

# EU clearing competitiveness and resilience

## 1. Implementation of EMIR 3

### 1.1 EMIR 3 objectives and conditions of success

The chair recalled the main goals of EMIR 3, which are to mitigate the risk of the EU's excessive exposure to systemic third-country CCPs and to enhance the resilience, competitiveness and efficiency of EU clearing services. Achieving these objectives simultaneously can be quite complex.

An industry speaker noted that while EMIR 3 aims to reduce excessive reliance on systemic non-EU CCPs, this objective must be achieved without limiting the ability of EU firms to access global markets in general. Striking the right balance is essential. The success of EMIR 3 will also depend on its ability to preserve trust in the EU clearing ecosystem, a key asset, particularly in today's volatile geopolitical context. A proportionate and holistic implementation approach should guide the next phase of EMIR 3, ensuring that the needs of the broader clearing ecosystem, including market infrastructures, clearing members, end-users, and technology providers, are considered. It is also important that the different CCPs operating on EU markets are treated consistently under the new framework.

The chair underlined the importance of the establishment of the Joint Monitoring Mechanism (JMM), involving amongst other public bodies ESMA, the ECB and the ESRB, which in addition to taking a holistic view on the stability of the clearing ecosystem, is also tasked with monitoring the implementation and the effectiveness of EMIR 3's critical provisions. An effective implementation of EMIR 3 will also require sufficient supervisory resources, notably on the part of ESMA.

An official agreed that the implementation of EMIR 3 should be guided by proportionality and cost-efficiency objectives and will require effective supervision. European CCPs must also continue to invest in improving the quality and breadth of their services.

An industry speaker welcomed EMIR 3 as a continuation of the EU's leadership in setting high standards for clearing. Maintaining strategic ambition and ensuring that the EU remains a global benchmark in clearing policy and regulation is essential.

### 1.2 Active account requirement (AAR)

The chair observed that the AAR is the measure that has attracted most attention during the debates around the Level 1 EMIR 3 proposal. ESMA issued a consultation paper on this at the end of 2024, which drew extensive feedback, now being incorporated into the final draft of the regulatory technical standards (RTS) due by the end of June.

An official stated that the AAR, aiming to develop

autonomous EU clearing capacity for systemically important products, is a welcome measure. In addition to encouraging the redirection of clearing activity towards EU CCPs, active accounts will also function as operational backstops, ensuring that EU market participants can maintain uninterrupted clearing operations via EU CCPs if needed. Testing obligations and stress testing will reinforce the operational readiness of these accounts. The representativeness obligation will moreover ensure that active accounts hold a meaningful share of a firm's overall clearing activity. The current draft RTS applies the AAR provision as ambitiously as possible within the constraints of the Level 1 legislation (EMIR 3). There are already encouraging signs that the AAR can support the growth of EU clearing capacity, as some market participants appear willing to go beyond the minimum requirements.

The official noted that in line with the AAR review clause, the JMM is expected to deliver a report that will evaluate the effectiveness of the measure and potentially propose adjustments or complementary actions, for example in terms of calibration or exemptions. This review will require analytical work to assess the differential impact of the AAR across various categories of market participants and sub-segments of the market.

An industry speaker highlighted that a market-led initiative launched by a major EU CCP ahead of EMIR 3 helped support participants in preparing for the AAR and contributed to a more balanced market with reduced offshore risk. This initiative has reached a market share of around 20% in OTC interest rate derivatives. Since the AAR phase-in began, about 35% of clients have activated accounts, which is an encouraging sign for future market engagement. Three refinements to the Level 2 AAR RTS are necessary however. First, the current 85% exemption threshold should be lowered to incentivise smaller firms to shift clearing voluntarily; a more phased approach with lower starting thresholds could better encourage broader participation. Second, the requirement for an initial formal simulation of clearing transferability should be replaced by a self-assessment to reduce operational burdens, particularly in stressed scenarios. Third, annual stress tests should be conducted centrally by CCPs and reported directly to supervisors to avoid inefficient entity-level reporting chains.

