

Submission Date

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Additional Information

Level 1 Regulation

Markets in Financial Instruments Regulation (MiFIR) Regulation (EU) No 600/2014- MDP

Topic

* EMIR Reporting

Subject Matter

Reporting under Article 7d of EMIR

Question

Background

Article 7d EMIR (as amended by Regulation (EU) 2024/2987) creates an annual reporting obligation on EU clearing members and on clients that clear through a third country CCP recognised under Article 25 EMIR. Where the reporting entity is established in the Union and

not part of a group under consolidated supervision in the Union, it reports to its NCA; where it belongs to a Union consolidated group, the Union parent undertaking reports on a consolidated basis to its NCA, including the information related to entities of the same group which are not established in the EU.

This requirement has given rise to questions regarding the interpretation and practical application of the reporting obligation, in particular in relation to the scope of contracts and of entities covered.

1. Scope of contracts covered by Article 7d(1) EMIR

While recital 17 of EMIR 3 specifically states that the information to be reported (under Article 7d of EMIR) should distinguish between securities transactions, derivative transactions on regulated markets and OTC derivative transactions, Article 7d(1) refers generally to “contracts” cleared at third country CCPs and to “type of financial instruments or non-financial instruments”, without further qualification or cross reference to existing EMIR or MiFID II definitions. Therefore, the provision does not specify whether the reporting obligation should cover:

- OTC derivative contracts within the meaning of Article 2(7) EMIR;
- all derivative contracts, including both OTC derivatives and exchange traded derivatives;
- specific asset classes or all financial instruments as listed in Annex I, Section C of MiFID II;
- commodities and other non-financial instruments cleared in third-country CCPs.

1. Which contracts are referred to in Article 7d(1) EMIR?