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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
Reporting of the representativeness obligation

Question
Does the 85% exemption from reporting for entities under Article 7b also apply to the reporting of the representativeness obligation, or does it only apply to the reporting of activities, risk exposures, and operational conditions?

ESMA Answer

13-10-2025

Original language

A counterparty can benefit from the exemption mentioned in Article 7a(5) of EMIR at any point in time by demonstrating that it clears at least 85 % of its derivative contracts belonging to the categories referred to in Article 7a(6) of EMIR at a CCP authorised under Article 14 of EMIR.

As confirmed by Q&A 2517, entities that clear 85% or more of the relevant derivatives contracts in a CCP authorised under Article 14 of EMIR are exempted from:

• the operational requirements referred to in Article 7a(3), points (a), (b) and (c), of EMIR;
• the stress-testing requirement referred to in Article 7a(4), fourth subparagraph, of EMIR;
• the reporting requirements referred to in Article 7b of EMIR.

Article 7b(1) of EMIR 3 states: "*A financial counterparty or a non-financial counterparty that is subject to the obligation referred to in Article 7a shall (...) report every six months to its competent authority the information necessary to assess compliance with that obligation*."

Article 7b(1) refers broadly to "the obligation referred to in Article 7a", which includes: operational conditions (legal, IT, and internal processes) and the representativeness obligation (Article 7a(3)(d)). Therefore, entities benefitting from the exemption mentioned in Article 7a(5) are exempted from reporting requirements necessary to demonstrate compliance with the representativeness obligation.