

EU CLEARING COMPETITIVENESS AND RESILIENCE



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Strengthening the EU Clearing Ecosystem

The recent entry into force of the third revision of the European Market Infrastructure Regulation (EMIR 3) on December 24, 2024, marks a pivotal moment for the EU clearing ecosystem. This regulation aims to bolster the resilience, competitiveness, and attractiveness of the EU's financial markets.

The European Securities and Markets Authority (ESMA) is at the forefront of this initiative, which focuses on three key areas: (i) enhancing the supervisory framework for EU Central Counterparties (CCPs), (ii) making the EU clearing ecosystem more competitive and resilient, and (iii) addressing the risks associated with third-country clearing dependencies.

Enhancing the supervisory framework for EU CCPs

CCPs are crucial for the stability of financial markets, serving thousands of financial and non-financial counterpar-

ties across the EU. EMIR 3 aims to create a harmonized supervisory approach to ensure market integrity and competitive fairness. While it doesn't achieve fully integrated supervision, EMIR 3 significantly increases supervisory convergence and consistency across the EU.

ESMA will co-chair all 14 EU CCPs supervisory colleges and will be able to issue new opinions on National Competent Authorities' (NCA) annual reviews and EMIR compliance assessments. A new "comply or explain" mechanism will also enhance accountability and transparency from NCAs towards ESMA's Board of Supervisors. These measures are designed to foster a common supervisory culture, aligning risk prioritization and supervisory outcomes across EU NCAs and CCPs.

Making the EU clearing ecosystem more competitive and resilient

EMIR 3 not only aims to reinforce market resilience but also to enhance the attractiveness of the EU clearing ecosystem. In order to achieve these objectives, the new framework pursues two complementary approaches:

Reducing Obstacles to Competitiveness: CCPs supervisory processes have been significantly streamlined to accelerate the time to market for new products and models changes. ESMA is currently consulting on draft Regulatory Technical Standards (RTS) to harmonize practices across the EU and reduce unnecessary delays. Additionally, ESMA will create a centralised data platform ("central database") for CCPs applications and reporting, fostering efficiency and transparency.

Strengthening Resilience: ESMA will refine the existing regulatory framework for CCPs, to ensure robust requirements for margin transparency, collateral policies, and prudential requirements. EMIR 3 also establishes a stronger crisis management framework, including multi-year stress-testing plans, global fire drills and enhanced operational resilience measures, and introduces a system-wide monitoring system, the Joint Monitoring Mechanism (JMM), to assess market dependencies, access to clearing, and systemic risks.

These initiatives will ensure that EU CCPs remain robust in the face of crisis, while maintaining a competitive edge in global markets, in order to attract new

business and strengthen the clearing capacity of the European Union.

Addressing Third-Country Clearing Risks

Despite progresses since the EMIR 2.2 review, challenges remain, particularly in the interest rates derivatives markets, where EU clearing participants still rely heavily on offshore CCPs. The new active account requirement (AAR) mandates that the most active EU clearing participants hold an operational and representative account at EU CCPs for key derivatives contracts.

Rolling out EMIR 3, ESMA aims to create a resilient, competitive EU financial infrastructure.

ESMA has taken a significant step in implementing this requirement with the publication in November 2024 of a Consultation Paper on the AAR conditions and is on track to deliver the draft RTS to the European Commission by June 2025. ESMA will then monitor the implementation of the AAR, in coordination with the Joint Monitoring Mechanism.

Looking forward

The next three years present an opportunity to strengthen the foundations of the EU clearing ecosystem amidst a challenging global backdrop. By successfully rolling out EMIR 3 and building on the advancements made under EMIR 2.2, ESMA aims to create a resilient, competitive EU financial infrastructure aligned with the objectives of the Savings and Investments Union (SIU).

The success of EMIR 3 implementation will depend on the active engagement of policymakers, regulators, and industry participants. Through these collective efforts, the EU can create a clearing landscape that not only meets today's financial challenges but is well-equipped for the future, ensuring financial stability and strategic autonomy in global markets.



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EMIR 3, a step to strengthen clearing competitiveness and stability

Central Counterparties (CCPs) used to be considered as just a component of the plumbing of the financial system. In the aftermath of the Lehman Brothers' default, G20 leaders agreed in September 2009 to extend the scope of CCP clearing in order to improve the stability of capital markets. As a result of this new international policy, CCPs appeared accordingly in the spotlight and their key role in risk mitigation was ascertained.

