**Reply** **form**

Consultation Paper on a draft RTS on the information on clearing fees and associated costs under Article 7c(4) 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 **8 September 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\_COST\_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\_COST\_nameofrespondent.

For example, for a respondent named ABCD, the reply form would be saved with the following name: ESMA\_COST\_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 | FIA Inc. |
| Activity | Investment Services |
| Are you representing an association? |  |
| Country/Region | International |

# Questions

1. Is there any aspect of the scope of this requirement that ESMA should consider detailing further?

<ESMA\_QUESTION\_COST\_1>

1. **Introduction & Executive Summary**

FIA[[1]](#footnote-2) welcomes the opportunity to respond to the ESMA Consultation Paper on the Draft RTS on information on clearing fees and associated costs (Article 7c(4) of EMIR) (‘Consultation Paper’). FIA members support the policy objective to provide sufficient transparency to clients accessing CCPs indirectly via clearing service providers (‘CSPs’) regarding fees that they would need to pay for the provision of clearing services.

However, FIA strongly believes that the proposals exceed what is necessary to meet the objective of the provisions, given the existing rules that already require the granular disclosure of clearing fees and associated costs under a number of EU regulations, including EMIR and MiFID II. Therefore, introducing the proposals would lead to duplicative, costly requirements for CSPs, without adding further value to clients.

As a principal point, FIA members who provide clearing services do not report any client dissatisfaction with the way that clearing fees and associated costs are communicated to clients to date.

Clients are generally motivated to select a CSP that has the lowest overall cost (amongst other factors such as risk appetite, client service, breadth of offering, location and choice of CCPs), and are agnostic as to the exact composition of that overall cost. The market for clearing services is highly competitive, with clients being able to choose from a number of CSPs which best meet their needs, whether this is driven by cost considerations, risk appetite or access to required CCPs. As such, there is no discernible benefit to clients from a further breakdown of costs by category as ultimately, total cost is their primary focus, whereas there is a burden on CSPs to provide this information, where the net benefit is unclear.

As a result, we believe that the clearing fees and associated costs requirements as proposed in the **draft RTS should be significantly simplified and materially amended to** **enable firms to meet compliance with Article 7c(2) by directing clients to the CSPs’ public disclosures that are already being made under Article 38(1) and Article 39(7) of EMIR and privately sharing bilateral disclosures under Article 4(3a) of EMIR or Article 24(4) of MiFID II (the latter upon request)**.

In this way, the Article 7c(2) disclosure could help bring together the different sources of existing information in a ‘one-stop-shop’ by clearly setting out in one document where and how to obtain existing disclosures, it would make it easier for clients to identify where/how to access this information, without requiring CSPs to transform or duplicate this information to meet a new set of substantially similar requirements to those that already exist.

To illustrate this point, in ***Appendix I*** to this response, we have compared some of the existing fee/cost disclosure requirements on CSPs in EMIR and MiFID II with EMIR Article 7c(2) and the proposed draft RTS requirements. The gap analysis shows significant overlap between the existing fee disclosure requirements and the ones proposed in the draft RTS. Whilst the obligations are not identical, they are substantively equivalent, just expressed in different terms.

Where there is less overlap with existing requirements (e.g. in relation to the level of detail and granularity), these are the areas where we believe there is minimal benefit for clients in receiving this extra information (as explained in our response). The apparent lack of overlap does not represent a meaningful gap for clients in practice that needs to be filled.

With this in mind, we note that the proposed draft RTS requirements should go hand in hand with the broader EU’s simplification rulemaking agenda, so we ask ESMA to take into account this key objective when finalising the clearing fees and costs transparency requirements in Level 2 and to avoid introducing duplicative and overlapping disclosure requirements and unnecessary burden on EU CSPs.

