

# Reply form

## Conditions of the Active Account Requirement

## 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 **27 January 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\_AAR\_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\_AAR\_nameofrespondent.

For example, for a respondent named ABCD, the reply form would be saved with the following name: ESMA\_AAR\_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](#)'..

## 1. General information about respondent

Name of the company / organisation	Eurex Clearing AG
Activity	Central Counterparty
Are you representing an association?	<input type="checkbox"/>
Country/Region	Germany

## 2. Questions

### Q1 **Are there any aspects of the AAR scope on which ESMA has based its quantitative analysis and its policy choices that ESMA should consider detailing further?**

<ESMA\_QUESTION\_AAR\_01>

Eurex Clearing appreciates the opportunity to respond to the consultation on the draft regulatory technical standards (RTS) around the AAR.

We welcome the analysis done by ESMA with respect to the AAR scope as well as the clarifications provided how to determine if a market participant falls under the new regime and how to do respective calculations.

Eurex Clearing notably appreciates ESMA's efforts to clarify the calculation and application of thresholds and other metrics foreseen in the AAR. While ESMA kindly confirms in paragraphs (48) and (49) of the consultation paper that calculations shall be done consistent with the well-established clearing threshold methodology, including a look-back period of 12 months, we understand that the starting point for the 12-months look-back may not be fully clear for some market participants. While we would assume that it is aligned with the EMIR 3.0 effectiveness dates, we would support industry associations' recommendation to provide legal certainty on the starting date when finalizing the RTS.

With regard to the 85% exemption from the operational criteria, we would recommend considering a phase-in approach. We understand that the 12-months look-back period mentioned above will also apply to the application of this exemption. This would mean that notably smaller counterparties may not be able to benefit from the exemption when the AAR comes into force or anytime soon after. While we appreciate that the exemption was granted in the Level 1 text to recognize that some market participants already clear the majority of their relevant business at an EU CCP,

it may also help to incentivize any other market participants to clear more business in the EU, which are supportive of strengthening the EU clearing capacity but do not meet the foreseen 85% yet. Therefore, we would recommend letting the threshold start at a lower level when the AAR becomes effective and increasing it over 24 months to the level set by the Level 1 text. ESMA could define milestones for market participants to meet to be eligible for the exemption, starting at 25% of new business conducted in the EU and increasing the level every 6 months until the foreseen 85% of outstanding contracts has been reached.

<ESMA\_QUESTION\_AAR\_01>

**Q2 Do you agree with the above approach for condition (a)? Are there other requirements that ESMA should consider for meeting condition (a)?**

<ESMA\_QUESTION\_AAR\_02>

We agree with the proposed approach.

<ESMA\_QUESTION\_AAR\_02>

**Q3 Do you agree with the above approach for conditions (b) and (c)?**

<ESMA\_QUESTION\_AAR\_03>

We agree with the proposed approach how to apply conditions b) and c) in practice.

For instance, ECAG supports the distinction between operational capacity and financial resources. While members' accounts are fully operationally able to withstand an increase of clearing volume, additional transactions might still not clear for example with the CCP due to missing collateral.

However, we note that ESMA proposes that CCPs provide certification on request of market participants confirming that their clearing account can withstand substantial increases in volumes.

From a CCP perspective, Eurex could technically and operationally handle the suggested three-fold increase of individual account activity and we can also generally confirm that we have enough headroom and that any account can cope with a threefold increase in activity. It should be noted that clearing accounts are generally not restricted by the CCP for number and size of transactions in scope of this consultation. From a CCP perspective, accounts can therefore be scaled up as needed and market participants are not limited in any way to increase their clearing activities.

However, providing the proposed certificate of the conducted account simulation to each market participant individually and repeatedly appears to be a significant and unnecessary administrative burden for all parties involved.

Further, we feel that the overall simulation exercise is more targeted at CCPs' capacities to take on large flows, if needed, and less on a market participant account's ability to achieve that goal and ultimately meet the operational requirements b) and c) as defined on Level 1. Hence, we suggest removing the proposed requirement for market participants to request such certification from the CCP.

Instead, the CCP could be asked to confirm its own technical capacity to cope with a threefold increase of volumes on annual basis to ESMA and respectively to their NCA. Such an approach may reduce complexity and the burden for the authorities, CCPs and individual market participants.