The increased recourse to CCPs had to go hand in hand with a progressively enhanced regulatory framework. It first took the form of common international standards (the PFMI), which were later transposed in EU law with the entry into force of the EMIR regulation. As part of this important work, the requirement to centrally clear certain classes of OTC derivatives was tied to the implementation of prudential requirements for CCPs commensurate to their increased role.

However, another prominent issue emerged. The overreliance of the EU ecosystem on third country CCPs for the clearing of some classes of derivatives eventually came to the

fore with Brexit, leading to further regulatory developments. The EU's response came in two stages. EMIR 2.2 (2020) provided a first step with the recognition of systemic third country Tier 2 CCPs and their direct supervision by ESMA. This was not sufficient to adequately address all financial stability concerns stemming from this situation, especially in a crisis situation where the resolution of a third country CCP may result in some adverse consequences for the EU stakeholders, with potential consequences for the financial stability. In addition, it appeared that relocation of clearing in the EU would require some time to avoid a cliff effect. In force since December 2024, EMIR 3.0 goes one step further by introducing the obligation for EU financial and non-financial counterparties to hold an active account within an EU CCP, with the goal of triggering a rebalancing of exposures between third countries and the EU. ESMA will assess the effectiveness of the measure 18 months after its implementation, potentially paving the way for EU regulators to introduce stronger requirements if deemed necessary.

The development of a strong European framework, which strikes the right balance between regulation and innovation, while strengthening the competitiveness.

EMIR 3.0 also tackles the new challenges brought on by the changing European clearing landscape, as EU CCPs increasingly seek to extend their clearing services to new financial products and client profiles. To improve EU CCPs' time to market, EMIR 3.0 notably simplifies the regulatory approval procedures for risk-model changes and product extensions, thus shortening the regulatory approval process and enabling EU CCPs to better adapt to market changes through innovation and the optimization of their clearing processes, while maintaining high prudential standards. Allowing for faster adjustments by CCPs, particularly with regards their risk models, is indeed not only crucial for financial stability but also bears the potential to significantly improve European market integration and efficiency.

Finally, EMIR 3.0 also enhances the cooperation between ESMA and

national competent authorities with the co-chairmanship of supervisory colleges and the coordination role of ESMA in a crisis situation. These new measures should also help to further harmonize supervisory approaches within the EU.

The development of a strong European framework, which strikes the right balance between regulation and innovation, while strengthening the competitiveness of the European clearing ecosystem, remains a top priority. Indeed, many challenges still lie ahead, whether it be the accelerated development of crypto-asset markets, which raises numerous challenges in the clearing space, in particular in terms of market, legal and operational risks, or the emergence of new technologies such as cloud computing and AI, which both have the potential to significantly reshape post-trading activities. At the same time, regulators and supervisors must continue to maintain a strong focus on the EU cyber resilience strategy, of which DORA is a significant milestone.

Given the number and complexity of these emerging challenges, it is ever an overarching priority to remain focused on further strengthening the European framework, in view of laying the ground work for the European Savings and Investments Union. Our collective ability of ensuring the proper reduction of the EU's current reliance on third country CCPs while continuing to move towards a more unified supervision of CCPs will be key to the continued vibrancy of the EU's clearing landscape, itself a cornerstone of the competitiveness of the overall European financial system.



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Clearing services and the path to the Savings and Investments Union

The new EMIR 3 regulation introduces important changes aimed at improving the competitiveness of the EU clearing ecosystem without compromising its ability to manage systemic risks. Central counterparties (CCPs) can now benefit from streamlined regulatory approval procedures for changes that do not significantly alter their risk profile. The enhancement of transparency measures, and in particular of margin simulators, will enable market participants to better anticipate margin calls. This, combined with an expected reduction in margin requirements due to the move to a t+1 settlement cycle, is anticipated to reduce liquidity pressures. Besides, by increasing the predictability of margin calls through more sophisticated margin simulation tools, EMIR 3 promotes investment in technology. Finally, greater harmonization of supervisory practices among Member States is expected, particularly as a result of the enhanced role of ESMA and its co-chairpersonship of CCP colleges.

In this respect, although important, the EMIR 3 reforms fall short of fully centralizing supervisory authority within ESMA. A catalyst for moving

the existing supervisory framework in the direction of greater centralization of supervisory powers could be progress in the consolidation of market infrastructures. One example of a market-led trend towards consolidation and its implications for supervision is the recent expansion of the services provided by the Italian CCP in several markets. Indeed, the enhanced role played by the CCP on a cross-border basis has led to greater cooperation between the competent national authorities and ESMA, as well as to the enlargement of the supervisory college.

