**Reply** **form**

Consultation Paper on a draft RTS on the conditions for extensions of authorisation and the list of documents for applications for initial authorisations and extensions of authorisation under EMIR (Articles 14(6), 15(3), 17a(5) and 15a(2) of EMIR)

 Responding to this paper

ESMA invites comments on all matters in the Consultation Paper and in particular on the specific questions in this reply form. Comments are most helpful if they:

* respond to the question stated;
* indicate the specific question to which the comment relates;
* contain a clear rationale; and
* describe any alternatives ESMA should consider.

ESMA will consider all comments received by **7 April 2025.**

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:

* Insert your responses to the questions in the Consultation Paper in this reply form.
* Please do not remove tags of the type <ESMA\_QUESTION\_EXTE\_1>. Your response to each question has to be framed by the two tags corresponding to the question.
* 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.
* When you have drafted your responses, save the reply form according to the following convention: ESMA\_EXTE\_nameofrespondent.

For example, for a respondent named ABCD, the reply form would be saved with the following name: ESMA\_EXTE\_ABCD.

* Upload the Word reply form containing your responses to ESMA’s website (**pdf documents will not be considered except for annexes**). All contributions should be submitted online at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading ‘Your input - Consultations’.

Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly and prominently indicate in your submission any part you do not wish 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.

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Information on data protection can be found at [www.esma.europa.eu](http://www.esma.europa.eu) under the headings ‘Legal notice’ and heading ‘[Data protection](https://www.esma.europa.eu/about-esma/data-protection)’..

# General information about respondent

|  |  |
| --- | --- |
| Name of the company / organisation | Six Group |
| Activity | Central Counterparty |
| Are you representing an association? |[ ]
| Country/Region | Europe |

# Questions

1. Do you agree with the parameters to consider in relation to condition (a)? Are there any other parameters regarding condition (a) that should be considered?

<ESMA\_QUESTION\_EXTE\_1>

SIX welcomes ESMA's aim that this condition should capture situations where the introduction of new contracts or products will not require a CCP to significantly modify or adapt its operational structure. Nevertheless, we respectfully have some reservations regarding the parameters of Article 2 of the RTS, specifically condition (a), which defines the absence of significant adaptation of the CCP’s operational structure.

Regarding point (a) of Article 2 RTS, which states that a CCP does not intend to clear physically settled contracts where it currently only offers cash settlement for contracts with the same risk characteristics, we have concerns about the narrow expression "contracts with the same risk characteristics." This phrasing could allow for excessive interpretation and potential confusion. Additionally, we find the change in the novation mechanism mentioned in point (b) to be questionable as a significant adaptation of the CCP’s operational structure.

<ESMA\_QUESTION\_EXTE\_1>

1. Do you agree with the parameters to consider in relation to condition (b)? Are there any other parameters regarding condition (b) that should be considered?

<ESMA\_QUESTION\_EXTE\_2>

SIX agrees with point (a) of condition (b), which states that the CCP intends to clear contracts that do not necessitate the introduction of a new liquidation process. This is in line with condition (b), which dictates that the extension does not include offering contracts that cannot be liquidated in the same manner as, or together with, contracts already cleared by the CCP.

However, we respectfully disagree with point (b) due to the excessive cumulative criteria outlined in condition (b) related to the composition and structure of the default fund, as stipulated in Article 3 of the RTS. We believe these criteria can be considered excessively restrictive.

<ESMA\_QUESTION\_EXTE\_2>

1. Do you agree with the parameters to consider in relation to condition (c)? Are there any other parameters regarding condition (c) that should be considered?

<ESMA\_QUESTION\_EXTE\_3>

While we welcome ESMA's clear proposal regarding condition (c) related to the absence of material new contract specifications, we have some reservations about the parameters outlined in Article 4.1 of the RTS, particularly points (a) and (b). As currently drafted, we believe these points should not be considered material new contract specifications.

<ESMA\_QUESTION\_EXTE\_3>

1. Do you agree with the parameters to consider in relation to condition (d)? Are there any other parameters regarding condition (d) that should be considered?

<ESMA\_QUESTION\_EXTE\_4>

We generally agree with the requirements set forth in Article 5 of the RTS to fulfil condition (d) of no material new risks nor significant increase in the CCP’s risk profile.

However, we respectfully disagree with the assertion that condition (d) is met in point (a) when the CCP intends to clear contracts that do not reference underlyings issued by sovereign issuers, where it currently only clears contracts referencing underlyings issued by corporates, or vice versa. We believe the condition should only be relevant for clearing new contracts with a higher risk. For instance, if the CCP already clears contracts referencing underlyings issued by corporates, then the introduction of contracts referencing underlyings issued by sovereigns should be considered exempt from authorization. This is in line with Basel Regulatory Haircuts (CRE 22), that assigns smaller haircuts to government issued securities than to the ones issued by corporates.