A second industry speaker noted that, beyond operational and compliance considerations, two higher-level issues should inform the calibration of the AAR. First, the structure of the euro interest rate swaps (IRS) market, in which EU firms represent only about a quarter of total volumes, means that the AAR could limit their access to global euro-denominated

markets. Second, the evolving supervisory landscape must be taken into account: under EMIR 3, ESMA will play a stronger role in the recovery and resolution planning of Tier 2 CCPs, including in coordination with the Bank of England for non-EU CCPs. These developments also raise important questions regarding the proportionality of the AAR.

A third industry speaker emphasised that the success of the AAR hinges on three conditions. First, it should apply only to new flows, not existing stocks. Second, reporting should be consolidated at the firm level, not at the subsidiary level, which would be too complex. Third, reporting obligations should be simplified, avoiding transaction-level granularity. Simplicity is key to a successful implementation of the AAR. This must also be taken into account in the supervision of this measure.

### 1.3 Streamlining of supervisory approval processes

The chair emphasised that the simplification of the approval processes for changes to risk models and extensions to the range of cleared products is a key focus of EMIR 3. The aim is to reduce time to market, which is crucial for maintaining competitiveness, and avoid regulatory arbitrage across the EU. This requires a careful balance between regulatory oversight and operational efficiency. More generally, regulators have taken note of the feedback received during the EMIR 3 consultation regarding the need for a simplification of verification measures and an improvement of reporting requirements.

A supervisor observed that the current approval process for authorisations and model changes is complex, involving in some cases multiple domestic authorities, several ESMA bodies and sometimes the authorities' board for approval. This certainly hinders time to market. EMIR 3 will improve the process by introducing a more pragmatic approach, but the success of this approach relies on certain preconditions being met. CCPs must submit more comprehensive and well-documented change requests to avoid iterative procedures. Supervisory assessments under EMIR 3 should also move beyond a strict legalistic approach and adopt a more risk-based approach. Rather than applying EMIR 3 article by article, supervisors should assess model changes holistically, considering overall risk, consistency, and potential financial stability implications.

An official agreed that it is important to ensure that the streamlining of supervisory processes does not lead to a checkbox approach and ready-made assessments, maintaining supervisory judgement.

An industry speaker stressed that there is a clear tension between the two objectives of ensuring a more consistent, EU-wide supervisory approach and maintaining fast, efficient approval processes to support market responsiveness. The current draft RTS under Article 49 leans strongly towards the first goal, but with limited simplification, making even routine changes subject to more formal procedures. For example, changes previously treated as business-as-usual could now require a process involving senior-

level sign-off and board-level certification. Although the length of this procedure is officially limited to ten days, this seems disproportionate, as a great deal of preparation will be needed in a compressed timeline. A more proportionate approach could preserve supervisory consistency while avoiding unnecessary complexity and burden for CCPs.

### 1.4 Margin transparency requirements

An official noted that margin model transparency requirements represent an important area of improvement introduced by EMIR 3. The current draft RTS are broadly consistent with international standards, such as those from IOSCO and CPMI. However, complying with these requirements may require substantial IT investments to support the generation and delivery of margin simulations. A more proportionate approach should be applied in this area also to avoid overburdening smaller firms.

An industry speaker was supportive of the margin transparency measures in EMIR3 and also the work of the international standard setting bodies in this area. These measures also align with US equity and government bond CCP's initiative to launch public value-at-risk calculators and cross-margining offerings, contributing to broader international consistency.

### 1.5 Data-driven supervision

An official highlighted that one of the key objectives of EMIR 3 is to enable more data-driven supervision of central clearing. While quantitative thresholds remain useful tools, they risk becoming outdated as market conditions evolve. To support forward-looking and dynamic oversight, supervisors will need access to timely and granular data capable of capturing market developments. The establishment of a centralised ESMA database, one of the main new features introduced by EMIR 3, is a step in this direction. However, its effectiveness will depend on the quality and consistency of reporting across the system. High data quality is essential to realise the full supervisory potential of this tool.