Therefore, the first way in which public authorities can make the supervisory framework for clearing services conducive to the realization of the Savings and Investments Union (SIU) is to ensure a level playing field that fosters a healthy evolution of the market structure. This can be achieved by effectively using existing instruments. In the EU, ESMA is already involved in supervisory colleges, adopts opinions on major supervisory decisions, validates significant changes to CCPs' risk management frameworks, and its role has become even more relevant under EMIR 3. The lack of a single supervisory mechanism for CCPs cannot be an excuse for not pursuing homogeneity and efficiency in supervisory practices as of now.

A single supervisor for CCPs is not a pre-requisite for homogeneous supervisory practices.

While supervisory cooperation already works well, for CCPs with considerable cross-border activity it may become less efficient than supervision at EU level. Moreover, infrastructures that have pan-EU systemic potential, such as CCPs, are natural candidates for supervision at the European level. A fully centralized supervisory model for CCPs should be seen as an end point in the evolution of the SIU, rather than a starting point. To get there, we can rely on the ECB Governing Council's recent guidance that the European supervisory authorities should directly supervise the most systemic cross-border capital markets operators, in cooperation with their respective national supervisory authorities. This is not to say that supervised entities should be allowed to choose their supervisor, as this would not only be inconsistent with the key criterion that supervisory responsibility

should go hand in hand with fiscal responsibility, but could also fragment supervisory action.

Looking ahead, the question arises as to what more can be done in central clearing to support the objectives of the SIU. Two key areas deserve attention: client clearing and interoperability. Expanding client clearing capabilities within the EU is essential to ensure that all market participants, including smaller firms, can access clearing services. In this respect, the new transparency requirements introduced by EMIR 3 are important. Technological innovation could also play a role. Assessing the pros and cons of new access models will remain essential.

Another significant development to consider is greater interoperability among CCPs. EMIR 3 clarified that the regulatory framework for interoperability arrangements applies to all types of financial and non-financial instruments, including derivatives. Interoperability in derivatives markets, together with improved competitiveness of EU CCPs, could lead to an expansion of the supply of clearing services. At the same time, the resulting increased complexity in CCP risk management should be carefully addressed.

Overall, the current supervisory framework for CCPs is already capable of ensuring a balanced playing field and fuelling a virtuous cycle between market-led integration and increased supervisory cooperation. The development of client clearing and greater interoperability of CCPs could help fuel innovation and move towards a more integrated and efficient clearing ecosystem across Europe, ultimately also safeguarding financial stability.



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Towards growth and competitiveness: The EU's clearing strategy beyond EMIR 3

EMIR 3 was at the core of the EU's Clearing Strategy to meet the political objectives of increased resilience, autonomy, efficiency, and attractiveness of central clearing. However, in light of the seismic shifts around the geopolitical landscape and macro-economic realities, it has become even more important to foster the competitiveness of the EU's clearing ecosystem which must be considered an integral pillar of the Savings and Investments Union as well as the simplification agenda.

There are three dimensions that should be prioritized to this end: An effective yet proportional implementation of EMIR 3, further work on the global competitiveness of the EU clearing ecosystem, and targeted incentives in sectoral legislation for greater access and use of centrally cleared markets.

Importantly, EMIR 3 aims to reduce the overreliance on third-country infrastructures for systemically relevant clearing services and to boost the demand and supply side of clearing in the EU. After the legislation entered into force in December 2024, all eyes

are now on ESMA's technical details for the application, which will be integral to deliver the political objectives.

The most prominent example concerns the active account regime, where the market is eagerly awaiting the next steps around ESMA's RTS, paving the way for a smooth and effective application this June. The ultimate outcome will also be central to the questions around the upcoming review of the regime's effectiveness and any potential next steps to satisfy legislators' objectives.

Another key element concerns the need to improve current time-to-market realities: The technical design of the new approval procedures for CCP services and risk model changes will significantly impact the competitiveness of the EU's clearing ecosystem. Yet, while Level 1 brought the EU closer to other leading jurisdictions, questions continue to overshadow the current Level 2 work which may mean that the new procedures for less relevant and BAU changes do not deliver the intended results in practice.

