Reply Form

**to the Consultation Paper on Draft technical standards amending Regulation (EU) 149/2013 to further detail the new EMIR clearing thresholds regime**

Responding to this Consultation Paper

ESMA invites comments on all matters in this Consultation Paper and in particular on the specific questions summarised in Annex 1. 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 **16 June 2025.**

All contributions should be submitted online at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading ‘Your input - Consultations’.

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\_CPCT\_0>. 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\_CP1\_ CPCT\_nameofrespondent.

For example, for a respondent named ABCD, the reply form would be saved with the following name: ESMA\_CP1\_ CPCT\_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* 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.

**Data protection**

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

**Who should read this paper?**

All interested stakeholders are invited to respond to this consultation paper. In particular, responses are sought from financial and non-financial counterparties entering into OTC derivative transactions, as well as from central counterparties (CCPs).

# General information about respondent

|  |  |
| --- | --- |
| Name of the company / organisation | AFG |
| Activity | Trade Association |
| Are you representing an association? |  |
| Country / Region | France |

# Questions

1. Do you agree that the aggregate thresholds should only be set for those asset classes subject to the CO i.e. IRDs and credit derivatives? If not, please elaborate.

<ESMA\_QUESTION\_CPCT\_1>

Yes. We agree that the aggregate thresholds should only be set for those asset classes subject to the clearing obligations, namely, IRDs and credit derivatives.

<ESMA\_QUESTION\_CPCT\_1>

1. Do you agree with ESMA’s proposal to maintain the aggregate thresholds at the current level i.e. 3 billion EUR for IRDs and 1 billion EUR for credit derivatives? If not, please elaborate.

<ESMA\_QUESTION\_CPCT\_2>

Yes. We agree with ESMA’s proposal to maintain the aggregate thresholds at the current level.

<ESMA\_QUESTION\_CPCT\_2>

1. Do you agree with the proposed uncleared thresholds? If not, please elaborate, explain for which asset class(es) and, where possible, provide supporting data and elements.

<ESMA\_QUESTION\_CPCT\_3>

AFG thanks ESMA for the opportunity to respond to the consultation on the proposed recalibration of the EMIR clearing thresholds.

**New clearing thresholds**

AFG supports ESMA’s principle that the recalibration should “*‘not […] lead to substantial changes in order to ensure that the current coverage of the clearing obligation is not affected by the new methodology*”.

In line with this principle, and considering the broader EU objectives of simplification and enhanced competitiveness, AFG strongly opposes the current proposal. Our preliminary assessment indicates that the new proposed thresholds are unlikely to significantly increase the number of entities subject to the clearing obligation. If, ultimately, no new counterparties are expected to fall within scope, we question the rationale for modifying the existing thresholds.

Implementing these changes would introduce considerable operational complexity. It would require adjustments to existing procedures, updates to internal systems already in place, and complicate position monitoring. Collectively, these burdens would make compliance with the clearing obligation more challenging.

Firms are already facing significant pressures from other regulatory requirements, such as representativity, reporting, and stress testing or meeting the 85% of relocation. In this context, changing the thresholds without a tangible benefit undermines the goals of proportionality and efficiency. If the outcome remains unchanged, there is no justifiable reason to impose such costly and disruptive recalibration.

Moreover, it is particularly difficult to understand why the thresholds for equity (and commodity) derivatives have been lowered although currently there are no OTC derivatives in the equity and commodity asset classes that are mandatorily clearable. It is therefore even more unclear why the thresholds are lowered if there is no intention to change the current scope of in-scope FCs and NFCs.

**Exclusion of FX derivatives**

We would like to take the opportunity of this consultation to reiterate a demand excluding FX derivatives from the clearing threshold calculation for financial counterparties, including UCITS and AIFs, as they do not pose systemic risk. These entities often engage in FX activity, primarily for hedging purposes and might fall into the CO although having very little derivatives in other asset classes. This is largely due to the notional-based calculation method, which does not allow netting and inflates FX exposure. Such approach creates high cost of maintaining access to the clearing broker and the CCP while having no direct positive impact on financial stability. We therefore urge ESMA to exclude currency derivatives from the CT calculation for FCs under EMIR.

<ESMA\_QUESTION\_CPCT\_3>

1. Do you agree with ESMA’s proposal not to introduce in the RTS separate thresholds for the various commodity derivatives sub-asset classes at this stage? If not, please elaborate.

<ESMA\_QUESTION\_CPCT\_4>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CPCT\_4>

1. Do you agree with ESMA’s proposal to have in the fifth bucket only commodity and emission allowance derivatives? Or do you consider that commodity derivatives should be singled out as a stand-alone category and another category for emission allowance derivatives introduced? Please elaborate.

<ESMA\_QUESTION\_CPCT\_5>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CPCT\_5>

1. Do you agree with ESMA’s proposal not to introduce a sixth bucket for other derivatives at this stage? If not, please elaborate.

<ESMA\_QUESTION\_CPCT\_6>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CPCT\_6>

1. Do you agree with ESMA’s proposal not to introduce more granular thresholds for commodity derivatives based on ESG factors at this stage? If not, please elaborate.

<ESMA\_QUESTION\_CPCT\_7>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CPCT\_7>

1. Do you agree with ESMA’s proposal not to introduce more granular thresholds for commodity derivatives based on crypto-related features at this stage? If not, please elaborate.

<ESMA\_QUESTION\_CPCT\_8>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CPCT\_8>

1. Do you consider clarifications should be included in Article 10 of Commission Delegated Regulation (EU) No 149/2013? If yes, please specify and if possible, provide arguments and drafting suggestions.

<ESMA\_QUESTION\_CPCT\_9>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_CPCT\_9>

1. Do you consider other indicators should be monitored and assessed? If yes, please specify and if possible provide drafting suggestion.

<ESMA\_QUESTION\_CPCT\_10>

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<ESMA\_QUESTION\_CPCT\_10>