be within the scope of the EMIR Article 7(d) reporting obligation in any event.

d. Group subject to consolidated supervision in the Union

The Consultation paper does not offer any guidance as to how 'group subject to consolidated supervision' should be interpreted and which clearing member and client entities within such group are subject to this requirement. We ask ESMA to clarify whether 'group subject to consolidated supervision in the Union' for the purposes of EMIR Article 7d(1)(b) should be understood by reference to accounting/balance sheet consolidation (i.e., full consolidation under IFRS 10 or the equivalent applicable local GAAP), or instead by reference to the scope of prudential consolidated supervision under the CRR/CRD framework, as these two bases can produce materially different populations of in-scope entities.

Finally, we also note a discrepancy between the body of the Consultation Paper and the draft RTS. ESMA states in paragraph 61 and in the diagram on page 21 (Table 2) that EU clients that clear through non-EU clearing members that are not part of an EU group need to report the information referred to in (a), (b) and (c) of EMIR Article 7d(1) for non-financial instruments and financial instruments other than derivatives and SFTs. We agree with this conclusion. However, the draft RTS Article 1(2)³ is overly broad as it suggests that EU clients clearing through non-EU clearing members that are not part of an EU group would need to report information on margin (EMIR Article 7d(1)(c)) also with respect to derivatives and SFTs. This would drive duplicative reporting for the majority of in-scope entities. If ESMA has identified a specific 'gap' scenario (e.g., NFC-), then the RTS should be explicitly narrowed to that scenario rather than applying broadly.

Question 2: Do stakeholders agree with ESMA's proposal to require annual reporting by the last business day of January, covering the preceding calendar year? If not, please explain your reasoning, including any operational constraints or alternative timelines.

We appreciate ESMA's objective of obtaining timely information through annual reporting by the last business day of January for the previous calendar year. However, many in-scope clearing members and clients consider the proposed timetable challenging.

January already represents a period of significant regulatory and financial reporting activity for firms with other similar onerous reporting requirements from their supervisory authorities.

³ Draft RTS Article 1(2): 'In addition to paragraph 1, where a non-EU clearing member is not part of a group subject to consolidated supervision in the Union, its clients established in the Union and its clients established outside the Union that belong to a group subject to consolidated supervision in the Union shall report the information referred to in Article 3.'

The proposed reporting timeline may also be particularly challenging for EU headquartered firms required to consolidate information across entities globally, obtain data from non-EU affiliates and reconcile all information received before it is reported by the parent entity, in particular in the above context of a busy reporting period. *See also our response to Q8 below.*

We therefore request that ESMA consider an **end-March reporting deadline**. This would materially improve data quality while reducing implementation risks.

Question 3: Do stakeholders agree with ESMA's proposed transitional application mechanism? In particular, do stakeholders consider that the proposed arrangements provide sufficient time to prepare for the first reporting cycle while ensuring timely availability of the information?

We support ESMA's proposal to provide a transitional implementation period before the first reporting deadline.

However, we have significant concerns regarding the requirement to submit separate reports for historical years dating back to 2025. We do not believe that the RTS reporting requirements should apply retrospectively. Many firms may not have collected or retained information in the form contemplated by the proposed RTS because the exact detailed reporting requirements were not available at the relevant time. This will be particularly true for instruments that are not derivatives which have been the only focus of reporting under EMIR.

Furthermore, we query whether historic data for 2025 and 2026 is really needed for supervisory or other purposes knowing that, based on the current legislative process status, it is likely that at the earliest the first reports will only be submitted in 2028 (for 2027). It is not clear what value that historic data would bring in comparison with the burden it represents for the industry and the NCAs.

We do not believe that reporting 2025 and 2026 data in 2028 would be beneficial to the authorities and, for the reasons outlined above, we recommend that the first reporting obligation should apply prospectively only (i.e., from the date when the RTS comes into effect, taking into account the proposed implementation timeline for first reporting).

We also note that Article 4(4) of the draft RTS should reference paragraph 3 and not paragraph 1 as the first submission of information is dealt with in paragraph 3 of Article 4 and not in paragraph 1 of the same article.

Question 4: Do stakeholders agree with ESMA's proposed approach to the categorisation of instruments for the purposes of Article 7d reporting, based on recital 17, the classes of instruments covered by T1-CCP recognition and the corresponding asset classes? If not, would stakeholders prefer the use of the ISO 10962 Classification of Financial Instruments (CFI), or another approach, to identify both the type of instrument and the associated asset class? Please explain your reasoning, including any implications in terms of data availability and reporting burden.

