**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.

Data protection

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 | The Swedish Securities Markets Association (SSMA) |
| Activity | Investment Services |
| Are you representing an association? |[x]
| Country/Region | Sweden |

# Questions

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

<ESMA\_QUESTION\_COST\_1>

The SSMA does not agree with all parts of the description of the scope in the consultation paper. We also think that the requirements in the draft RTS duplicates already existing disclosure requirements, which would add additional burden on the CSPs without any added value to the clients. The disclosure of fees is already covered in different regulations (e.g. the cost and charges provisions under MiFID, and Article 38 of EMIR and the Delegated Regulation2021/1456 (FRANDT)) and the SSMA does not see the benefit in adding such detailed requirement as proposed by ESMA. We urge ESMA to simplify and streamline these requirements as much as possible and to avoid any overlapping and duplicative disclosure requirements.

Providing client clearing services is not typically a high-return-on-equity business line for European financial institutions. Many institutions have exited the business because it is capital-intensive, low-margin, and often generates single-digit ROE at best. Financial institutions that remain usually do so for strategic reasons, to support broader client relationships and ancillary services, rather than because clearing itself is highly profitable. While transparency is important, adding more detailed and complex disclosure requirements on CSPs risk further discouraging participation, thereby hampering competition, efficiency and client access to clearing in the Union.

In paragraph 12 in the consultation paper ESMA suggests that the disclosure requirements set out shall apply to all CSPs which provide clearing services in the Union. The scope in the level 1 regulation could however be understood to be limited to CSPs that also provide clearing services outside the Union at a CCP recognised under Article 25. The disclosure requirement in Article 7c (1) of EMIR is directed only at CSPs that provide clearing services *both* at a CCP within the EU *and* a third country CCP. As we understand it, the reason for this is to encourage clearing at EU CCPs over clearing at third country CCPs. The wording of recital 16 of Regulation (EU) 2024/2987 (EMIR 3), where it says that “the information provided [under article 7c.1] should include information on all costs that will be charged to clients”, could however indicate that the co-legislators’ intention was for articles 7c(1) and 7c(2) to be read/managed jointly and have the same scope of CSPs subject to the article. We would welcome clarifications regarding whether the disclosure requirements in Article 7(2) are directed at all CSPs in the union, or only at CSPs that provide clearing services both at a CCP within the EU and a third country CCP.

In paragraph 13 in the consultation paper ESMA suggests that the disclosure, in addition to fees from CCPs established in the Union, should include fees charged by CCPs in third countries that are recognised under Article 25 of EMIR as well, with a reference to the wording in the new Article 7c(2) in the level 1 text. Our view is however that requiring that the clearing service providers (CSPs) also include information on fees charged by CCPs in third countries would go further than the mandate given in the level 1 regulation. It is clearly stated in recital 16 of Regulation (EU) 2024/2987 (EMIR 3) that the information on costs that clearing members and clients that provide clearing services should disclose should be limited to the Union CCPs in relation to which they provide clearing services. Information about the fees in third country CCPs is of limited value to the clients, but would add to the administrative burden of the CSPs – which would be contrary to the ongoing efforts of reducing the administrative burden for market participants. Moreover, we see a risk that the proposed requirements would create an unlevel playing field for EU CSPs vis-a-vis CSPs in third countries. We propose that it should be clear in the final version of the RTS that the CSPs’ disclosure requirement is limited to the Union CCPs in relation to which they provide clearing services.

<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>

The SSMA thinks that the typology is too granular/detailed and not in line with EU’s ambition to simplify regulation and make it less burdensome for EU firms. For instance, we do not see a need to distinguish between the different types of onboarding fees under Article 2 (i.e. registration fee, fee for the set-up of IT systems at the CSP and where relevant at the CCP, a fee for the initial assessment of the client, etc.). CSPs should retain flexibility to disclose fees in a manner that reflects the actual business model, rather than being forced into rigid categories. “All-in cost” models, where appropriate, can provide clients with greater transparency and predictability than a granular breakdown of numerous cost components.

<ESMA\_QUESTION\_COST\_2>

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

<ESMA\_QUESTION\_COST\_3>

We do not agree with ESMA’s proposal regarding pass-on costs.