Further, it should be noted that the CCP simulation capacities and capacities to take on increased volumes are not a limiting factor for a market participant in scope of the AAR to demonstrate that all arrangements are in place to significantly increase their activity on their EU account. Rather, other elements in the ecosystem need to be considered as well in a situation where business currently executed and cleared at Tier 2 CCPs would have to be moved to EU CCPs. Notably, it would be important to ensure that there are internal systems and set-ups with execution venues and execution counterparts in place that are capable of splitting the portfolio at two CCPs if a transfer of positions and/or risk were required. In addition, it would have to be ensured that also the trading infrastructure is capable of dealing with moving higher volumes on EU clearing accounts.

To achieve ESMA's objective that any market participants subject to the AAR can demonstrate the ability to significantly increase activity at an EU CCP at short notice in order to ensure their compliance with the Level 1 requirements, we believe it is important that each market participant demonstrates and proves that their internal systems and their market set-up are capable of such an increase, in line with paragraphs (65) and (66) of ESMA's consultation paper. This could be achieved in two steps:

In a first step, to ensure compliance with the operational conditions b) and c) defined on Level 1, market participants would be subject to a self-certification process in the context of the reporting requirements under section 6 of ESMA's consultation paper towards the respective NCA, as some of this information will be deemed as sensitive by the market participants vis-à-vis a CCP.

The self-assessment would be a one-off exercise once market participants become subject to the AAR. Counterparties should provide such a self-assessment to their NCAs and subsequently to ESMA together with the information that they are already supposed to report under Section 6.2 of ESMA's consultation paper to demonstrate their compliance with the operational criteria b) and c). To our understanding, the first submission of the respective reports is due in early 2026. This way, the self-assessment would be available to the authorities, before they announce and assign the first stress tests (as outlined in Q4). According to section 6.2 of ESMA's consultation paper, market participants are already supposed to inform the authorities of any relevant changes to their internal

systems, procedures, and arrangements that have been set up to comply with the operational conditions b) and c) as part of the bi-annual reporting obligations. In case there would be relevant changes impacting the initial self-assessment, those could be reported in this context, too. Such an approach would streamline any reporting obligations for the operational conditions. For any market participants becoming subject to the AAR at a later stage, the Level 1 provision would equally apply, that the operational criteria under the AAR need to be fulfilled within 6 months of becoming subject to the new regime.

The self-certification format could be achieved by ESMA developing a questionnaire that NCAs could distribute to affected market participants for their self-assessment and collect the results. In addition to items named by ESMA, such self-certification should focus on specific factors describing whether any potential set-up at a Tier 2 CCP is already representatively replicated at an EU CCP. This would be a good indicator as to whether a market participant is in a good position to significantly increase activity at an EU CCP at short notice. Furthermore, the self-certification questionnaire should investigate if all the relevant counterparties are sufficiently set up in an EU CCP's simulation environment to successfully take part in the required stress tests (as outlined in Q4).

In a second step, market participants would have to practically demonstrate their capabilities by participating in an annual stress test organized by an EU CCP or EU CCPs to respect the Level 1 requirement that market participants subject to the AAR shall conduct a stress-test of the operational conditions at least once a year (please see Q4 for further details).

<ESMA\_QUESTION\_AAR\_03>

**Q4 Do you agree with the proposed approach for the annual stress-testing conditions (a), (b) and (c)?**

<ESMA\_QUESTION\_AAR\_04>

We broadly agree with the proposed approach.

However, with respect to the proposed certification by CCPs that a stress test was conducted to demonstrate that an account can withstand an increase of activity to 85% of the overall market activity, we would like to reiterate our comments and alternative approach provided to Q3 above. From a CCP point of view, there are no restrictions to scale up accounts to the proposed extent, but regular certification on the proposed exercise is an unnecessary burden for authorities, CCPs and market participants alike. Nevertheless, we understand that some kind of stress testing needs to be conducted to ensure that market participants can demonstrate their compliance with the Level 1 requirement around annual stress testing.

With a view to simplifying the stress testing and reducing the burden, whilst respecting the Level 1 provisions and objectives, Eurex therefore suggests refining the approach suggested by ESMA in the following way:

The stress testing requirement for market participants subject to the AAR should be split up and separated into (A) a regular business (i.e., new business) exercise, and (B) a one-time exercise for transferring a legacy book into an EU CCP.

