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| 15 November 2017 |

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| Response form for the Consultation Paper on  ESMA’s Guidelines on position calculation under EMIR |
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| Date: 15 November 2017 |

Responding to this paper

ESMA invites responses to the questions set out throughout this Consultation Paper. Responses are most helpful if they:

1. respond to the question stated;
2. contain a clear rationale; and
3. describe any alternatives ESMA should consider.

ESMA will consider all responses received by 15 January 2018.

Instructions

In order to facilitate analysis of responses to the Consultation Paper, respondents are requested to follow the below steps when preparing and submitting their response:

1. Insert your responses to the questions in the Consultation Paper in the form “Response form\_Consultation Paper Guidelines EMIR.docx”, available on ESMA’s website alongside the present Consultation Paper ([www.esma.europa.eu](http://www.esma.europa.eu) 🡪 ‘Your input – Open consultations’ 🡪 ‘Consultation on ESMA’s Guidelines on position calculation under EMIR’).
2. Please do not remove tags of the type <ESMA\_QUESTION\_EMIR\_1>. Your response to each question has to be framed by the two tags corresponding to the question.
3. If you do not wish to respond to a given question, please do not delete it but simply leave the text “TYPE YOUR TEXT HERE” between the tags.
4. When you have drafted your response, name your response form according to the following convention: ESMA\_ EMIR\_nameofrespondent\_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA\_EMIR\_ABCD\_RESPONSEFORM.
5. Upload the form containing your responses, in Word format, to ESMA’s website ([www.esma.europa.eu](http://www.esma.europa.eu) under the heading ‘Your input – Open consultations’ 🡪 ‘ESMA’s Guidelines on position calculation under EMIR’).

Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly indicate by ticking the appropriate checkbox on the website submission page if you do not wish your contribution to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESMA’s rules on access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESMA’s Board of Appeal and the European Ombudsman.

Data protection

Information on data protection can be found at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading ‘Data protection’.

Who should read this Consultation Paper

This consultation paper may be specifically of interest to trade repositories (TRs), trade associations and relevant entities defined in Article 81(3) of Regulation (EU) No 648/2012.

# General information about respondent

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| --- | --- |
| Name of the company / organisation | NEX Abide Trade Repository AB |
| Activity | Other Financial service providers |
| Are you representing an association? |  |
| Country/Region | Sweden |

# Introduction

Please make your introductory comments below, if any:

<ESMA\_COMMENT\_EMIR\_1>

NEX Regulatory Reporting is a business area operating within NEX Optimisation. Through our multi-regime reporting hub, regulatory obligations are translated into future proof compliant solutions while our specialist advisory teams interpret the impact of evolving markets regulation relating to trade and transaction reporting. ‎

In addition to local European regulatory environments (EMIR, MiFID/II, REMIT), we are developing a solution for SFTR and provide specialised reporting services for entities subject to international regulatory regimes (ASIC, MAS). We act as a Trade Repository for EMIR, Approved Reporting Mechanism and Approved Publishing Arrangement for MiFID/II and a Registered Reporting Mechanism for REMIT.

NEX is a financial technology company that operates across the full trade lifecycle.

For more information, go to nexregulatoryreporting.com

<ESMA\_COMMENT\_EMIR\_1>

1. : Are there any other definitions related to the reporting of derivatives under Article 9 of EMIR that need to be taken into account to ensure the guidelines are clear? Please can you elaborate on the reasons for your answer.

<ESMA\_QUESTION\_EMIR\_1>

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<ESMA\_QUESTION\_EMIR\_1>

1. : Do you agree that using trade state reports is the most effective way of ensuring that the information used to aggregate derivatives is current and useful for authorities? Please can you elaborate on the reasons for your answer.

<ESMA\_QUESTION\_EMIR\_2>

NATR agrees with the use of trade state reports as the most effective way of ensuring that the information used to aggregate derivatives is current and useful. We would however like to point out that using the end of day trade state of outstanding derivatives isn’t always sufficient to guarantee consistency between derivatives positions and collateral positions, which may be a problem for authorities who want to compare derivative positions and exchanged collateral for a certain date. The reason for this is that collateral to cover the exposure of a position is in many cases exchanged the following day and is therefore only reflected in the following day’s transaction report. This is the case for cleared derivatives where the end of day margin call is T+1. Based on the data available in the transaction reporting we don’t see any way to correlate reported collateral with a particular end of day derivative position and therefore agree that ESMA’s proposed approach will provide the most current and useful information to authorities.