<ESMA\_QUESTION\_EXTE\_4>

1. Do you agree with the parameters to consider in relation to condition (e)? Are there any other parameters regarding condition (e) that should be considered?

<ESMA\_QUESTION\_EXTE\_5>

Yes, we agree also with the two parameters suggested to consider in relation to condition e).

<ESMA\_QUESTION\_EXTE\_5>

1. Do you agree with the proposed list of typical extensions that could be considered in principle to fall under the accelerated procedure under Article 17a of EMIR? Would you propose to add/remove/modify/further specify any?

<ESMA\_QUESTION\_EXTE\_6>

We welcome ESMA’s effort in the detailed elaboration of the proposed list of typical extensions of services and activities that, in principle, fall under the accelerated procedure in Article 7 of the RTS. Nevertheless, we respectfully believe that this list is, in general, too exhaustive and narrow.

Additionally, we believe that the proposed list includes a number of minimal risk changes that can be considered as business as usual for a CCP. Previously, these minimal risk changes were regulatory considered exempt from the authorization process. However, according to the new list, they would now be subject to an authorization process, even if it is an accelerated procedure, and this could have a contradictory effect on EMIR 3's aim of increasing the efficiency and competitiveness of EU CCPs.

We find this particularly in some points of Article 7, such as:

• Point (a): Clearing IRS in “Currency A” when already clearing IRS in other currencies and handling payments in “Currency A”.

• Point (c): Clearing equity futures in “Currency C” when already clearing equity futures in other currencies and handling payments in “Currency C”.

• Point d) of Article 7 –clearing equity futures in “Currency C” when already clearing equity futures in other currencies, and already handling payments in “Currency C”

• Point e) of Article 7 – Clearing equity options in “Currency D” when already clearing equity options in other currencies and already handling payments in “Currency D”.

We respectfully suggest that typical extensions of services and activities that fall under the accelerated procedure should be on the nature of extensions required by a new product.

And additionally, under the typical extensions of services and activities that fall under the accelerated procedure, we respectfully suggest that it could be considered to include, several of the current parameters of some articles of draft RTS, such as those drafted in article 2, points a) and b), in article 4, points a) and c), in article 5, in point 1.c, or in article 6, points a) and b)

<ESMA\_QUESTION\_EXTE\_6>

1. Do you agree with the procedure for the consultation of ESMA and the college on whether an application for an extension of authorisation qualifies to be assessed under the accelerated procedure under Article 17a of EMIR?

<ESMA\_QUESTION\_EXTE\_7>

We generally agree with the procedure for consulting ESMA and the college on whether an ap-plication for an extension of authorization qualifies to be assessed under the accelerated proce-dure as per Article 17a of EMIR, and, at the same time, we would call for this whole process to be as smooth as possible within the framework provided by EMIR 3.

<ESMA\_QUESTION\_EXTE\_7>

1. Do you agree with the list of conditions for the exemption from authorisation under Article 15a of EMIR? Should any other conditions be considered?

<ESMA\_QUESTION\_EXTE\_8>

We respectfully believe that the list of conditions for exemption from authorization under Article 15a of EMIR is excessively cumulative and restrictive, with a final wording too narrow.

We particularly have some concerns regarding the proposed draft for article 10 of the RTS, specifically for several conditions of the article:

• c), to not involve clearing contracts referencing securities with different seniority or secured or securitisation characteristics, because we consider they are just different characteristics of same securities, no new securities or new instruments with relevant new risks involved.

• d) to not imply an extension of the clearing services to new geographical zones outside the EU, nor an extension of the CCP’s clearing hours, as we understand that these extensions do not change the CCP’s risk profile and they should therefore be considered under the exemption framework.

• f), to not reference a new currency as underlying, as long as the CCP already handles payments in such currency in which case it should be considered as exempted from the approval procedure.

• And on condition h): In case the CCP already settles or performs payments in commercial bank money, the introduction of central bank settlement or payment should be considered as exempted from the approval procedure.

<ESMA\_QUESTION\_EXTE\_8>

1. Do you consider that any other extensions/situations should be captured under the exemption from authorisation under Article 15a of EMIR? If yes, could you please specify which exact extensions/situations?

<ESMA\_QUESTION\_EXTE\_9>

SIX considers that there are a set of usual minor extensions performed by CCPs that could be regarded under the exemption from authorisation under Article 15a of EMIR.

