

Response Form to the Consultation Paper on the clearing and derivative trading obligations in view of the 2022 status of the benchmark transition



Responding to this paper

ESMA invites comments on all matters in this consultation paper and in particular on the specific questions. 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 **30 September 2022**.

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:

1. Insert your responses to the questions in the Consultation Paper in the present response form.
2. Use this form and send your responses in Word format (**pdf documents will not be considered except for annexes**):
3. Please do not remove tags of the type <ESMA_QUESTION _RFRR_1>. Your response to each question has to be framed by the two tags corresponding to the question.
4. 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.
5. When you have drafted your response, name your response form according to the following convention: ESMA_RFRR_nameofrespondent_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA_RFRS_ABCD_RESPONSEFORM.
6. Upload the form containing your responses, **in Word format**, to ESMA's website (www.esma.europa.eu under the heading "Your input – Open Consultations" -> Consultation Paper on the clearing and derivative trading obligations in view of the benchmark transition").

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 publically 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 under the heading [Legal Notice](#).



Who should read this paper

All interested stakeholders are invited to respond to this consultation paper. In particular, responses are sought from counterparties of OTC derivatives transactions which are subject to the clearing obligation or to the derivative trading obligation as well as from CCPs and Trading Venues.

General information about respondent

Name of the company / organisation	Associazione Intermediari Mercati Finanziari - ASSOSIM
Activity	Investment Services
Are you representing an association?	<input checked="" type="checkbox"/>
Country/Region	Italy



Questions

Introduction

Q1 Are there any general comments you would like to raise?

<ESMA_QUESTION_RFRR_1>

Preliminarily, please note that all the responses were drafted in cooperation with the Italian Banking Association – ABI.

We do not have any general remarks on the Introduction, the “Status of the Benchmark Reform” (section 2.1), the “Status of the CO and DTO in other jurisdictions” and the “Status of the CO and DTO RTSs affected by the benchmark reform” (respectively, sections 2.2 and 2.3).

<ESMA_QUESTION_RFRR_1>

General analysis

Q2 Are there any other aspects of the transition that need to be taken into account?

Please share any data that would help qualify further the progress with the transition or any other aspects that you think should be considered.

<ESMA_QUESTION_RFRR_2>

We do not have remarks to add on the analysis of the transition described by ESMA.

<ESMA_QUESTION_RFRR_2>

Clearing obligation

Q3 Do you agree with the assessment of the EMIR criteria and with the proposed classes? Do you also agree that the maturities for SOFR OIS could be extended, including up to 50 years? If not, please detail how the assessment could differ and please also provide data and information to justify a different assessment.

<ESMA_QUESTION_RFRR_3>

The proposal to extend the scope of application of EMIR’s clearing obligation (CO) to certain OIS contracts referring to JPY TONA (7D-30Y) does not seem to have particular implications. As far as it concerns the following proposals:

- to extend the CO’s scope of application to certain OIS contracts referring to USD SOFR (up to 50Y), and
- to extend the scope of application of the DTO (trading obligation on the trading venue for derivative instruments) to certain classes of OIS referring to €STR,

although, as a whole, they appear to be viable and acceptable, as consistent with the market evolution, we cannot exclude that they might have some implications (specifically for the USD based contracts).

<ESMA_QUESTION_RFRR_3>

Q4 Do you agree with the proposed implementation of the changes? if not please provide details that could justify a different implementation.

<ESMA_QUESTION_RFRR_4>



The implementation timeline suggested by ESMA deserves some specific attention, as the Authority does not provide for "phase-in" periods which would ensure an orderly and timely implementation of the changes proposed.

In fact, it should be noted that in the period 2021-2022 the entire process that led to the adoption of the Delegated Regulations EU 2022/749 and 2022/750 lasted approximately ten months (we refer to the process starting with ESMA's consultation, followed by the publication of the ESMA RTS Draft and the legislative process in the EU of the Delegated Regulations, up to their adoption by the European Commission and their entry into force).