<ESMA\_QUESTION\_EMIR\_2>

1. : Do you agree with Guideline 4 and the use of Effective date (T2F26) to determine which derivatives should be included in a calculation? Do you see there being an alternative approach to better ensure that relevant derivatives which are effective are those included in a calculation. Please can you elaborate on the reasons for your answer.

<ESMA\_QUESTION\_EMIR\_3>

We believe that this logic is incorrect and recommend that all outstanding derivatives should be considered effective and therefore included in the position calculations. The effective date is used for contracts such as interest rate swaps to indicate the date from which the fixed and floating rate starts to accrue. The risks and future obligations of the contract do however arise from the time when the trade is entered into by the parties and the value of the contract may change from day to day during the period before the effective date. Filtering on effective date may cause authorities to miss trades which increase or offset risk in positions.

<ESMA\_QUESTION\_EMIR\_3>

1. : Do you agree that the proposed Guideline 6 and Guideline 7 will ensure consistent reports are made available by TRs? Please can you elaborate on the reasons for your answer.

<ESMA\_QUESTION\_EMIR\_4>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_EMIR\_4>

1. : Do you agree with the proposed frequency for updating position calculations and making them available to authorities? Please can you elaborate on the reasons for your answer.

<ESMA\_QUESTION\_EMIR\_5>

Since transactions are reported to TRs on the business day following the transaction day (T+1), in accordance with EMIR Article 9, the earliest time when a TR can make position reports available to authorities will be the business day following the reporting day (T+2). We propose that ESMA clarifies this in the guideline and also provides guidance on whether TRs are expected to recalculate historical position reports in case a transaction is reported on T+2 or later.

<ESMA\_QUESTION\_EMIR\_5>

1. : Do you agree with Guideline 9 and the use of the ISO 20022 XML template and these standards for TRs providing access to positions? Please can you elaborate on the reasons for your answer.

<ESMA\_QUESTION\_EMIR\_6>

NATR agrees with the use of ISO 20022 XML template and the standards defined in the Commission Delegated Regulation (EU) No 151/2013 as amended by CDR (EU) 2017/1800

<ESMA\_QUESTION\_EMIR\_6>

1. : Do you agree TRs making four reports available as described in Guideline 10 is the most effective way to ensure authorities receive information that can be used to achieve the objectives of position calculations? Please can you elaborate on the reasons for your answer.

<ESMA\_QUESTION\_EMIR\_7>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_EMIR\_7>

1. : Please can you provide estimates of the potential monetary costs for a TR producing the sets, in accordance with all the specificities that are proposed in this paper? Please can you elaborate on the reasons for you answer.

<ESMA\_QUESTION\_EMIR\_8>

There are a few characteristics of the proposed sets that increase the production costs for TRs:

1. The number of dimensions used for aggregations – the proposed guidelines require data to be aggregated over a significant number of dimensions, resulting in potentially few trades captured in each aggregation and the total number of aggregations approaching the total number of outstanding derivatives per counterparty and value to be calculated per position. This increases the computational requirements for TRs as well as requirements on storage and bandwidth.
2. The number of required recalculations – if historical position sets are required to be recalculated as a result of information received from reporting counterparties (such as delayed reporting of transactions due to national holidays, error reports or a change of LEI) this will significantly increase the implementation costs of TRs as this would require TRs to implement an automatic mechanism for recalculations based on new reports. It would also increase the amount of aggregations that would need to be performed (see 1.)
3. Identification and treatment of outliers – the implementation costs will increase with the complexity of the logic required to identify the outliers. It will also effectively double the number of produced sets from four to eight.

<ESMA\_QUESTION\_EMIR\_8>

1. : Do you agree with the Guideline 11 for ensuring that historical errors are remediated in future? Please can you elaborate on the reasons for your answer.