We agree with ESMA that a simplified taxonomy is preferable to the use of detailed ISO 10962 CFI classifications, which would require additional mapping, reconciliation and systems development.

However, ESMA's proposed classification is overly granular and would require an additional IT build by the reporting entities as it is not consistent with the instrument classifications that are used for accounting or settlement purposes, which are likely to constitute the main sources of consolidated data. By way of example, inflation swaps and interest rate derivatives are often grouped together under a single "interest rate" category and are therefore not easily distinguishable.

Considering the above, we request a reduction in the level of instrument and asset class granularity, which would help reduce a significant portion of the implementation costs and constraints. To that end, we suggest amending fields 3 and 4 of Table 2 of the ITS as follows:

	Field	Format
3	Type of instrument	DERV = Derivatives – including ETD and OTC (no need for distinction) SFTS = Securities Financing Transactions OTHE = Others – including Securities, Spot contracts, Crypto-assets (other than derivatives)
4	Asset class	For instrument type SFTS: EQUI (equity) and DEBT (debt) For instrument type DERV: EQUI (equity), COMM (commodity), INTR (interest rate), CRDT (credit) and CURR (currencies) For instrument type OTHE: EQUI (securities) and DEBT (debt) and COMM (non-financial crypto other than derivatives) and CURR (FX spot)

Question 5: Do stakeholders agree with the proposed methodology for calculating average values cleared over one year, based on aggregate month-end average positions, with a breakdown by Union currency and asset class? Please explain your views, including any implications for data availability, operational feasibility or reporting burden.

We agree with ESMA's proposal for calculation based on aggregate month-end average positions as it is aligned (for derivatives) with the clearing threshold calculation methodology. However, a quarterly computation approach would likely be less burdensome for firms from an operational perspective.

We would welcome explicit confirmation from ESMA of the precise calculation methodology. In particular, we ask ESMA to confirm whether the average value cleared should be calculated as (i) a simple average of twelve individually observed month-end position values, or (ii) first aggregating all cleared positions into a single total value at each month-end (per CCP, Union currency and asset class), and then calculating the average of those twelve month-end aggregate totals. We understand ESMA's intention to be the latter, consistent with paragraph 77 of the Consultation Paper, and would ask that this be stated explicitly in the final RTS to avoid diverging interpretations and inconsistent reporting across firms.

Question 6: Do stakeholders agree that, for the purposes of Article 7d(1)(c), initial margin provides a more meaningful and proportionate indicator of exposure to recognised third country CCPs than variation margin, and with the proposal to report margins at a less granular level than average values cleared, in particular by reporting initial margin per CCP recognised under Article 25?

We support ESMA's proposal to focus on initial margin rather than variation margin. Initial margin is a more stable and meaningful measure of exposure to recognised third-country CCPs and avoids the significant volatility associated with variation margin. Initial Margin is also the metric already used in similar reporting.

We also strongly support ESMA's proposal to require margin reporting only at the level of the recognised CCP rather than by asset class, currency or product category. This appropriately reflects how margin information is maintained in practice and avoids the need for artificial allocation methodologies. However, we suggest that this information be obtained directly from the CCPs rather than from clearing members and clients.

Further, consistent with our views on scope above, we understand that EMIR Article 7d(1)(c) only applies if an in-scope clearing member or client clears an instrument denominated in a Union currency at a Tier 1 CCP and if margin information is not available from reporting under EMIR or SFTR. In those cases, and in those cases only, clearing members and clients would report total initial margin (converted in EUR) for all instruments cleared at that Tier 1 CCP, unless for derivatives and SFTs, where counterparties are already required to report margin information under a different reporting regime, which means that ESMA already has this information (*see also response to Question 8*).

Importantly, we wanted to highlight an explicit scenario that we believe should be covered in the RTS drafting to avoid unnecessary duplicative reporting already conducted under EMIR Article 9. An EU client (non-NFC-), using a non-EU clearing member (not part of EU group), would not be expected to report any margin information covering derivatives at all at a CCP, if it has no exposure to cleared securities or non-financial instruments at that CCP.

Question 7: Do stakeholders also agree with ESMA's proposal to calculate reported initial margin as the average of month end observations over the reporting year? Alternatively, would either (i) the average of quarter end observations or (ii) the reporting of quarter end observations individually provide a more proportionate and operationally feasible approach?

While we support ESMA's proposed focus on initial margin, we believe quarter-end observations would provide a more proportionate and operationally feasible approach than averaging twelve month-end observations.

