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**UK EMIR REFORM – IDEAS FROM EMIR 3.0 (AND OTHER REFORMS)**  
JUNE 2025

# SUMMARY OF PROPOSALS FOR UK EMIR REFORM BASED ON EMIR 3.0 CHANGES

EMIR 3.0 change	Proposal for UK EMIR reform	See page(s)
<b>Clearing:</b>		
• Active account obligation	✗	9
• Prudential changes relating to clearing	✗	9
• Regulatory counterparty risk limits for UCITS and MMFs	✓	8
• Information requirements for clearing providers	Awaiting consultation shortly	9
• Reporting requirements for firms clearing at non-EU CCPs	✗	9
• Exemption for OTC derivatives with non-EU pension schemes	No preference	9
• Exemption for post-trade risk reduction services	✗*	7
• Limitations on NFCs becoming clearing members	✗	9
• Eligibility of guarantees as CCP collateral from NFCs	Awaiting consultation shortly	7
• Measures to facilitate porting of client positions	✓ (with modifications)	7
• Margin transparency	Awaiting consultation shortly	8
<b>Counterparty categorisation</b>	✓ (with modifications)	11
<b>Risk mitigation obligations:</b>		
• Permanent exemption from the margin obligation for equity options	✓	13
• Implementation period for NFC-s which become NFC+s	✓	14
• IM model approval	✗	14
<b>Reporting:</b>		
• Measures to improve data quality	✗	16
• Enhanced penalties for systematic manifest errors	✗	16
• Group reporting requirements for NFCs using intragroup exemption	✗	18
• Removal of equivalence condition for NFC-s which trade with non-EU FCs	✓ (with modifications)	16
<b>Intragroup transactions and equivalence:</b>		
• Removal of equivalence condition	✓ (with modifications)	18
• De-linking CVA exemption from EMIR	✓ (with modifications)	19
• Article 13 equivalence mechanism changes	✓ (with modifications)	20

\* Bank of England already has a power to exempt transactions resulting from PTRR services from the clearing obligation.

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# SIMPLIFICATION AND BURDEN REDUCTION

## REPORTING



### Comprehensive holistic review

#### Proposals for UK EMIR and MiFIR Reform

- Carry out a holistic review of EMIR and MiFIR reporting to identify inefficiencies, duplication across regimes, and data currently reported that is not required for the scope of either regime. Such a review would enable the following:
- Removal of duplication of data reported across both regimes.
- Removal of any requirements to report data not required for scope of each respective regime.
- The removal of requirements to report data contained in client and product identifiers that are also reported.
- Implementation of machine readability and semantic accuracy or reporting requirements (“requirements as code”).
- Ultimately implement “report once, use data many times” framework.



### Single-sided reporting

#### Proposal for UK EMIR Reform

- Introduce single-sided reporting for OTC derivatives where both counterparties are subject to UK EMIR reporting and delegated reporting is being performed by one of those parties (either voluntary or mandatory delegated reporting). This could be done without compromising the quality of data reported or reducing the market transparency available to regulators.
- Require transactions cleared at UK CCPs to be reported by the CCP only. This will remove the need to pair and match, reduce compliance costs and improve data quality. It will also align the UK regime with the US approach.
- Ultimately introduce single sided reporting for all transactions in OTC derivatives



### Replace OTC ISINs with UPIs

#### Proposal for UK EMIR and MiFIR Reform

- OTC derivatives should be identified using the Unique Product Identifier (UPI) rather than ISINs.
- This would align the UK with global standards, overcome some of the shortcomings of the ISIN and result in more meaningful reporting.



### Remove requirement to report Personal identification information (PII)

#### Proposal for UK MiFIR Reform

- Provision and management of highly sensitive PII data is extremely burdensome for market participants.
- The proposed holistic review should be empowered to identify less-sensitive alternatives to PII that would still enable the identification of those personnel that make an investment decision leading to a trade, and those that execute that trade.



### Back reporting of errors

#### Proposal for UK EMIR and MiFIR Reform

- Where reports have been submitted with incomplete or incorrect data, it is onerous for reporting parties to resubmit the entire corrected report.
- It should be possible instead to submit only the missing or corrected data, without cancelling the previously submitted report.

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## EXEMPTION FOR POST-TRADE RISK REDUCTION TRANSACTIONS

### EMIR 3.0 position

- EMIR 3.0 seeks to encourage the use of post-trade risk reduction (PTRR) services by exempting resulting transactions from the clearing obligation.
- To be an eligible PTRR exercise, various conditions must be met which will be further specified by ESMA in RTS.