These include modification of existing clauses of contracts, where clausules are such as con-tract size, unit of trading, currency, new tenor, expiry day, settlement type, or settlement price, or the introductions of new contracts based on processes and contract configurations already cleared by the CCP, or the combination of characteristics of contracts already cleared, including the underlying reference asset/index of the contract.

These kinds of usual extensions tend to have a minimal material impact on the CCP's risk profile.

We believe that they should be considered as business-as-usual activities performed by the CCP and, consequently, incorporated into the exemption from authorization under Article 15a of EMIR.

<ESMA\_QUESTION\_EXTE\_9>

1. Question for CCPs: Based on the proposals presented in this Consultation Paper, could you provide an estimate of the number of extensions of authorisation, implemented/applied for by your CCP over the past three years, that would have qualified for i) the standard procedure under Article 17 of EMIR, ii) the accelerated procedure under Article 17a of EMIR, iii) the exemption from authorisation (‘BaU’ changes) under Article 15a of EMIR?

<ESMA\_QUESTION\_EXTE\_10>

We perceive that the proposed draft RTS will significantly alter the current EMIR legislation landscape. At present, changes either follow the standard procedure or require no approval.

However, with this new draft RTS, we foresee a substantial shift where many changes that previously did not need approval will now fall under the accelerated procedures while the number of standard procedures remains unchanged.

Although we very much welcome the accelerated process we had anticipated that some submissions under the standard procedure would transition to the accelerated one. Contrary to this expectation, the current draft RTS indicates that changes not previously requiring approval will now need to be approved under the accelerated procedure.

<ESMA\_QUESTION\_EXTE\_10>

1. Do you agree with the proposed frequency for the reporting of the exemption from authorisation under Article 15a of EMIR?

<ESMA\_QUESTION\_EXTE\_11>

As evidenced by various initiatives undertaken by ESMA aimed at burden reduction, and in alignment with the Draghi report to enhance Europe's competitiveness and attractiveness, we kindly request a review of the frequency with which a CCP must notify to benefit from the authorization exemption.

We consider that a notification frequency every twelve months, along with communication to the authorities whenever the established conditions are no longer met, would be sufficient.

The cost associated with this burden diminishes Europe's attractiveness compared to other jurisdictions.

<ESMA\_QUESTION\_EXTE\_11>

1. Are the general provisions in Chapter I (of Title III of the draft RTS) (language, certification, fees) appropriate and clear?

<ESMA\_QUESTION\_EXTE\_12>

We agree and appreciate that the general provisions in Chapter I (of Title III of the draft RTS) articles 12 and 13, on related to language, certification and fees are clear and appropriate.

However, we respectfully disagree with point 4 of Article 12 of the current draft RTS Consultation draft, which requires the Board’s approval of a document certifying the accuracy and veracity of all documents submitted.

For better internal efficiency and competitiveness of the EU CCPs, we believe this responsibility should be replaced with a reference to the relevant internal governance arrangements of the CCP, such as the framework and governance under Article 29 of the EMIR RTS 153/2013, which are approved as part of their initial authorization and are subject to annual and ongoing oversight. <ESMA\_QUESTION\_EXTE\_12>

1. Is the requirement to submit an index and a correspondence table appropriate and clear?

<ESMA\_QUESTION\_EXTE\_13>

Yes, we consider the requirement to submit an index and a correspondence table appropriate and clear.

<ESMA\_QUESTION\_EXTE\_13>

1. Are the documents and information required in relation to the identification of the applicant CCP clear? Would those be enough for competent authorities and ESMA to gain sufficient understanding about the applicant CCP as a company?

<ESMA\_QUESTION\_EXTE\_14>

Yes, SIX considers the documents and information required in relation to the identification of the applicant CCP are clear and are enough for competent authorities and ESMA to gain sufficient understanding about the applicant CCP as a company.

<ESMA\_QUESTION\_EXTE\_14>

1. Should applicant CCPs provide other documents under the general information requirements?

<ESMA\_QUESTION\_EXTE\_15>

No.

<ESMA\_QUESTION\_EXTE\_15>

1. Are documents and information required to assess organisational requirements sufficiently clear and comprehensive? Should the applicant CCP provide other documents?

<ESMA\_QUESTION\_EXTE\_16>

The documents and information required to assess organizational requirements are sufficiently clear and comprehensive.

Nevertheless, the draft RTS does not specify the actions that the Competent Authorities may undertake after analysing the documents used to assess the suitability and good repute of senior management and board members, as well as the materials to evaluate the suitability of members and shareholders with qualifying holdings. Additional guidance in this regard would be greatly appreciated.

We would like to take this opportunity to inform that, unless mistaken, letters e) and f) of Article 22.1 od the draft RTS regarding Information on Key Function Holders appear to be duplicated. Otherwise, please disregard this notice.