Against this backdrop, we have set out below the views of FIA members that provide clearing services. In summary, we believe that the scope of the draft RTS is too broad and goes beyond the requirement in Level 1. In relation to fee types, we urge ESMA not to be overly prescriptive in mandating different types of fees, and instead focus on ensuring that CSPs disclose relevant fees and costs without duplication with existing requirements in a manner that is clear, understandable and meaningful, leaving flexibility for CSPs to adapt disclosures to their business models while meeting the transparency objective. On pass-on costs, clients would be best served if they obtain this information from the CCPs directly as there appears to be no obvious benefit if the CSPs duplicate the same information in their disclosures to clients. We also ask ESMA to confirm that compliance with existing regulatory requirements on CSPs in relation to clearing fees and costs disclosures satisfies the EMIR Article 7c(2) requirements, where relevant.

While not explicitly part of the Consultation Paper, we ask ESMA to consider introducing an appropriate implementation period for CSPs to meet the final RTS requirements. The amount of time required will vary depending on the final RTS requirements. Based on FIA’s proposal in this response, we estimate that if CSPs are allowed to largely rely on existing MiFID and EMIR disclosures, CSPs will need less implementation time than if they are required to comply with ESMA’s current proposals. Although we would note that firms will require a lot more than the 20 days currently contemplated in the draft RTS – this is due to the time needed to take any disclosure revisions through internal governance processes to identify the in-scope arrangements, compare the disclosures that they already make available to clients with the final RTS requirements and create a ‘delta’ that will make clear which pieces of information need to be provided to clients, implement system changes, go through required governance processes and obtain approvals.

1. **Responses to Consultation Paper questions**
   1. ***ESMA Question 1 - Is there any aspect of the scope of this requirement that ESMA should consider detailing further?***
      1. *EMIR clearing fees and costs requirements should apply to clearing arrangements on EU authorised CCPs only*

Recital 16 of EMIR 3.0 refers specifically to ‘*Union CCPs*’, whereas section 13 of the Consultation Paper and Recital 1 of the draft RTS refer to EU authorised CCPs and recognised third-country CCPs. **We urge ESMA to reconsider the clearing arrangements in scope of this requirement and align the RTS text with that of Level 1, expressly clarifying that only clearing arrangements that are cleared at EU authorised CCPs are in scope of the RTS requirements.**

Applying the requirements to also include recognised third country CCPs would bring the RTS in direct conflict with Level 1. Furthermore, this would also create practical implementation challenges for CSPs as they would be subject to a different regulatory framework on transparency than the CCP, whose regulatory and supervisory regime has been deemed equivalent and as a third-country CCP would not be compelled to provide the information.[[2]](#footnote-3)

* + 1. *Territorial scope*

While ESMA states in the Consultation Paper that ‘*The disclosure requirements set out under Article 7c(2) of EMIR apply to all CSPs which provide clearing services in the Union…*’, this still raises questions about which clearing arrangements exactly are in scope, provided that they start/end at an EU authorised CCP, as there is no definition in EMIR as to what ‘*provide clearing services in the Union*’ means. **We ask that ESMA clarify in the final report that Article 7c(2) applies where both the CCP and the end client are located in the EU.** In other words, clearing arrangements where a non-EU client accesses an EU CCP via an EU or a non-EU CSP, are not in scope of Article 7c(2).

Even if the territorial scope of Article 7c(2) is restricted to EU clients and EU CCPs, significant logistical challenges remain, particularly when the CSP is located outside of the EU. In this case, the non-EU CSP might assert that the requirement does not apply to its operations, putting EU CSPs at a competitive disadvantage. Furthermore, transparency issues can emerge within a clearing chain where a non-EU CSP may not be obligated to provide transparency to its non-EU clients. One of its non-EU clients, in turn, could be acting as a CSP for an EU end-client. This creates a potential break in the transparency chain, impacting the overall visibility of transactions. Please see example of the latter clearing fact pattern below.

* + - *EU end-client <-> non-EU client/CSP2 <-> non-EU CSP1 <-> EU CCP*

**We ask ESMA to clarify that in these cases, the CSP could point to the logistical challenges of requiring a third-country CSP to provide the transparency** (in the same way that the draft RTS carves this out for recognised third-country Tier 1 CCPs at the moment).