For both aspects, market participants must have confirmed via a self-assessment in a first step as outlined in our response to Q3 that they are able to cope with both requirements. In a second step, they practically demonstrate their capabilities by participating in an annual stress test for (A) and for (B).

ESMA supported by the NCAs will define the framework for the stress test (B), the EU CCP(s) will define the practical approach for stress test (A), and the EU CCP(s) and market participants will conduct the exercises in the way described below.

In any case, it should be noted that the CCP(s) can provide the environment for the stress tests, but it cannot ensure the participation of each and every market participant subject to the AAR. Hence, it should be kept mind that it is the responsibility of each market participant subject to AAR to participate in the annual stress tests organized by the EU CCP of choice. Because ultimately, the Level 1 requirement to ensure compliance with the operational conditions of the AA regime, including the stress testing provisions, sits with the individual market participant. Further, as alluded to in ESMA's consultation paper, the CCP itself has a limited information on the activities of any market participants subject to the AAR and further, it has only direct relationships with Clearing Members and partly, with disclosed counterparties. Last but not least, it is up to the individual market participant to use the CCP of its choice out of those EU CCPs offering the respective clearing services.

#### Stress Testing (A) – New Business

- The EU CCP conducts an annual stress-test in a week of its choosing, where all market participants subject to AAR shall participate.
- The EU CCP will inform the market 3 months prior to the exercise via a public circular and information on the CCP's website that the exercise will be conducted, including the week when the stress test takes place. Clearing members (and ESMA) are invited to forward the information to any undisclosed counterparties subject to the AAR.
- During that week on a day of their choosing, market participants have to simulate that they are capable to conduct 85% of their average daily new business in relevant products on an EU CCP account.
- The EU CCP will report the cleared activity to ESMA in order to allow ESMA and NCAs to check compliance with the 85% stress testing requirement.
- In case counterparties are undisclosed to the EU CCP and clear their transactions via an undisclosed omnibus account of a clearing member, the undisclosed counterparty must enter its LEI in pre-agreed field of the trading venue and ensure that this information is passed to the EU CCP. The EU CCP shall announce the relevant fields in advance of the stress test.

#### Stress Testing (B) – Legacy Book Transfer

- The EU CCP conducts a quarterly portfolio switch simulation at weeks of its choosing.



- ESMA will assign the participation in this simulation on a rotating scheme and will inform [25-50] assigned market participants as well as the EU CCP about the selected market participants 3 months before the quarterly simulation.
- During that simulation it is the assigned market participants' obligation to participate in an EU CCP-coordinated effort to demonstrate their capabilities to transfer 85% of their legacy book held at a non-EU CCP into the EU in accordance with their self-certification mentioned above.
- The EU CCP will report the cleared activity to ESMA in order to allow ESMA and NCAs to check compliance with the 85% stress testing requirement.
- In case counterparties are undisclosed to the EU CCP and clear their transactions via an undisclosed omnibus account of a clearing member, the undisclosed counterparty must enter its LEI in pre-agreed field of the trading venue and ensure that this information is passed to the EU CCP. The EU CCP shall announce the relevant fields in advance of the stress testing.

The first stress tests shall be announced after ESMA and the NCAs have started to receive data from the market participants subject to the AAR on their activities (which we understand would be by end January 2026) with a lead time of [3] months. Therefore, first exercises could be targeted as of April 2026.

It is worth noting that for these stress-testing events to be successful, relevant trading and affirmation venues also need to be able to support such activities as this is how trades will need to be entered into the simulation environment of the EU CCP.

As the information who is subject to the AAR and the level of activity per market participant is only available to ESMA and the NCA, ESMA supported by the NCAs should select the market participants for the rotating scheme in stress test (B) as alluded to above.

According to the draft RTS, market participants need to regularly report their activities under the AAR to the NCAs and ESMA. With the EU CCP reporting the results of the simulations to ESMA and the NCAs, the authorities would be able to match the data received from the market participants on the current level of activity and the data received from the CCP stress tests on market participants' operational capacity to switch on new and legacy business. Being mindful that market participants are supposed to report their activities to the authorities every 6 months for monthly aggregated data, ESMA could consider adding to the current reporting requirements in their draft RTS that market participants also report the level of weekly activity for the specific stress test week. This way, it would be easier for ESMA to reconcile the data for the stress test week received from the market participants and the CCP.