## 2. Key issues to address in the clearing space beyond EMIR 3

### 2.1 Resilience of the EU clearing ecosystem

The chair remarked that the recent significant market turbulence, triggered by the US administration's decision to raise tariffs, confirmed the robustness of financial market infrastructures, and of CCPs in particular. This is the result of strengthened CCP risk management, but also enhanced CCP regulation and supervision.

An industry speaker underlined that the volatility and volume increase observed during the recent macroeconomic events confirm the importance of continued vigilance and maintaining robust risk management at CCPs to ensure continued financial stability.

An official emphasised that liquidity risk is a key focus for central banks in the clearing space. The Eurosystem provides overnight settlement accounts, which also allow CCPs to hold overnight balances and offer a safer alternative to market-based placements. The ECB recently revised its remuneration policy for these accounts. Guarantee funds of EEA CCPs are now remunerated at the euro short-term rate (ESTR), while other non-monetary policy deposits earn ESTR minus 20 basis points, acknowledging the systemic role of these funds in supporting financial stability. Euro area CCPs may also access intraday credit from the Eurosystem to manage temporary liquidity mismatches during the day. For more severe market-wide stress scenarios where liquidity needs of euro area CCPs extend beyond intraday, the Eurosystem is reviewing its framework for overnight liquidity support<sup>1</sup>.

A supervisor stressed that digital operational resilience, regarding ICT and third-party risks, is also a key element of the financial system's stability. The Digital Operational Resilience Act (DORA), which replaces previous sector-specific requirements, represents a significant step forward in digital risk mitigation. Supervisory attention to these issues is expected to intensify.

The supervisor also highlighted the implications of the development of cryptoassets for central clearing. Since the 2008 financial crisis, CCPs have taken on a more prominent role within the financial system and are increasingly expanding into new product areas, such as cryptoasset-linked derivatives. This trend presents new supervisory challenges, particularly in terms of data quality and the design of appropriate stress-testing scenarios. At the same time, the implementation of the Markets in Crypto-Assets Regulation (MiCA) is bringing changes that need to be addressed. New actors are entering the market, who may provide services similar to central clearing without being subject to equivalent regulatory standards. These developments underline the need for a broader, more holistic regulatory approach to safeguard financial stability as market structures and innovations continue to evolve. The chair observed that evolutions related to cryptoassets should ideally be addressed at the global level.

## 2.2 Supervisory framework of EU CCPs

The chair noted that recent reports on the future of the Capital Markets Union and in particular the Draghi and Letta reports, have called for a reassessment of the supervisory structure for financial market infrastructures and for exploring the relevance of more unified EU-level supervision. This perspective is also reflected in the Commission's SIU Strategy communication, which announces legislative proposals in 2025 to strengthen supervisory convergence tools and achieve more integrated supervision of capital markets.

An official stated that fully centralised CCP supervision in the EU remains an end goal rather than a starting point. Two main barriers currently prevent further centralisation. The first is fiscal responsibility: in the

event of a CCP failure, national fiscal authorities retain responsibility for any potential bailouts. The second is the fragmentation of EU financial markets, particularly in the sovereign bond space, where at least 28 distinct types of sovereign bonds exist across 27 Member States and the EU. This fragmentation creates operational and supervisory constraints for both CCPs and CSDs. Progress towards more efficient and centralised supervision can be made through enhanced supervisory cooperation, which already functions effectively via supervisory colleges, and through ESMA's existing mandate to promote convergence of supervisory practices. These instruments help maintain a level playing field across the EU. A further step, as proposed by the ECB Governing Council, could be to place the largest pan-European CCPs under the direct supervision of ESMA, in cooperation with national competent authorities (NCAs). This would enable a gradual movement toward more unified supervision while preserving the role of NCAs, which remains important due to the fiscal responsibilities involved.