* + 1. *Product scope*

In terms of product scope, we understand that EMIR Article 7c(2) **applies to** **centrally cleared derivatives transactions** (i.e., ETDs and cleared OTC). Such understanding would be consistent with Recital 16 of EMIR 3.0, which specifically references derivatives transactions when it provides context for EMIR Article 7c. **We ask that ESMA explicitly clarify this in the final draft RTS**.

* + 1. *Disclosure of rebates, caps and discounts*

Article 1(6) of the draft RTS states that ‘*Where a clearing service provider applies discounts, caps, and rebates, it shall disclose the conditions for benefitting from such discounts, caps, and rebates and allow clients to understand how discounts, caps, and rebates are calculated, and on which category of fees they apply.*’.

We believe that this specific requirement goes beyond the Level 1 text. EMIR Article 7c(2) states that the following is to be disclosed: ‘*the fees to be charged to such clients for the provision of clearing services and any other fees charged including fees charged to clients which pass on costs, and other associated costs related to the provision of clearing services.*’

There is no reference to rebates and discounts which are already dealt with by EMIR Articles 38(1) and 4(3a). **We ask ESMA to remove this requirement from the RTS to stay within the scope parameters set out in Level 1 and avoid duplication of requirements.**

<ESMA\_QUESTION\_COST\_1>

1. Do you agree with the typology of fees identified by ESMA? If not, what fees would be more suitable?

<ESMA\_QUESTION\_COST\_2>

We suggest that ESMA does not go into excessive detail specifying the types of fees or list fees that are charged only in rare or exceptional circumstances. Since some costs are inherently unforeseeable, CSPs would not be able to disclose them in advance in any meaningful way. The objective of Article 7c(2) of EMIR – to enable clients to compare the conditions under which clearing services are offered – does not require an overly granular breakdown of costs and charges. What matters most to clients from a cost perspective is the total fee charged by CSPs, not an artificial breakdown of charges into predefined categories that may not reflect the way services are actually priced or structured in practice.

Imposing excessive granularity risks creating rigid disclosure frameworks that are burdensome to implement and ultimately do not bring additional value to clients. We therefore **recommend that ESMA avoids specifying mandatory categories, and instead focuses on ensuring that CSPs disclose costs in a manner that is clear, comparable and meaningful, leaving flexibility for firms to adapt disclosures to their business models while meeting the transparency objective**.

Furthermore, **we ask ESMA to explicitly allow CSPs to rely on their existing fees and costs disclosures under MiFID II costs and charges requirements and EMIR requirements to avoid duplicative disclosures that are a compliance burden for the CSPs without providing additional benefit for the clients**.

We urge ESMA to fully apply the principle of proportionality, as enshrined in Article 5 of the Treaty on the Functioning of the European Union (TFEU), in developing its approach to the clearing fees and associated costs disclosure requirements.

In addition, we ask ESMA to clarify in the final draft RTS that **if a CSP does not actually charge a client for a particular service, the fee does not need to be disclosed**. The current draft RTS may be interpreted such that CSPs need to disclose the possibility of certain fees being paid by the client, even where the CSP does not in fact charge the client for such fees, which would be very far-reaching and would not contribute to the policy objective of this requirement stated above. **We recommend that ESMA specify in in the final draft RTS that each provision applies ‘*where applicable’*.**

**We also ask ESMA to clarify in the final draft RTS that the notion of fees excludes interest charges** as those are already covered and disclosed to clients separately.

<ESMA\_QUESTION\_COST\_2>

1. Do you agree with ESMA’s proposal in relation to pass-on costs?

<ESMA\_QUESTION\_COST\_3>

CSPs’ obligation should be limited to providing a link to the CCPs’ public disclosure[[3]](#footnote-4). If firms were required to do otherwise, it would result in duplication and be overly burdensome as CCPs’ costs are subject to frequent changes. Providing direct access to the information on CCPs’ websites would enable clients to receive the most up-to-date and accurate information on CCP costs.

Additional requirements on CSPs should be limited to what is genuinely useful to clients. **Duplicating information that is already publicly available offers little added value and may contribute to disclosure fatigue.** We note that our proposed approach would be consistent both with Level 1, as well as with the regulatory simplification agenda.