<ESMA\_QUESTION\_EMIR\_9>

NATR agrees with ESMA’s proposed timing of corrections of errors in position sets made by the TR.

<ESMA\_QUESTION\_EMIR\_9>

1. : Do you see a need for any additional Guidelines to ensure that historical errors are remediated in future data made available by TRs? For example in relation to the maintenance by TRs of records of historical position sets.

<ESMA\_QUESTION\_EMIR\_10>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_EMIR\_10>

1. : Do you agree with this method proposed in Guideline 12, designed to ensure that derivatives in different currencies do not lead to authorities receiving inconsistent data that is arduous to analyse. Please can you elaborate on the reasons for your answer.

<ESMA\_QUESTION\_EMIR\_11>

With reference to proposed Guideline 19 in the consultation paper, the currency of the value (T1F18) is one of the dimensions in the position sets, so based on this guidance it seems like there won’t be situations when a currency conversion needs to be performed.

We would also like to point out that ECB doesn’t publish exchange rates for all currencies and would therefore like confirmation that alternative price sources are acceptable in case the exchange rate isn’t available via ECB’s website.

<ESMA\_QUESTION\_EMIR\_11>

1. : Do you agree with the approach in Guideline 13 for how TRs should treat abnormal values in the derivative data they receive when producing calculations? Are there any potential methods you see as appropriate for detecting outliers in a consistent manner? Please can you elaborate on the reasons for your answer.

<ESMA\_QUESTION\_EMIR\_12>

NATR agrees that excluding outlier values from the position sets will improve the data quality. However as we mentioned in our response to Q8, the complexity of the required logic will increase the implementation costs for TRs.

We would also like to point out that each TR has access to different data sets based on the reports that it has received so using statistical methods to determine outliers will not result in consistent validations across TRs. The data in itself can also vary a lot within a single aggregation, for example the values of options across a multitude of strike prices, making outlier identifications hard.

We recommend that ESMA limits the number of data fields that should be analysed for outliers and provides guidance that ensures a consistent implementation across TRs

<ESMA\_QUESTION\_EMIR\_12>

1. : Do you agree that the approach described in Guideline 14 is the most effective way to make available useful information for authorities? Are there any alternative approaches for dealing with erroneous reports which you think could help produce useful calculations? Do you think that this approach is appropriate for derivatives reported before 1 December 2014? Please can you elaborate on the reasons for your answer.

<ESMA\_QUESTION\_EMIR\_13>

NATR agrees that this is the most effective way to make useful information available to authorities.

<ESMA\_QUESTION\_EMIR\_13>

1. : Do you agree with that the proposed Guideline 15 is the most effective way for ESMA to ensure that they can quickly access the procedures and relevant algorithms a TR follows to calculate positons? Please can you elaborate on the reasons for your answer.

<ESMA\_QUESTION\_EMIR\_14>

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<ESMA\_QUESTION\_EMIR\_14>

1. : Do you foresee any difficulties with complying with these guidelines in line with the H2 2018 implementation timeframe? Please provide rationale to support and explain your answer by detailing the specific aspects of the implementation process that would impact the total implementation timeline.

<ESMA\_QUESTION\_EMIR\_15>

In addition to the cost drivers identified in our response to Q8, which also affect the implementation effort, we would like to point out that the implementation time will also depend on when the final guidelines are published by ESMA.

We also ask that the implementation timeline is set so that it doesn’t coincide with the implementation of SFTR reporting, which will affect TRs, and industry change freeze periods.

<ESMA\_QUESTION\_EMIR\_15>

1. : Do you agree that the metrics included in Guideline 16 are the most appropriate for quantifying the exposures of the different derivatives? Do you consider necessary and essential for the accurate assessment of exposures between counterparties to include separate metrics for positive and for negative values of fields Notional and Values of contract? Are there any other more efficient, still accurate ways to represent this? Would the dimension “Master agreement type (T2F30) be relevant in this case? Please can you elaborate on the reasons for your answers.