Further work to boost the competitiveness of the EU clearing ecosystem is also desirable in other areas where swift progress is needed to stay ahead of the curve. Central bank access for EU CCPs without a banking license is the most prominent example where a meaningful advancement is of critical importance. While the Eurosystem finally aims at a harmonization of the access rules, it remains to be seen if the new regime will deliver an effective approach to guarantee access to key credit facilities in relevant emergency situations, in line with EMIR liquidity provisions.

It has become even more important to foster the competitiveness of the EU's clearing ecosystem.

Moreover, we should remain ambitious when it comes to providing further flexibility to level the playing field around areas that are central to the competitiveness and attractiveness of clearing in the EU. While it is a welcome step that new policy recommendations for CCP margin transparency and responsiveness were recently issued on global level, it is key to realize that EU CCPs and market participants are subject to significantly stricter standards that require further attention. Core examples include the famous anti-procyclicality measures or the fully-fledged CCP recovery and resolution

regime, which other jurisdictions simply did not implement.

Addressing the current unlevel playing field vis-à-vis non-EU CCPs or non-centrally cleared markets by ensuring more globally aligned approaches will also be essential when it comes to segregation, resolution, porting, or bilateral margin and haircut requirements.

Last but not least, the EU should continue its global thought-leadership to reap the full benefits of central clearing in growth segments such as SFT, FX or the digital sphere. Targeted incentives like removing entry barriers for NBFIs in funds and insurance legislation, addressing punitive capital treatments of banks using CCP services and offering them to clients, promoting innovative solutions like cross-product netting, fostering voluntary clearing by the public sector, and leveraging the benefits of CCPs in a decentralized environment would further boost the efficiency and depth of the EU's clearing ecosystem.

Overarchingly, these elements can make a significant difference when it comes to boosting global competitiveness and growth capacities as a critical backbone of the EU's position as a global financial center in a new geopolitical and macro-economic environment. In a number of these dimensions the EU should now focus on effective, targeted and swift amendments to the current legislative frameworks – “the world will not wait for us.”



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EMIR 3: Streamline – simplify – unify

In its quest to improve the EU supervisory framework and make EU clearing services more attractive and robust, EMIR 3 was ahead of the 'simplification revolution' launched by European Commission President Ursula von Der Leyen on 8 November 2024. At least in its ambition. This is one of the key conundrums of the EU single market integration: how to ensure simple, efficient regulation and supervision and, at the same time, ensure a strong EU level-playing field?

A regulatory dilemma

The tension between those two objectives is very apparent in EMIR 3 but also in the development of secondary legislation:

- A strong EU level-playing field means involving ESMA in as many issues as possible, including via the newly established 'accelerated procedure'.
- Simplification and faster time-to-market means EU processes should be applied only to the most prominent issues, to avoid multiple filings and compliance burden.

EMIR 3 attempts to address this conundrum by introducing several

improvements to existing processes including through an increased role for ESMA and a more prescriptive timeframe. However, there is a question as to whether this can address both the simplification and level playing field needed to increase CCPs' competitiveness.

Adapting with the market

A fundamental impediment to EU CCPs' competitiveness is their long time-to-market compared to other jurisdictions. This is due in part to the complex and lengthy processes EU CCPs must follow before introducing substantial changes to risk models or launching new products. By the time a CCP launches a new product, market demand might have changed. By the time it changes its risk parameters, risks might have escalated beyond the initially planned response.

CCPs are risk managers and constantly need to adapt to market changes and evolution of risks.

Unjustified delays when it comes to innovation and improvement is neither safe nor competitive: true competitiveness means being able to predict and respond to market changes in an agile and efficient way.

We need a framework that streamlines existing supervisory processes whilst addressing level-playing field issues and believe the way forward is a centralised supervision of EU CCPs.

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Scalable supervision

The attractiveness and competitiveness of the EU clearing ecosystem can only be achieved if it is able to scale. We need supervision that corresponds to the scale of the supervised entities and markets they serve. EU single supervision would ensure a unified interpretation of the EU framework, a competitive time-to-market, and a structure that EU or non-EU customers and investors can understand. This would also upskill EU CCP supervision with authorities gaining experience from supervising several CCPs rather than their national one(s) only. It would also translate into a better overview of market flows and emerging risks.

Boosting competitiveness

Greater market competitiveness is also supported by increased liquidity through market-based initiatives. We see two further initiatives that could be considered in the coming months as we look for innovative solutions enabling market participants to benefit from greater efficiencies.

