

12 November 2024

## Survey for Entities Within the Scope of Initial Margin Model Authorisation under EMIR 3

This Circular is being addressed to all market participants, particularly entities which enter into derivative contracts, and which fall within the scope of EMIR, namely, financial counterparties ('FCs') and non-financial counterparties ('NFCs') as defined under EMIR.

### Overview

The Authority would like to inform market participants that with support from the European Securities and Markets Authority ('ESMA') and the European Insurance and Occupational Pensions Authority ('EIOPA'), the European Banking Authority ('EBA') has launched a survey addressed to entities within the scope of the initial margin ('IM') model authorization regime, introduced by the upcoming revised European Market Infrastructure Regulation (EMIR 3).

### Background

On 7 December 2022, the European Commission published its proposal to amend EMIR as regards measures to mitigate excessive exposures to third-country central counterparties and improve the efficiency of Union clearing markets. On 7 February 2024, the European Parliament and the Council reached a political agreement on a compromise text (EMIR 3), which was formally endorsed by the two institutions on 4 March 2024 and 14 February 2024, respectively.

EMIR 3 is expected, in accordance with its Article 11(12a), to grant the EBA the additional task to set up a central validation function for the elements and general aspects of pro-forma models (such as ISDA SIMM), and changes thereto, used or to be used by a subset of financial and non-financial counterparties as part of the risk mitigation techniques used on their portfolios of non-centrally cleared OTC derivatives.

On 31 July 2024, the EBA received a Call for advice on a possible Delegated Act on fees to be charged to financial and non-financial counterparties requiring the validation by the EBA of pro-forma models, with the request to submit its response by Q2 2025. As part of its response, the EBA is requested to provide a 'quantitative and qualitative cost-benefit analysis of all the options considered and proposed' and to 'widely consult market participants'.

In turn, the EBA, in cooperation with ESMA and EIOPA, is seeking general information on entities within the scope of IM model authorisation, as well as specific information relevant for fee calculation and on initial margins and IM models used.

## Who should respond to the survey?

Entities currently subject to the requirement to exchange initial margin in accordance with Article 36 of [Commission Delegated Regulation \(EU\) 2016/2251](#) are expected to fill in this survey. This refers to entities meeting both of the following criteria:

- their aggregate average notional amount (computed at the level of the consolidated group) exceeds 8 bn EUR; and
- they use at least one IM model to comply with the requirement to exchange initial margin.

All entities of a group that are subject to this requirement are expected to fill in the survey separately, at entity level.

## Next Steps

Responses should be submitted by Friday, 29 November 2024, via the online tool which can be accessed using this [link](#). To access the survey, a password must be used, which can be obtained from trade associations and competent authorities. Non-supervised entities can contact [eba-immv@eba.europa.eu](mailto:eba-immv@eba.europa.eu).

## Contacts

Should you have any queries relating to the above kindly contact the Authority on [EMIR@mfsa.mt](mailto:EMIR@mfsa.mt).