<ESMA\_QUESTION\_EMIR\_16>

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<ESMA\_QUESTION\_EMIR\_16>

1. : Do you consider that the inclusion of the field Intragroup (T2F38) is required as an additional dimension? Please can you elaborate on the reasons for your answer.

<ESMA\_QUESTION\_EMIR\_17>

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<ESMA\_QUESTION\_EMIR\_17>

1. : Would a further aggregation of derivatives with position sets created using the dimensions in Guideline 18 and Guideline 19 allow authorities to achieve a useful overview of potential systemic risks that may arise in financial markets? Please can you elaborate on the reasons for your answer.

<ESMA\_QUESTION\_EMIR\_18>

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<ESMA\_QUESTION\_EMIR\_18>

1. : Do you believe that the approach included in Guideline 20 for grouping derivatives with similar times to maturity is appropriate? Do you think that a more granular approach to the grouping of derivatives with similar time to maturity would be more useful? Please can you elaborate on the reasons for your answer.

<ESMA\_QUESTION\_EMIR\_19>

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<ESMA\_QUESTION\_EMIR\_19>

1. : Do you agree that the dimensions included in Guideline 17 to Guideline 20 are the most appropriate for grouping derivatives into reports for analysis by authorities? Please can you elaborate on the reasons for your answer.

<ESMA\_QUESTION\_EMIR\_20>

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<ESMA\_QUESTION\_EMIR\_20>

1. : Do you believe that Guideline 21 which defines an additional dimension for grouping IRS derivatives is appropriate? Do you believe there is an alternative way to group similar IRS? Please can you elaborate on the reasons for your answer.

<ESMA\_QUESTION\_EMIR\_21>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_EMIR\_21>

1. : Would an aggregation of credit derivatives with position sets created using the dimensions in Guideline 22 allow authorities to achieve a useful overview of potential systemic risks that may arise in financial markets? Please can you elaborate on the reasons for your answer.

<ESMA\_QUESTION\_EMIR\_22>

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<ESMA\_QUESTION\_EMIR\_22>

1. : Do you agree that the additional dimension for grouping commodity derivatives included in Guideline 23 will create more useful information for authorities? Please can you elaborate on the reasons for your answer.

<ESMA\_QUESTION\_EMIR\_23>

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<ESMA\_QUESTION\_EMIR\_23>

1. : Do you agree that the method described in Guideline 25 is the most effective way of determining a useful indicator when collateralisation of derivatives is performed on a portfolio basis? Please can you elaborate on the reasons for your answer.

<ESMA\_QUESTION\_EMIR\_24>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_EMIR\_24>

1. : Do you agree that the aggregation of these values in line with Guideline 26 is the most appropriate way to provide authorities with a view of collateral positions? Please can you elaborate on the reasons for your answer.

<ESMA\_QUESTION\_EMIR\_25>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_EMIR\_25>

1. : Do you agree with the proposed Guideline 28 for aggregating collateral sets and representing the data for authorities? Please can you elaborate on the reasons for your answer.

<ESMA\_QUESTION\_EMIR\_26>

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<ESMA\_QUESTION\_EMIR\_26>

1. : For the calculation of positions, is it more appropriate that the currency of the collateral is the same as the currency of the field Value of the Contract (T1F17)? In case they are not, should they all be converted to the same currency, e.g. EUR? Should, alternatively the currency of the Value of the contract and the collateral be always the currency of the notional of the derivatives? Please can you elaborate on the reasons for your answer.

<ESMA\_QUESTION\_EMIR\_27>

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<ESMA\_QUESTION\_EMIR\_27>

1. : Do you agree with the proposal to use the dimensions and metrics included in Guideline 29 and Guideline 31 to aggregate derivatives to provide information on specific currencies to central banks of issue? Please elaborate on the reasons for your answer.

<ESMA\_QUESTION\_EMIR\_28>

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<ESMA\_QUESTION\_EMIR\_28>

1. : Do you agree that Guideline 32 includes the appropriate metrics and dimensions for calculating collateral held in specific currencies for derivatives? Please elaborate on the reasons for your answer.

<ESMA\_QUESTION\_EMIR\_29>

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<ESMA\_QUESTION\_EMIR\_29>