EMIR 3.0 Implementation: Where are we now?

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Presenters

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EMIR 3.0 – selected Level 2 status

EMIR 3.0 REQUIREMENT	ESMA Consultation	FIA response	ESMA Final report	EC adoption	OJ publication	Effective date
Active account requirement *Articles 7a & 7b*	20-Nov-24	27-Jan-25	19-Jun-25	29-Oct-25	06-Feb-26	26-Feb-26
Margin transparency *Article 38(8)*	24-Jun-25	08-Sep-25	02-Mar-26	10-Nov-26	*Pending*	*Pending*
Clearing fees and costs disclosure *Article 7c(2)*	24-Jun-25	08-Sep-25	02-Mar-26	*Pending*	*Pending*	*Pending*
Eligible collateral/bank guarantees *Article 46*	23-Feb-26	30-Apr-26	19-Oct-26	*Pending*	*Pending*	*Pending*
Clearing thresholds *Articles 4a(4) & 10(4)*	08-Apr-25	16-Jun-25	25-Feb-26	14-Jul-26	21-Oct-26	10-Nov-26
CCP participation criteria *Article 37(7)*	09-Oct-25	05-Jan-26	08-Jul-26	*Pending*	*Pending*	*Pending*
Reporting of clearing activity on third country CCPs *Article 7d*	18-Aug-26	09-Oct-26	*Pending*	*Pending*	*Pending*	*Pending*

Margin Transparency

Status **In effect but pending RTS**

SCOPE

In-scope entities
Clearing members and clients providing clearing services to clients (clearing service providers / CSPs)

In-scope products
Client positions cleared at EU-authorised CCPs, including exchange-traded and OTC derivatives

COMPLIANCE OBLIGATIONS

Explain CCP margin models → **Explain triggers for margin calls** → **Explain client margin calculations** → **Provide margin scenario simulations**

Challenges / dependencies
CCP data, proportionate add-on disclosures and simulation capability

Next steps
RTS: EC adoption 10 Nov 2026. Scrutiny and OJ publication next

FUN FACT
27 institutions responded to the ESMA draft RTS

Clearing Fees and Costs Disclosure

Status **In effect but pending RTS**

SCOPE

In-scope entities
Clearing members and clients providing clearing services to clients (clearing service providers / CSPs)

In-scope products
Client clearing at EU-authorised and recognised non-EU CCPs, including OTC and exchange-traded derivatives

COMPLIANCE OBLIGATIONS

Disclose clearing service fees → **Identify costs passed on** → **Include other fees and related costs** → **Explain charges clearly, by CCP**

Challenges / dependencies
EMIR / MiFID II overlap, fee breakdowns and commercial confidentiality

Next steps
ESMA final RTS: 2 Mar 2026. Await EC adoption and OJ publication

FUN FACT

7 institutions responded to the ESMA draft RTS

Active Account Requirement

Status In effect

SCOPE

In-scope entities
Financial counterparties and non-financial counterparties that are subject to the clearing obligation

In-scope products
(a) interest rate derivatives denominated in euro or Polish zloty; (b) short-term interest rate derivatives denominated in euro

COMPLIANCE OBLIGATIONS

Notify and open the account → Operational conditions → Representativeness obligation → Reporting

Challenges / dependencies
Best execution conflicts, complex reporting, outstanding Q&A?

Next steps
Assessment of the effectiveness of the AAR (methodology published by ESMA)

FUN FACT

443 days
for the draft RTS to make its way in the Official Journal of the EU

Revised Clearing Thresholds

Status In effect from 10 November 2026

SCOPE

In-scope entities
Financial counterparties (FCs) and non-financial counterparties (NFCs) taking OTC derivatives positions

In-scope products
OTC credit, equity, interest rate, FX and commodity / other derivatives. FC aggregate test: credit and interest rate only

COMPLIANCE OBLIGATIONS

Annual calculation (or opt into clearing) → **FCs: uncleared and aggregate tests** → **NFCs: own uncleared positions, ex hedges** → **Notify breaches and arrange clearing**

Challenges / dependencies
Dual FC tests, CCP status data, unchanged hedging criteria and UK divergence

Next steps
Apply by next annual calculation (often June 2027), or calculate earlier

FUN FACT

Commission Delegated Regulation (EU) 2026/2343 has 2 articles

Eligible Collateral / Bank Guarantees

Status **In effect but pending RTS**

SCOPE

In-scope entities
EU CCPs accepting guarantees for NFC clearing members or NFC clients only (at CCP discretion)

In-scope products
Public guarantees, public bank guarantees and commercial bank guarantees covering NFC clearing exposures

COMPLIANCE OBLIGATIONS

Ensure prompt, unconditional payout → **Set minimum collateralisation** → **Apply concentration limits and haircuts** → **Assess issuer and liquidity risk**

Challenges / dependencies
CM protection on client default, account segregation and CRR capital treatment

Next steps
ESMA draft RTS: 19 Oct 2026. Await EC adoption and OJ publication

FUN FACT
238 days from initial draft RTS to final draft RTS

CCP Participation Criteria

Status **In effect but pending RTS**

SCOPE

In-scope entities
EU CCPs and their prospective / existing clearing members, including NFCs and sponsored members

In-scope products
All products cleared by the CCP. Admission criteria may vary by product type and the risks involved

COMPLIANCE OBLIGATIONS

Set fair, objective admission criteria → **Assess financial resources** → **Verify operational capacity** → **Assess NFC funding under stress**

Challenges / dependencies
Proportionate access, risk mutualisation and sponsored member safeguards

Next steps
ESMA final draft RTS: 8 Jul 2026. Await EC adoption and OJ publication

FUN FACT

ESMA Final Report has 75 pages

Reporting on Third-Country CCP Clearing

Status **In effect but pending RTS / ITS**

SCOPE

In-scope entities
EU clearing members / direct clients, or the EU parent reporting for a group under EU consolidated supervision

In-scope products
Financial and non-financial instruments cleared at Article 25 recognised CCPs, including derivatives, securities and SFTs

COMPLIANCE OBLIGATIONS

- Report annually to the relevant NCA
- Instrument types and average values
- Margins and default fund contributions
- Largest payment obligation

Challenges / dependencies
Avoid duplicate EMIR / SFTR data, source overseas group data and retain history

Next steps
First reports deferred pending Level 2. Final RTS / ITS and timetable awaited

FUN FACT
International comparison difficult as Article 7d requirement unique to the EU