First, policymakers should adapt regulation to foster innovative developments. For example, ensuring regulation allows the take-up of membership models designed to support buy-side access to clearing (Sponsored models) thus extending the benefits of direct CCP membership to the broader investor community. Due to the lack of recognition within existing regulatory frameworks, firms are often reluctant to adopt such initiatives. Revisions to these barriers to entry would not only support EU CCPs' competitiveness, but enable wider access to resilient liquidity pools, promote further integration in the market, and enhance financial stability particularly in times of market stress.

Second, there is a recurrent question as to the number of equities CCPs in the EU and the reason for the lack of consolidation in this space. We believe the current regulatory framework can be improved to enhance competition, starting with addressing the limitations of existing open access requirements. This would go a long way in rationalising the number of vertically integrated CCPs, which create fragmentation and affect the EU equity market's competitiveness.

Regulation is the backbone of an efficient capital market. To build on EMIR 3's ambitions, we must take the principles of streamlining, unifying and simplifying CCP supervision to ensure a competitive EU clearing market.



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The international dimension: clearing US government bonds and repos

There is a growing trend towards clearing government bonds and repurchase agreements, which can enhance dealers' capacity and financial resilience and will thus be beneficial for both markets and regulators.

The world economy has experienced a long decade of heightened market volatility, including the flash crash of 2014, the 2019 repo market crisis, the Covid-19 'dash for cash,' and the UK Liability Driven Investment crisis in 2022. These events have highlighted vulnerabilities in, among others, the government bond markets and also stressed their importance for financial stability.

In response, policymakers have been exploring policy tools and reforms to increase sovereign bond markets resilience and capacity during market stress, with clearing gaining increased traction. Indeed, central clearing brings many benefits, including increased balance sheet efficiencies and reduced counterparty credit risk, supporting higher resiliency and capacity during periods of stress.

In the US, the Securities and Exchange Commission (SEC) introduced new rules to expand central clearing of certain eligible cash and repo transactions in the US Treasury markets, as part of a broader set of US Treasury markets reforms. The rules are scheduled to take effect in December 2026 for cash transactions and June 2027 for repo transactions.

On the heels of the US rule changes, discussions on the value of central clearing have been gathering steam at the international level.

In 2022, the Financial Stability Board (FSB) recommended that jurisdictions explore ways to increase the availability and use of central clearing for government bond cash and especially repo transactions. In 2025, the FSB intends to analyze the functioning of repo markets. In the UK, the Bank of England's System Wide Exploratory Scenario concluded, inter alia, that central clearing for gilt repo could improve the resilience of government bond markets. In the EU, the ESRB recently called to incentivize repo clearing by mandating margin requirements in bilateral clearing and by removing existing obstacles to voluntary central clearing. And the European rules on clearing, through the latest EMIR 3.0 legislative text and upcoming UK EMIR deliberations, may eventually involve discussion on repo clearing.

There is therefore a clear trend towards increased central clearing of government bond markets across the globe, and in particular in the repo markets, as part of broader efforts to enhance the resilience of these markets.

**There is a clear,
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While these initiatives may differ in scope, incentives and modalities across jurisdictions, their implementation could have a transformational impact on market structures.

Indeed, more firms will need to centrally clear transactions in an indirect way. For instance, US Treasury clearing activity processed through DTCC's Fixed Income Clearing Corporation (FICC) is expected to rise by \$4 trillion daily following implementation of the rule, driven in part by an anticipated significant increase in indirect repo clearing. Of

note, the current FICC clearing activity for government securities is now averaging over \$9 trillion daily.

To help ensure a successful implementation of such expanded clearing across the globe, ensuring appropriate access for market participants is critical. This is why in the US, FICC worked closely with firms and trade associations to provide a wide range of flexible access models, including a range of indirect access models, to meet different participants' business and regulatory needs. There has also been significant progress in supporting the 'done away' model as well as cross-margining arrangements that provide efficiencies to market participants.

In addition, as more firms prepare for reforms, enhanced risk management tools, such as the public calculators offered by FICC, can provide even more margin transparency around the potential impact of the rules on firms, allowing organizations to increase predictability and liquidity management in line with recommendations from regulators.

Persistent growth in US Treasuries clearing volumes demonstrates the value of central clearing, as market participants proactively onboard in preparation for the forthcoming implementation of the SEC's clearing mandate. Importantly, the US clearing rules will affect market participants in Europe and across the globe, as the final rule has a broad scope not bound by the geographical location of the counterparties. And while the SEC recently introduced a one-year delay in the compliance deadlines, advanced preparation by the market participants remains critical to ensure the smooth implementation of this significant market reform.