

ESMA_QA_2516

Status: Answer Published

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

Could counterparties that are subject to the active account requirements (i.e. to hold an active account, clear at least a representative number of trades in this active account and the subsequent reporting requirements) and that are part of a group subject to consolidated supervision in the Union, outsource these obligations to another entity of the group?

ESMA Answer

10-07-2025

Original language

Yes.

However, where an entity chooses to outsource the tasks related to the requirements to which it is subject to according to Article 7a of EMIR, that entity remains legally responsible for the performance of such tasks.

Disclaimer in relation to the answers provided by the European Commission in accordance with Article 16b(5) of the ESMA Regulation

The answers clarify provisions already contained in the applicable legislation. They do not extend in any way the rights and obligations deriving from such legislation nor do they introduce any additional requirements for the concerned operators and competent authorities. The answers are merely intended to assist natural or legal persons, including competent authorities and Union institutions and bodies in clarifying the application or implementation of the relevant legal provisions. Only the Court of Justice of the European Union is competent to authoritatively interpret Union law. The views expressed in the internal Commission Decision cannot prejudge the position that the European Commission might take before the Union and national courts.