In general, FIA members that provide clearing services do not think it is feasible to list every cost that can be passed on. Within clearing documentation and fee schedules, CSPs typically include clauses that describe and allow them to pass on CCPs’ costs. CCPs can have a whole range of fees and penalties that could be charged in specific circumstances but are not part of the onboarding or transactional charges a client might incur (e.g. related to delivery failure on futures/options). But if that situation arose, CSPs may wish to pass that charge onto the client. It would not be practical for a CSP to provide their own breakdown of these CCP charges, which are not fixed or variable against a specific index, they are instead contained within the T&Cs / CCP rulebooks. It would therefore be better, as suggested above, if CSPs could simply point to a CCP’s pricing schedule and rulebooks (e.g. via an online link), rather than needing to itemise these separately.

The draft RTS seems to assume a ‘*cost plus*’ fee structure, where a CSP passes on the charges from a CCP plus their own fees on top. It is possible for some CSPs to charge an ‘*all in*’ fee, whereby the client is charged an amount (e.g. Basis points on IM charge, or ticket fee, or both). This fee would cover the costs the CSP incurs by the CCP, without passing on separate CCP costs. **We ask ESMA to confirm that the obligation on the CSP here is only to provide transparency on the CSP ‘all in’ fee, and not the underlying costs incurred**.[[4]](#footnote-5) The latter would be impractical and unattainable as it is not possible to fully decompose a cost base across different clients.

Similarly, one must distinguish between variable fees that are driven by client activity that are ultimately passed on to individual clients and fixed costs of running a clearing business which cannot be decomposed. Therefore, **we ask ESMA to clarify in the final RTS that a CSP is not required to break down the operational, legal or infrastructure costs they incur in providing the service, if these are not independently charged as a fee to the client**; they are covered via a ticket fee, etc.

<ESMA\_QUESTION\_COST\_3>

1. Do you agree with the proposed level of disaggregation?

<ESMA\_QUESTION\_COST\_4>

We would reiterate that clients are driven to select a clearing firm that delivers the lowest overall cost to them (amongst other factors such as risk appetite, client service, breadth of offering, location and choice of CCPs) and are not interested in the way in which a cost is disaggregated.

Importantly, we believe that EMIR Article 7c(2) should be interpreted and applied in light of existing provisions that require clearing members or, in some cases, CSPs to make a fees and costs disclosure to their clients, for example, EMIR Articles 4(3a) (FRANDT), 38(1), 39(7) and MiFID II Article 24(4) and MiFID II RTS 6 Article 27. These existing requirements enable a client to understand the relevant costs and we would advise against introducing additional requirements that do not clearly demonstrate a clear benefit to a client.

**Therefore, we ask that ESMA clarify in Article 1 of the RTS that compliance with the requirements listed above satisfies the requirements under Article 7c(2) of EMIR, where the disclosures are substantively equivalent**. In our view, this would serve as a model example of correct application of the principle of proportionality, as well as meeting the simplification agenda principles. FIA CSP members take some comfort from ESMA’s statement in paragraph 31 of the Consultation Paper, which suggests that compliance with EMIR Article 38(1) would go a long way towards satisfying the Article 7c(2) requirements. We would urge ESMA in the Final Report to go further than that and confirm compliance with EMIR Article 7c(2) in all cases where CSPs already make substantively equivalent information available to clients as required by EMIR or MiFID II.

Generally, we understand that CSPs may in practice often provide highly disaggregated fees to their clients. For example, in the context of exchange-traded derivatives, they would quote transaction costs for each exchange/CCP and also for different contracts. On the other hand, however, they may be asked by clients clearing OTC transactions to quote them for multiple CCPs. It would be counterproductive to require CSPs by regulation to disaggregate the fees every time and then the CSPs needing to explain to their clients why they were unable to provide them the required information. As set out in the Introduction, CSPs do not recall this being a particular issue raised by their clients that needed to be solved for, especially not by regulation.

