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Additional Information

Level 1 Regulation
Regulation 648/2012 - OTC derivatives, central counterparties and trade repositories (EMIR) - CCPs

Topic
EU-CCPs

Subject Matter
Active Account Requirement

Question
To check whether counterparties are subject to the active account requirement, how should the positions to be compared to the clearing thresholds be calculated?

ESMA Answer

10-07-2025

Original language

In order to determine whether they are subject to the active account requirements in accordance with Article 7a(1) of EMIR, counterparties should check whether they meet the two cumulative conditions:
1. they are subject to the clearing obligation in accordance with Articles 4a and 10 of EMIR; and
2. they exceed the clearing threshold in any of the categories of derivative contracts referred to in Article 7a(6) of EMIR, in an individual category listed in that paragraph or on aggregate across all categories listed in that paragraph.
The methodology to determine the fulfilment of the first condition is specified under Articles 4a and 10 of EMIR, respectively.
For the second condition, counterparties should follow the same methodology as for the first condition, but not with the same frequency (i.e. on a continuous basis rather than every 12 months as mentioned in Articles 4a and 10 of EMIR): once a counterparty is subject to the clearing obligation, it shall determine whether it is above the clearing thresholds in any of the categories of derivative contracts referred to in Article 7a(6) of EMIR, in an individual category or on aggregate across all categories, as the case may be, using the same methodology as described in Articles 4a and 10 of EMIR, on a continuous basis.

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