It is worth noting in this context that the extraordinary provision of the LEI of usually undisclosed counterparties is necessary to allow ESMA a simplified reconciliation between CCP activity data and counterparty activity data for the specific stress test week. The entry of the LEI for undisclosed counterparties shall only be required and done during the stress-testing in the CCP simulation environment.

If the provision of the LEI raises any concerns by the undisclosed counterparties, ESMA can alternatively offer the possibility to the counterparty to obtain a unique 10-digit alphanumeric identification code from ESMA. This code can be used by the counterparty during the stress test as

outlined above and included by the CCP in their report to ESMA. Only ESMA will then be in the position to identify the counterparty.

**To conclude, our alternative approach suggested in Q3 and Q4 aims to simplify the proposed certification and stress test procedures in the following way:**

- The requirement for market participants to provide regularly a copy of a certification by their CCP on activity increases on account level could be reconsidered, reducing the burden for market participants, CCPs and authorities alike to run regular simulations on account level and report the conducted simulations.
- Instead, the **CCP could confirm its own operational capacity** to take on increased activity towards their NCA and ESMA annually.
- In addition, **market participants could do a self-certification** towards the authorities to demonstrate compliance with the operational requirements b) and c) mandated by the Level 1 text. To streamline any reporting and certification obligations for demonstrating compliance in this respect, the self-assessment could be a one-off exercise once a market participant becomes subject to the AAR and only relevant changes to the self-assessment would have to be reported as part of the bi-annual reporting obligations for the operational criteria required by the Level 1 text.
- The EU CCP would organize annual stress tests, based on a framework defined by ESMA supported by the NCAs, to facilitate market participants' compliance with their annual stress testing obligation defined in the Level 1 text.
- With regard to reporting, the EU CCP would not only inform ESMA and its NCA directly about its operational capacities as mentioned above, taking out the need for regular reporting on market participant level. The **EU CCP would also directly submit the results of the stress tests** to ESMA and the NCAs, who could reconcile the stress testing data with the activity data reported by each market participant to the authorities in accordance with the proposed reporting provisions under the AAR.
- The **first stress test exercises would only start as of April 2026**, giving the authorities, CCP(s) and market participants some lead time to set up the required frameworks, procedures, and information channels.

<ESMA\_QUESTION\_AAR\_04>

**Q5 Do you agree with the differentiated frequency for the stress-testing depending on the counterparties' clearing activities? Would you suggest any other way to take into account the proportionality principle?**

<ESMA\_QUESTION\_AAR\_05>

Please refer to our comments to Q3 and Q4 with respect to the proposal to provide a copy of a written confirmation by the EU CCP providing the active account on the conducted simulations.

We believe an annual exercise would be sufficient and reiterate our previous comments to consider an alternative approach to the proposed simulation, stress testing and certification of conducted exercises.

<ESMA\_QUESTION\_AAR\_05>

**Q6 Do you agree with the proposed classes of derivatives for EUR OTC IRD?**

<ESMA\_QUESTION\_AAR\_06>

Yes, we agree and believe these are appropriate.

<ESMA\_QUESTION\_AAR\_06>

**Q7 Do you agree with the proposed classes of derivatives for PLN OTC IRD?**

<ESMA\_QUESTION\_AAR\_07>

Yes, we agree and believe these are appropriate.

<ESMA\_QUESTION\_AAR\_07>

**Q8 Do you agree with the proposed classes of derivatives for EUR STIR?**

<ESMA\_QUESTION\_AAR\_08>

Yes, we agree and believe these are appropriate.

<ESMA\_QUESTION\_AAR\_08>

**Q9 Do you agree with the proposed maturity and trade size ranges for each class of derivatives in EUR OTC IRD?**

<ESMA\_QUESTION\_AAR\_09>

Yes, we agree and believe these are appropriate.

<ESMA\_QUESTION\_AAR\_09>

**Q10 Do you agree with the proposed maturity and trade size ranges for each class of derivatives in PLN OTC IRD?**

<ESMA\_QUESTION\_AAR\_10>

Yes, we agree with the proposed ranges and understand the rationale behind ESMA's choices.

However, as alluded to in our comment to Q11 with regard to the proposal to assign "any trade size" as the trade size ranges, we would assume this would mean that the trades cleared on the EU account need to reflect the average trade size for the respective contracts conducted on the non-EU account rather than just any trade in order to be considered representative in line with the political objectives of the AAR. We would hence appreciate a clarification by ESMA along those lines for convergent and effective implementation.