An industry speaker emphasised that despite the detailed regulatory framework, supervision remains inconsistent in practice, leading to confusion among CCP users, especially those outside the EU, who expect uniform treatment under EMIR. While supervisory colleges exist and coordination is supported by ESMA's CCP Supervisory Committee, this has not fully resolved the fragmentation. The current fragmentation and complexity of CCP supervision in the EU undermines competitiveness, particularly for pan-European CCPs. EMIR 3 represents progress, but further steps are needed. Pan-European CCPs, such as those clearing the bulk of European government bonds in the EU at present, could benefit from being placed under the direct supervision of ESMA. The aim is not centralisation for its own sake, but rather to achieve a greater harmonisation and simplification of rules and of their oversight, while enhancing the efficiency and speed of authorization procedures. ESMA's experience in supervising UK-based CCPs could be leveraged to this end. However, effective EU-level supervision will require sufficient resources, and new funding models. Those in place in the UK, where CCPs finance their supervision, could be considered.

A greater unification of supervision at EU level would also help to address the current tensions between the goal of ensuring a level playing field across the EU and the need for time-to-market efficiency. The second objective requires simplifying the current multi-layered approval processes, which are too cumbersome and slow.

## 2.3 Further integration of EU clearing activities

The chair questioned whether fragmentation is a significant issue for CCPs to remain competitive in the global landscape, noting that at present 14 EU CCPs are authorised under EMIR and there is already a higher degree of concentration for certain products.

An industry speaker confirmed that the degree of

1. [https://www.ecb.europa.eu/press/pr/date/2025/html/ecb.pr250430\\_1~db4f08259e.en.html](https://www.ecb.europa.eu/press/pr/date/2025/html/ecb.pr250430_1~db4f08259e.en.html)

fragmentation varies across market segments. The EU market structure for derivatives and commodities is not meaningfully fragmented. For cash equities, interoperability and open access between CCPs have existed for many years, allowing participants to choose where to clear trades. However, the key question is whether interoperability has met market demand. In some cases, investor take-up for alternative CCPs has been limited. Competition among CCPs is currently driven more by product innovation and customer service than by interoperability. In addition, imposing artificial interoperability links may have unintended negative consequences in terms of hampering innovation at a time when technological developments, such as DLT, are expected to progressively reshape market infrastructure. Maintaining an interoperable system between a traditional infrastructure and one operating on DLT may not be feasible. Consolidation in the EU via M&A also faces challenges under the current competition rules. The DG COMP framework is not fully aligned with the vision of DG FISMA for a more integrated EU capital market, notably concerning the definition of the relevant market to consider in competition assessments.

Another industry speaker agreed that the market situation should be assessed by product category. Long-term interest rate derivatives and equity derivatives are well served by efficient EU-based CCPs. The same is true for Euro repo. However, for short-term interest rate and Euro interest rate swaps (IRS), the situation is different, as clearing is mostly handled by CCPs based outside the EU. Whether this is acceptable for the EU still needs clarifying. Cash equity CCPs are efficient but the clearing market is fragmented, posing challenges for smaller financial firms. While large players can manage fragmentation, the clients of smaller firms such as e-brokers suffer

from higher cross-border costs. This limits cross-border trading in Europe, as it is cheaper to trade on US exchanges. Consolidation of clearing by product offers netting and collateral savings but might increase systemic and cyber risks. A solution would be granting all CCPs access to central bank money. M&A-based consolidation is unlikely and remains more aspirational than realistic.

#### **2.4 Implications of T+1 settlement in the clearing space**

An industry speaker suggested that the implementation of T+1 settlement offers the EU an opportunity to optimise post-trade workflows. A large volume of securities eligible for central clearing remains uncleared. With T+1, processing workflows will need to be redesigned to enhance straight-through processing, potentially increasing the use of CCPs for eligible securities. Secondly, T+1 is expected to lead to a reduction in CCP margin contributions. In the US, its implementation 11 months ago resulted in a \$3 billion decrease in clearing fund requirements. Similar benefits are projected in the EU and the UK, with ESMA estimating savings of around €2.7 billion and the Bank of England projecting about £1 billion. This could reduce costs for clearing members and free up capital that could be reinvested to enhance efficiency and mitigate risks.

T+1 will also bring operational impacts. With less time to settle, CCPs will need to reconsider cut-off times and netting arrangements. European CCPs should view this transition as a strategic opportunity to innovate and improve processes, adapting them to evolving user demands.