Should this consultation (dated 11/07) represent the beginning of a similar process lasting approximately a year, the changes proposed by ESMA could potentially be applied approximately from June 2023, i.e., a particularly critical time of the year as coinciding with the final discontinuation of the USD LIBOR (which could be somehow defined as "a turning point").

Therefore, given the likelihood of this scenario, we would consider appropriate for ESMA to provide for a delay between the date of entry into force of the proposed changes and their effective application, calibrated in such a way as to avoid coincidence with the month of June 2023.

<ESMA_QUESTION_RFRR_4>

Trading Obligation

Q5 Do you agree with this assessment and therefore, not to introduce DTO for contracts referencing TONA, SONIA and for the time being SOFR? If not, please explain.

<ESMA_QUESTION_RFRR_5>

We do not have remarks opposing the assessment presented by ESMA not to introduce DTO for contracts referencing TONA, SONA and SOFR.

<ESMA_QUESTION_RFRR_5>

Q6 Do you agree with this assessment? Do you consider that also contracts with constant notional and 3 months tenor and trade start date Spot (t+0) should be subject to the DTO? If so, please specify also the other relevant standardised parameters used with those contracts. Do you consider that also contracts with constant notional and 3 years tenor and trade start date second next IMM date shall be subject to the DTO? If so, please specify also the other relevant standardised parameters used with those contracts. Should other tenors be considered for the DTO?

<ESMA_QUESTION_RFRR_6>

We do not have remarks contrary to the assessment presented under Section 6.2.2 on contracts referencing €STR and their inclusion under DTO.

<ESMA_QUESTION_RFRR_6>

Q7 Do you agree with this assessment? Do you consider that also the daily floating leg reset frequency is a standardised contract feature that could be considered for the DTO?

<ESMA_QUESTION_RFRR_7>

On this specific regard, we have not gathered sufficient evidence and, accordingly, we do not have remarks contrary to the assessment presented under pages 51-54 by ESMA.

<ESMA_QUESTION_RFRR_7>

Q8 Do you agree with this proposal? If not, what amendments do you think are necessary?

<ESMA_QUESTION_RFRR_8>

We agree on the content presented on page 55 and we gathered no comments as to any possible amendments.

<ESMA_QUESTION_RFRR_8>

Q9 Do you agree with proposing to not provide for an implementation period for the entry into force of the amended DTO? If not, please explain.

<ESMA_QUESTION_RFRR_9>

Regrettably, we do not agree with the proposal of excluding any implementation period for the entry into force of the amended DTO.

We believe that providing for a "phase-in" period would ensure an orderly and timely implementation of the changes proposed.

In fact, as also reported under Q.4, it should be noted that in the period 2021-2022 the entire process that led to the adoption of the Delegated Regulations EU 2022/749 and 2022/750 lasted approximately ten months (we refer to the process starting with ESMA's consultation, followed by the publication of the ESMA RTS Draft and the legislative process in the EU of the Delegated Regulations, up to their adoption by the European Commission and their entry into force).

Should this consultation (dated 11/07) represent the beginning of a similar process lasting approximately a year, the changes proposed by ESMA could potentially be applied approximately from June 2023, i.e., a particularly critical time of the year as coinciding with the final discontinuation of the USD LIBOR (which could be somehow defined as "a turning point").

Therefore, given the likelihood of this scenario, we would consider appropriate for ESMA to provide for a delay between the date of entry into force of the proposed changes and their effective application, calibrated in such a way as to avoid coincidence with the month of June 2023.

<ESMA_QUESTION_RFRR_9>

Cost-benefit analysis

Q10 Are there other elements that should be taken into account and that would impact the outcome of the cost-benefit analysis? Please provide quantitative and qualitative details

<ESMA_QUESTION_RFRR_10>

We have not gathered other elements that should be taken into account and that would impact the outcome of the cost-benefit analysis.

<ESMA_QUESTION_RFRR_10>