<ESMA\_QUESTION\_AAR\_10>

**Q11 Do you agree with the proposed maturity and trade size ranges for each class of derivatives in EUR STIR?**

<ESMA\_QUESTION\_AAR\_11>

Yes, we agree and believe the proposed ranges are broadly appropriate.

However, we believe it is important that the maturity ranges are consistent with market conventions. In the STIR market, the maturities are represented and defined by monthly expiries, that are translated in packs and bundles (coloured, see diagram below), with 0-6 months containing the first two quarterly futures and further monthly expiries "serials". Together with the 6-12 month bucket with a total of two quarterly futures, these two buckets form the "white" expiries. Subsequently, every 12 months are each expressed by a specific colour, e.g. 12-24 months "red" and 24-36 months "green" and so forth (see Table 1).

Notably, the suggested maturity ranges for Euribor with 0-6, 6-12, 12-18, +18 M do not perfectly coincide with the volume and open interest profiles observed in Euribor futures. 80% of volumes at the incumbent Tier 2 CCP for Euribor futures is traded in expirations up to two years ("whites" and "reds"). Further, approximately 10% of open interest trades in "green" STIR contracts expiries and nearly the same amount of open interest lies in the 18-24 M expiries (ca. 550k vs 520k) as demonstrated in Table 1 below.

For a better balance of the activity reflected per tenor, maturity ranges of 0-6 (for which we would estimate approximately 25% of trading volume and approximately. 30% of Open Interest), 6-12

(approximately 25% of trading volume; approximately 25% of Open Interest), 12-24 (approximately 30% trading volume; approximately 25% Open Interest) and +24M (approximately 25% trading volume; approximately 20% Open Interest) would better reflect the current market convention for segmenting tenors in Euribor futures and hence be a more appropriate reflection of trading and exposure patterns.

ERG5 Comdty		Export		Settings			
Three Month EUR Euribor Futures							
Source		ICE Futures Europe Financials		Session		Display Quoted Value	
Exchange Symbol				Currency EUR			
Aggr Vol		1,248,613		Aggr Open Int		4,702,594	
Futures		Spreads		Strategies			
							Color Legend
Description	Last	Volume	Chg	Settle	Bid	Ask	Open Int ↓
1) Spot			--			2.6810	
2) Feb25	97.4550s	9383	--		97.4600	97.4650	72041
3) Mar25	97.5650s	126711	--		97.5650	97.5700	641043
4) Apr25	97.6600s	4829	+0.0050		97.6550	97.6650	44229
5) May25	97.7400s	754	+0.0050		97.7350	97.7450	4637
6) Jun25	97.7900s	178279	+0.0050		97.7850	97.7900	706493
7) Jul25	97.8300s	590	+0.0100		97.8200	97.8300	152
8) Sep25	97.8900s	112261	+0.0100		97.8850	97.8900	521732
9) Dec25	97.9300s	146291	+0.0100		97.9250	97.9300	665936
10) Mar26	97.9150s	127550	+0.0050		97.9100	97.9150	407560
11) Jun26	97.8800s	96372	+0.0050		97.8750	97.8800	339712
12) Sep26	97.8400s	86687	+0.0050		97.8300	97.8350	269167
13) Dec26	97.8050s	71813	+0.0050		97.7950	97.8000	282650
14) Mar27	97.7700s	61073	--		97.7600	97.7700	163454
15) Jun27	97.7400s	46251	--		97.7350	97.7400	127052
16) Sep27	97.7150s	39295	--		97.7050	97.7100	98187
17) Dec27	97.6950s	36555	--		97.6850	97.6900	132806
18) Mar28	97.6700s	17859	--		97.6600	97.6650	52244
19) Jun28	97.6450s	21639	--		97.6400	97.6450	43445

Table 1: Open interest overview for Euribor futures at the incumbent Tier 2 CCP

More importantly, however, with respect to the trade size ranges for EUR STIR products, where “any trade size” is proposed, we would assume this would mean that in general the average trade size rather than just any trade or just 1 contract will have to be considered and reflected for the trades represented on the EU account. Hence, as alluded to in our response to Q10, we would appreciate a clarification by ESMA for convergent and effective implementation in line with the political objectives of the AAR. In this respect, we would recommend that the representative trade size should be assessed for the STIR contract classes to see what trade sizes were entered into execution systems (pre-trade). The trade size for the representative trade on the EU account should be on average in line with the trade size generally entered into the execution systems. The pre-trade perspective takes into consideration that is such trades are executed in an orderbook that market participants do not have control over the matched trade sizes. Furthermore, the incumbent Tier 2 CCP currently uses a “pro-rata” matching algorithm which leads to a strong dilution of the average trade size.