An overall comment regarding the proposed disclosure requirements is that they are too detailed, unproportional and would lead to unnecessarily burdensome processes for the CSPs. A detailed breakdown of underlying costs, often abstract and theoretical, is of little or no use to the client. A clearing client is interested in the actual fees charged for clearing and services associated to the clearing. In most cases the fees for clearing are set in competition with other market operators, not necessarily as a product of a calculation of cost plus margin. As mentioned below, it is not possible for a CSP to sum up and disclose all costs associated with clearing and a clearing client. But even if it were, what would happen if such a compilation would show that the fees do not cover the costs, and the services are in fact provided at a loss? The effect would be that the P/L of the CSP is negatively affected, but this does not mean that the services are provided for free. The fees would still be charged to the client, which is the only information the client needs understand how much the clearing services cost and to compare different CSPs.

A reasonable interpretation of art 7c(2) – and the multiple already existing overlapping fees and costs disclosure requirements – is that it is limited to fees and costs actually charged to a client for the clearing services and services closely associated with the clearing service.

Furthermore, it is not clear to us what the benefit of the detailed requirements would be, since there are already disclosure requirements in place and information available to clients and prospective clients. We acknowledge that there are disclosure requirements in Article 7c in EMIR 3 that are to be further specified by ESMA in an RTS but, in line with the ongoing EU work of simplification and burden reduction, we would like to encourage ESMA to further map out the already available disclosure that can be re-used and to avoid introducing new, detailed requirements that adds complexity to the processes. For example, the transparency requirements under Article 24 of MiFID II, further detailed in Article 50 of Commission Delegated Regulation (EU) 2017/565, the requirement in Article 27 in the Delegated Regulation (EU) 2017/589, Articles 38(1) and 39(5) of EMIR and the Delegated Regulation (EU) 2021/1456(FRANDT), already ensure that clients receive adequate information on costs associated with clearing services, including pass-on costs.

ESMA suggests that the information about pass-on costs should include the expenses incurred by the CSP to access the CCP – including CCP clearing fees and IT system costs – without which the client could not benefit from clearing services. ESMA further notes that other costs borne by the CSP, such as exchange fees, infrastructure expenses, and staffing costs, should also be clearly identified. However, we believe these are generally fixed costs that cannot be meaningfully disaggregated at the client level. Their dynamic nature – changing as clients enter or exit markets – would require constant updates, making such disclosures impractical.

 We propose that the CSPs’ responsibilities should be limited to providing a link to the CCPs’ public disclosures, along with a concise overview of the costs passed on. Requiring more would lead to unnecessary duplication and impose an undue burden, especially given the frequency with which CCP costs change. Any additional obligations should focus solely on what is genuinely useful to clients. Repeating publicly available information adds little value.

In practice, CCP costs may be denominated in a different currency than the contract currency. These CCP fees are typically charged on a monthly basis, whereas the fees charged to clients are aligned with the settlement cycle of the traded product. This creates operational and economic complications.

A more transparent and efficient approach would be to allow CSPs to charge clients on an “all-in cost” basis for clearing services. Under such a model, the CCP would be paid in its own currency, while the CSP’s net income would vary depending on currency movements. From the client’s perspective, an “all-in” model is clearer and more predictable than a direct pass-through of a complex and variable CCP cost structure.

Furthermore, it should be recognised that for listed derivatives in Europe, there is generally no meaningful CCP choice. The clearinghouse is tied to the exchange (e.g. Eurex, Euronext, Nasdaq), and the client’s only choice is effectively which trading venue to use. The concept of CCP choice is relevant for certain OTC derivatives (e.g. interest rate swaps), but not for listed derivatives.

<ESMA\_QUESTION\_COST\_3>

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

<ESMA\_QUESTION\_COST\_4>

No, the SSMA does not agree. The proposed level of disaggregation risks creating unnecessary operational complexity and competitive sensitivity, without clear benefit to clients. A principle-based approach would achieve transparency while preserving flexibility. Overly detailed disclosures could disincentivise CSPs from offering clearing services, with negative implications for market resilience and client access.

<ESMA\_QUESTION\_COST\_4>