Quarter-end metrics would align well with existing capital reporting requirements that use IM quarter-end average and so this is already very well integrated in IT processes.

If quarter-end approach is not feasible, we advocate for initial margin reporting as of a specific point in time (e.g., 31 December). *See also our response to Question 8.*

Question 8: To what extent is it operationally feasible to obtain, provide and report initial margin information for the purposes of Article 7d reporting? ESMA would particularly welcome views from reporting entities, clearing members and other stakeholders involved in the reporting chain on the level of aggregation at which such information is available, the effort required to extract such information, and any associated implementation costs or operational burden.

We support ESMA's proposal to report initial margin only at the level of each (Tier 1) CCP recognised under Article 25.

As discussed above, we consider that Article 7d reporting should focus only on clearing activity relating to Union currency-denominated instruments.

Accordingly, the presence of Union currency-denominated instruments transactions at a CCP and unavailability of margin information from the existing reporting regimes should determine whether that CCP falls within the scope of the reporting obligation. Once a firm has concluded that it clears instruments that are in scope for margin reporting under EMIR Article 7d, then it will report total initial margin (i.e., for instruments denominated in a Union currency and those that are denominated in non-Union currencies), excluding derivatives and SFTs if it already reports those transactions under EMIR and SFTR, respectively (*see also response to Question 6*).

This approach would preserve the focus of Article 7d reporting on Union currency-denominated activity while negating the need for duplicative reporting (derivatives and SFTs) and avoiding the introduction of complex allocation methodologies that may produce inconsistent and non-comparable outcomes across reporting entities.

CCP portals that host initial margin reports and from which the initial margin information will most likely need to be retrieved, generally provide only limited retention periods. For example, the LCH Ltd portal retains such reports for five days only. As a result, in-scope entities, particularly smaller ones, may face difficulties in retrieving the required data unless they already have internal systems in place to archive it. One possible solution to this issue could be to report initial margin as of a specific point in time (e.g., 31 December).

Clients of non-EU clearing members, which are likely to represent the primary scenario for non-EU CCPs, may encounter difficulties in obtaining support from their clearing members in collecting the required information, as non-EU clearing members may take a view that they are generally not subject to EMIR requirements.

As mentioned above (*see response to Question 2*), a one-month deadline for producing the report does not appear realistic, particularly for groups required to submit a fully consolidated report and collect data from group entities that are not currently subject to EMIR. A reporting deadline at the end of March would appear more realistic.

Question 9: Do stakeholders agree with ESMA's proposal to adopt Option B (distinguishing between EU and non-EU entities within a group) as the baseline level of granularity for consolidated reporting under Article 7d(1)(b)? If not, which of the alternative options (Option A – fully consolidated reporting, or Option C – full entity-level breakdown) would stakeholders prefer, and for what reasons?

FIA members are in favour of Option A (fully consolidated reporting) as it would avoid an extra layer of data segregation and minimise operational burden. It is also the model that is used for the active account requirement reporting under EMIR Article 7b, so there is an existing, accepted and lower-cost precedent. Option B would require firms to build new EU/non-EU tagging logic not otherwise present in group systems, cutting against the burden-reduction agenda that ESMA also refers to in the consultation.

Question 10: What are the operational implications and implementation costs of Options A, B and C, including data availability and any additional allocation or aggregation logic required?

Further to our response above, we reiterate our concerns about the disproportionate impact of the EMIR Article 7d reporting requirement on EU groups. In the context of EU competitiveness and simplification debate, these new reporting requirements are a good example of an unlevel playing field that policy makers often wish to identify. Furthermore, it is not obvious what the benefits are of reporting clearing activity, in particular of non-EU entities belonging to EU supervised groups, particularly where those non-EU entities will already be subject to their local reporting regimes.

Question 11: Do stakeholders agree with ESMA's proposal to require reporting under Article 7d in CSV format? If not, do stakeholders consider that another format would be more appropriate? Please explain your reasoning, including any implications in terms of operational feasibility, implementation costs or data processing. In addition, ESMA would welcome evidence on whether the proposed CSV format would materially reduce implementation complexity relative to alternative formats, including from the perspective of smaller reporting entities.

We support ESMA's proposal to require reporting in CSV format. Given the limited data requirements and annual reporting frequency, CSV represents the most proportionate approach and is likely to minimise implementation costs. To facilitate implementation, ESMA must publish well in advance of the implementation deadline detailed definitive reporting templates, validation rules, file specifications, sample reporting files and testing arrangements.

We agree with ESMA that XML would introduce significant development costs while offering limited additional supervisory value.

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