<ESMA\_QUESTION\_AAR\_11>

**Q12 Do you agree with the proposed number of most relevant subcategories for each clearing service of substantial systemic relevance? Do you think this should be set at a more granular level (i.e. per class of derivatives)?**

<ESMA\_QUESTION\_AAR\_12>

Yes, we agree with the proposed numbers per product and believe they appropriately reflect where the most relevant trading activity and risk exposures sit.

While we agree with ESMA that the number could in principle be set at the level of the class of derivative as well to make sure it is reflecting the individual class's specificities, we believe the proposed number on the higher level is equally appropriate, already reflecting the adequate number on the more granular level, and that it is line with the parameter provided by Art. 7a(4) of EMIR, stating that this number cannot be higher than five.

Further, as a more general comment, we would like to highlight that we appreciate ESMA's approach to provide a flexible grid to market participants to allow them to identify their individual most relevant subcategories for each class of derivative in scope based on their individual portfolio and profile.

In addition, we understand that market participants appreciate ESMA's guidance on the use and notification of the "1 trade relief", i.e., to clear only 1 trade instead of 5 trades per subcategory in case the required activity under the representativeness criterion would amount to more than half of a market participant's activity of the previous year. However, it appears to remain unclear to market participants if they need to calculate the trading activity in only one subcategory or across all subcategories for a class of derivative in scope to make use of the relief, and if the 1 trade relief applies respectively only to one subcategory or across all subcategories per class of derivative. We would therefore welcome a respective clarification in the ESMA draft RTS that the calculation and application would refer to the individual subcategory and not across the board for all subcategories to ensure legal certainty.

Finally, we understand that market participants would appreciate more legal clarity on how compressed trades count. For instance, it is unclear how such trades need to be counted towards the activity considered under the representativeness criterion, if there are two trades that are off-setting each other in a compression cycle in the respective reference period. We would therefore welcome if ESMA could clarify the treatment of compressed trades in the final RTS. Given that compression is a post-trade activity, we would recommend excluding all trades linked to compression activities from the representative trade portfolio assessment.

<ESMA\_QUESTION\_AAR\_12>

**Q13 Do you agree with the proposed reference periods for EUR OTC IRD? Do you think the reference periods should be set at a more granular level (i.e. class of derivatives)?**

<ESMA\_QUESTION\_AAR\_13>

Yes, we agree and believe these are appropriate.

As a more general observation with regard to the reference periods, we understand that the start of the reference period – not only for EUR OTC IRD but equally for all products in scope – remains unclear to market participants. We would support the recommendation of market participants' industry associations to clarify how market participants can select the reference period to ensure legal certainty. It would also be useful to clarify how the reference periods relate to the average of required trades to be achieved on an annual basis per subcategory and per class of derivative in scope, e.g., if any rolling over would be possible.

<ESMA\_QUESTION\_AAR\_13>

**Q14 Do you agree with the proposed reference period for PLN OTC IRD? Do you think that the reference periods should be set at a more granular level (i.e. class of derivatives)?**

<ESMA\_QUESTION\_AAR\_14>

Yes, we agree and believe it is appropriate.

<ESMA\_QUESTION\_AAR\_14>

**Q15 Do you agree with the proposed reference periods for EUR STIR referenced in Euribor? Do you agree with the proposed reference periods for EUR STIR referenced in €STR?**

<ESMA\_QUESTION\_AAR\_15>

Yes, we agree and believe the proposed reference periods are broadly appropriate. However, considering the recent liquidity development in ESTR which shows that this segment has become a very liquid market in the meantime, we would recommend aligning the reference period for ESTR contracts with the one applied to Euribor.

