

PRESS RELEASE

ESMA consults on tiering, comparable compliance and fees under EMIR 2.2

The European Securities and Markets Authority (ESMA) has today published three consultation papers under EMIR 2.2 on [tiering](#), [comparable compliance](#) and [fees](#). EMIR 2.2 amends EMIR's regulatory and supervisory regime for central counterparties (CCPs).

EMIR 2.2 enhances the recognition regime for third country CCPs (TC-CCPs). It introduces a dedicated regime for the third country CCPs which are determined to be, or likely to become, systemically important for the financial stability of the European Union (EU) or of one or more of its Member States, named Tier 2 CCPs.

Tier 2 CCPs will need to comply with the requirements under EMIR or ask for comparable compliance, where compliance with the requirements in a third country satisfies compliance with the requirements under EMIR. EMIR 2.2 also introduces a fee system for TC-CCPs to fund the relevant activities.

ESMA has received mandates for technical advice from the European Commission (EC) on tiering, comparable compliance and fees, and is now seeking input from stakeholders by 29 July 2019. These mandates are provisional pending the final publication of EMIR 2.2 in the Official Journal.

Steven Maijor, Chair, said:

“EMIR 2.2 changes how we regulate and supervise third country CCPs, strengthens our supervisory toolbox and ensures a more robust and effective supervision of CCPs. The new legislation will make a significant contribution to the stability and safety of the financial system.

The consultations ESMA is launching today are an important step forward. The input of stakeholders is a crucial building block in achieving the goals of EMIR 2.2 and I invite all interested parties to contribute to these important consultations.”

Technical advice on tiering

EMIR 2.2 introduces a set of criteria to be considered by ESMA to determine whether a TC-CCP is a Tier 2 CCP, considered systemically important or likely to become systemically important for the financial stability of the EU or of one of its Member States, otherwise it will be considered a Tier 1 CCP or non-systemic for the EU.

The consultation paper details the different indicators that can be used to specify the criteria ESMA has to consider in the assessment of a TC-CCP and provides insight as to what information ESMA may analyse to determine the systemic relevance of TC-CCPs.

Technical advice on comparable compliance

EMIR 2.2 also introduces a new system under which a Tier 2 CCP may be deemed to satisfy compliance with EMIR by complying with the regulations and requirements of its own national regulatory system. This new procedure, known as comparable compliance, permits Tier 2 CCPs to request ESMA to assess the extent to which a CCP's compliance with EMIR requirements is satisfied by the CCP's compliance with the comparable requirements applicable in the third country.

The consultation paper discusses what and how ESMA should assess to apply comparable compliance and proposes the minimum elements to be considered in its assessment as well as the modalities and conditions to carry out this assessment.

Technical advice on fees

The consultation paper on fees sets out the approach towards the fees to be paid by the TC-CCPs. It details the main supervisory activities that ESMA will need to carry out and the relevant high-level costs for supervision of TC-CCPs.

The consultation paper examines the determination of one-off recognition fees and the fees for Tier 1 and Tier 2 TC-CCPs, in addition to how comparable compliance will be reflected in the annual fees. ESMA, using previous experience in determining fees for supervised entities, also clarifies the applicable budgeting approach in the consultation paper.



Next steps

ESMA will consider the feedback it has received to these consultations by 29 July 2019 and finalise its technical advice to the European Commission following the publication of EMIR 2.2 in the Official Journal of the European Union.

Notes for editors

1. ESMA70-151-2138 – [Consultation Paper Draft technical advice on criteria for tiering under Article 25\(2a\) of EMIR2.2](#)
2. ESMA70-151-2179 – [Consultation Paper Technical Advice on Comparable Compliance under article 25a of EMIR](#)
3. ESMA70-151-1663 – [Consultation Paper ESMA fees for Third-Country CCPs under EMIR 2.2](#)
4. ESMA's mission is to enhance investor protection and promote stable and orderly financial markets.

It achieves these objectives through four activities:

- i. assessing risks to investors, markets and financial stability;
 - ii. completing a single rulebook for EU financial markets;
 - iii. promoting supervisory convergence; and
 - iv. directly supervising specific financial entities.
5. ESMA achieves its mission within the European System of Financial Supervision (ESFS) through active cooperation with the European Banking Authority (EBA), the European Insurance and Occupational Pensions Authority (EIOPA), the European Systemic Risk Board, and with national authorities with competencies in securities markets (NCAs).

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