<ESMA\_QUESTION\_EXTE\_16>

1. Are documents and information required to assess conduct of business requirements sufficiently clear and comprehensive? Should the applicant CCP provide other documents?

<ESMA\_QUESTION\_EXTE\_17>

According to Section 3 on Conduct and Business Rules of the draft RTS, the documents and information required to assess the Participation Requirements and Segregation & Portability are sufficiently clear and comprehensive.

Notwithstanding the above, the same does not apply to transparency. We would like to reiterate our concern regarding the application of Level 1 of EMIR 3.0, which entered into force on December 24, 2024, including provisions for CCPs' margin simulation tools to simulate margin requirements under different scenarios, even though the corresponding RTS developing it is not yet drafted and hence, not formally implemented. Even without the power to use 'no action letters' to temporarily avoid the application of Level 1 provisions, we would like to thank ESMA for its role in facilitating coordination between NCAs to avoid overly prescriptive and different demands on CCPs by NCAs.

Clarity on the information required to assess conduct of business requirements related to Transparency will be welcomed by the whole industry.

<ESMA\_QUESTION\_EXTE\_17>

1. Are documents and information required to assess prudential requirements sufficiently clear and comprehensive? Should the applicant CCP provide other documents?

<ESMA\_QUESTION\_EXTE\_18>

The documents and information required to assess prudential requirements are generally clear and comprehensive, covering key aspects of a CCP's financial stability and resilience. Therefore, we do not believe it is necessary to add any additional documentation

However, there is always room for improvement. One potential area for enhancement could be the inclusion of more detailed guidelines on the specific formats and templates for the required documents. This would ensure consistency and facilitate easier review by competent authorities, ESMA, and the college. Additionally, providing case studies or examples of best practices could help applicant CCPs better understand the expectations and standards required.

<ESMA\_QUESTION\_EXTE\_18>

1. Are documents and information required to assess an extension of authorisation, under Article 17 of EMIR, sufficiently clear and comprehensive? Should the applicant CCP provide other documents?

<ESMA\_QUESTION\_EXTE\_19>

The same answer applies as for Q.18.

However, clarification on what is meant by 'relevant documents that would have been provided under Chapter II (initial authorisation)' referred to in para. 55, letter (c) would be greatly appreciated. This clarification is fundamental to avoid potential interpretations depending on the supervisory authority, which could lead to differences based on the member state.

With regards to Art. 45 of the RTS, we acknowledge that authorities want to understand the new service or activity that the CCP plans to introduce, however some elements in Art. 45 b. and c. would fall into the responsibility of the CCP and should not be part of the application. Specifically, we think that a business plan explaining the expected demand for the new service or activity, the reasons for its introduction and how it aligns with the CCP’s strategic goals should not be part of the application. Also expected market size and growth forecasts should not be relevant for the application. With regards to Art. 45 c, the requirement should be reduced to a high-level milestone plan. Detailed implementation milestones as well as project risks and mitigation measures should be considered as the responsibility of the CCP.

<ESMA\_QUESTION\_EXTE\_19>

1. Are documents and information required to assess an extension of authorisation through the “accelerated procedure”, under Article 17a of EMIR, sufficiently clear and comprehensive? Should the applicant CCP provide other documents?

<ESMA\_QUESTION\_EXTE\_20>

We appreciate the detailed development by ESMA in the draft RTS regarding the documentation required for the authorisation of an extension of activity through an accelerated process, with the aim of standardising the process across the EU, regardless of the member state, NCA, or EU College involved.

The documents and information required under Article 17a of EMIR should be clear and comprehensive, providing guidance on the necessary requirements. However, the current documentation requirements may be perceived as complex and burdensome. Simplifying the requirements and providing clear templates or guidelines could help alleviate this burden.

Ensuring that the accelerated procedure is not overly complicated is essential for encouraging compliance and facilitating the smooth processing of applications. In summary, regarding the proposed draft RTS, we believe it does not align with EMIR 3.0 goal of streamlined approval processes and may complicate and slow down CCP product extension approvals.

The restrictive conditions of the accelerated procedures (Article 17a) and the exemption (Article 15a) could render them ineffective.

The documentation requirements are seen as overly extensive, potentially classifying minor extensions as material, increasing the burden not only on CCPs but also to NCAs, EMIR Colleges and ESMA.

To better meet the EU Commission's objectives, we kindly suggest balancing the classification of extensions, expanding exemptions, and reducing documentation requirements, ensuring a more proportional and risk-based approach.

This would ease the burden while still enhancing the robustness of the authorization process.

<ESMA\_QUESTION\_EXTE\_20>