Eurex observes robust growth in open interest for ESTR Futures with open positions increasing from 45k contracts in April to 329k by the end of November 2024. Daily average volume growth

has also been strong, at 22.5% over the past 6 months, and over 69% since the start of the year. The market share at Eurex continues to expand, currently standing at 54% year-to-date. Visible order book liquidity for ESTR Futures has also improved, with spreads significantly narrowing since mid-January to well below two ticks. The average top-of-book liquidity also increased since February 2024 (+100 lots) and has notably surged since April (+300 lots).

In addition, the market dynamics towards listed ESTR derivatives are evolving beyond the Eurex product offering. Euribor futures traded 1.56 m contracts per day (cpd) in 2024 split between Eurex at 95k cpd and ICE Europe at 1.47 mn cpd. Open interest in Euribor futures currently stands at 4.38 mn at ICE Europe and 130k at Eurex. ESTR volumes and open interest represent an increasing share of European money market risk traded via listed futures. Across the three venues offering ESTR futures, daily volume reached 189k cpd in November 2024, with 102k trading at Eurex, while ICE Europe and CME reported daily trading volumes of 72k and 14k respectively. Open interest in ESTR Futures currently stands at 935k across the three exchanges, with 349k at Eurex, 862k at ICE Europe and 72k at CME. The volume and open interest share of ESTR to Euribor futures has increased to 12% of its volume and is in excess of 20% of its open interest.

An alignment of the reference periods of Euribor and ESTR derivatives as suggested above would also provide a further, important formal impetus in support of the benchmark transition from the legacy to the new reference rate, also as trading volumes in ESTR are currently still heavily driven by market makers.

Against this background, ESMA could consider that the reference periods for Euribor and ESTR should be the same and set at the suggested level for Euribor.

<ESMA\_QUESTION\_AAR\_15>

**Q16 Do you agree with the proposed approach for the reporting of the activity and risk exposures of the counterparty subject to the active account requirement?**

<ESMA\_QUESTION\_AAR\_16>

NA

<ESMA\_QUESTION\_AAR\_16>

**Q17 Do you consider that including information on margin activity in the AAR reporting requirement would provide valuable information on the activities and risk exposures of the counterparty?**

<ESMA\_QUESTION\_AAR\_17>



Given that the representativeness criterion is largely based on trade numbers and trading activity, while ESMA will have to assess according to Art. 7a(19) EMIR 3.0 if the AAR has helped with achieving the objective of reducing risk exposures and therefore the systemic risk to the EU's financial stability, we understand ESMA's rationale behind this proposal and would agree that including margin information in the period reporting may help ESMA with monitoring the changes in the activities and risk exposures of the market participants subject to the new AAR regime.

It could be considered to request additional information to be provided which is not yet part of existing EMIR reporting to ensure that ESMA can more easily assess the information received for meeting the regulatory requirement mentioned above: notably, that the margin figures used for the reporting could be calculated for each product pool (i.e., EUR OTC IRD, PL OTC IRD and STIR). To this end, the portfolio at month-end could be taken and theoretical margins could be calculated with tools provided by the respective CCP where the positions were held at the snapshot point.

<ESMA\_QUESTION\_AAR\_17>

**Q18 Do you consider that including reporting on Unique Trade Identifiers (UTIs) would provide valuable information from a supervisory perspective?**

<ESMA\_QUESTION\_AAR\_18>

NA

<ESMA\_QUESTION\_AAR\_18>

**Q19 Do you agree with the proposed approach for the reporting of the operational conditions?**

<ESMA\_QUESTION\_AAR\_19>

Please refer to our comments to Q3 to Q5 with respect to the proposals to provide a copy of a written confirmation by the EU CCP providing the active account on the conducted simulations as part of the reporting, where we suggest an alternative approach.

<ESMA\_QUESTION\_AAR\_19>

**Q20 Do you agree with the proposed approach for the reporting of the representativeness obligation?**

<ESMA\_QUESTION\_AAR\_20>

NA

<ESMA\_QUESTION\_AAR\_20>

**Q21 Do you agree with the proposed approach to standardise the reporting arrangements under the active account requirement?**

<ESMA\_QUESTION\_AAR\_21>

We agree with ESMA's suggestion to provide more guidance how to report as some questions on the practical implementation appear to be unresolved. If further ESMA Guidance can help resolving those questions and facilitate efficient, effective and convergence reporting, it would be useful for the market participants subject to the new reporting requirements to receive such Guidance prior to the first data submission to the authorities, which we expect to take place at the end of January 2026.

<ESMA\_QUESTION\_AAR\_21>