Furthermore, we note that the Level 1 text does not mandate a disclosure at the level of the CCP service and so the draft RTS appears to go beyond what Level 1 requires. Specifically, EMIR Article 7c(2) states that ‘…*shall disclose, in a clear and understandable manner, for each CCP at which they provide clearing services, the fees to be charged to such clients for the provision of clearing services…’.* **We therefore ask ESMA to only mandate that fees are disaggregated at the CCP level but not at the level of each clearing service at the CCP, as being required to do so would not be practical or in line with Level 1.**

1. **Other comments**
   1. *Implementation period*

We note that ESMA is working on the understanding that the RTS come into effect 20 days after publication in the Official Journal (OJ) of the EU.

If ESMA accepts the FIA proposals put forward in this response and revises the RTS requirements to allow CSPs to rely on their existing disclosures to satisfy Article 7c(2), CSPs will require a shorter implementation time than the implementation time needed if the RTS requirements remained unchanged. However, CSPs would not be able to comply within 20 days after publication in the OJ of the EU because at a minimum, they will still require sufficient lead time to go through their respective internal processes to identify the in-scope arrangements, compare the disclosures that they already make available to clients with the final RTS requirements and create a ‘delta’ that will make clear which pieces of information need to be provided to clients, implement system changes, go through required governance processes and obtain approvals. To comply with such revised requirements, considering operational complexity of in-scope arrangements and the bilateral nature of the disclosure requirements under EMIR Article 7c(2), we respectfully ask ESMA to introduce an implementation period of at least 6 months to give CSPs sufficient time to prepare for orderly compliance with the RTS.

Alternatively, if the final RTS requirements were to remain similar to the draft RTS proposed by ESMA, CSPs would require a significantly longer timeframe to comply with the RTS requirements, considering the broad extraterritorial reach of the proposed requirements, operational complexity of in-scope arrangements, the granularity and prescriptiveness of details imposed by the draft RTS, the duplicative nature of the disclosure requirements under EMIR Article 7c(2), in addition to the other considerations mentioned in the paragraph above. In this case, we respectfully ask ESMA to introduce an implementation period of at least 12 months.

<ESMA\_QUESTION\_COST\_4>

1. FIA is the leading global trade organization for the futures, options and centrally cleared derivatives markets, with offices in Brussels, London, Singapore and Washington, D.C. FIA’s membership includes clearing firms, exchanges, clearinghouses, trading firms and commodities specialists from about 50 countries as well as technology vendors, law firms and other professional service providers. FIA’s mission is to:

   ▪ support open, transparent and competitive markets,

   ▪ protect and enhance the integrity of the financial system, and

   ▪ promote high standards of professional conduct.

   As the principal members of derivatives clearinghouses worldwide, FIA's clearing firm members play a critical role in the reduction of systemic risk in global financial markets. [↑](#footnote-ref-2)
2. We note the draft RTS comments on this point, asking CSPs to explain legal/operational reasons for not providing transparency to their client. [↑](#footnote-ref-3)
3. EU CCPs already provide significant fee transparency, typically on their websites. For example, see fee disclosures for Eurex Clearing ([here](https://www.eurex.com/resource/blob/46180/cdc5eb0de7181ddbcf7d72816124c7de/data/2025_08_04_ecag_price_list_en.pdf)), Euronext Clearing ([here](https://www.euronext.com/sites/default/files/2024-02/Fee%20Schedule%20for%20CCP%20in%20force%20from%2010%20June%202024_Clean_V2.pdf)), ECC ([here](https://www.ecc.de/fileadmin/ECC/Downloads/About_ECC_AG/Rules/Price_List/Current_Price_List/20250814_ECC_Price_List_081.pdf)), Nasdaq Clearing ([here](https://www.nasdaq.com/docs/2025/07/01/20250701_Equity_Derivatives_Fee_list_Nasdaq_Derivatives_Markets.pdf)) and BME Clearing ([here](https://www.bmeclearing.es/docs/Normativa/ing/circulares/2024/C-DF-2025-01-Fees-for-the-Financial-Derivatives-Segment.pdf)). [↑](#footnote-ref-4)
4. We note that the CCP fee becomes a cost to the CSP here, not a fee to the client – which is the language distinction the draft RTS seems to make. [↑](#footnote-ref-5)