### Proposal for UK EMIR Reform

- In the UK, the Bank of England already has the power (introduced by FSMA 2023) to make rules exempting transactions resulting from risk reduction services from the UK clearing obligation. The Bank of England has not yet consulted on proposed rules (although the FCA has made rules exempting such transactions from the UK DTO).
- The Bank of England should make rules to exempt these transactions from the clearing obligation as soon as possible, as this tool will reduce risk in the bilateral derivatives market, including liquidity risk.



## CCP ELIGIBLE COLLATERAL

### EMIR 3.0 position

- EU CCPs are able to accept public guarantees, public bank guarantees and commercial bank guarantees as collateral from NFCs, provided certain conditions are met (which will be further specified by ESMA in RTS).
- Such guarantees must be unconditionally available upon request within the liquidation period and a CCP must set in its operating rules the minimum acceptable level of collateralisation for the guarantees it accepts and may specify that it can accept fully uncollateralised bank guarantees.

### Proposal for UK EMIR Reform

- We understand that questions around collateral eligibility will be discussed in a July consultation. We look forward to responding to that consultation shortly.



## MEASURES TO FACILITATE PORTING OF CLIENT POSITIONS

### EMIR 3.0 position

- EU CCPs must port all of a defaulting clearing member's client assets and positions to another designated clearing member unless the client objects (previously CCPs had been required to obtain consents from each affected client after a default).
- To facilitate the transfer of a client's positions in the event of a clearing member default:
  - the receiving clearing member may, for three months from the date of transfer, rely on the due diligence performed by the defaulting clearing member for the purposes of complying with its anti-money laundering (AML) obligations; and
  - where the receiving clearing member is subject to EU CRR, it must comply with the capital requirements for exposures of clearing members towards clients within a period agreed with its NCA, which must not exceed three months from the date of transfer.

### Proposal for UK EMIR Reform

- Similar changes should be made to the UK regime to: (i) allow receiving clearing members to rely on AML due diligence performed by defaulting clearing members; and (ii) give time to receiving clearing members to comply with capital requirements for exposures to ported clients.
- More generally, the UK should consider incorporating (with modifications) the post-default and porting requirements in UK EMIR into Part VII of the Companies Act 1989. ISDA and UK Finance would welcome a discussion with HMT on recommended modifications.

# CLEARING

## (CONTINUED)

Article 38(8) EU EMIR and various articles in UCITS Directive and MMF Regulation



### MARGIN TRANSPARENCY

#### EMIR 3.0 position

- CCPs must provide clearing members with a simulation tool allowing them to determine the amount of additional initial margin at portfolio level that the CCP might require upon the clearing of a new transaction, including a simulation of the margin requirements that they might be subject to under different scenarios.
- CCPs must also provide clearing members with information on the initial margin models used, including methodologies for any add-ons, in a clear and transparent manner.
- Clearing members and clients that provide clearing services must provide clients with information about how CCPs' margin models work, including in stress events, including a simulation of the margin requirements to which clients might be subject under different scenarios. The simulation must include both the margins required by the CCP and any additional margins required by the clearing member or client providing clearing services.
- Upon the request of a clearing member, a CCP must, without undue delay, provide that clearing member with the information requested to allow that clearing member to comply with its obligations to provide information to its clients, unless such information is already provided by the CCP.

#### Proposal for UK EMIR Reform

- We understand that CCPs margin transparency will be discussed in a July consultation. We look forward to responding to that consultation shortly.
- We understand that the PRA may, at a later date, update requirements on PRA-regulated banks with regards to clearing member transparency to clients.



### REGULATORY COUNTERPARTY RISK LIMITS

#### EMIR 3.0 position

EMIR 3.0 amends the MMF Regulation and the UCITS Directive to set regulatory counterparty risk limits by reference to whether or not the relevant transaction is cleared at an EU CCP or a recognised non-EU CCP, with generally lower or no limits set where clearing takes place at such CCPs.

#### Proposal for UK EMIR Reform

ISDA and UK Finance support amending the UK rules for UCITS to exclude cleared derivatives from the OTC counterparty exposure limits.



## CLEARING (CONTINUED)

EMIR 3.0 change	Description	Proposal for UK EMIR Reform
<b>Exemption for non-EU pension schemes</b> (Article 4(1) EU EMIR, second subparagraph)	To ensure a formal EU-wide exemption, EMIR 3.0 exempts transactions from the EU clearing obligation with non-EU pension schemes which: (i) are established in a third country; (ii) operate on a national basis; (iii) authorised, supervised and recognised under national law; (iv) have as their primary purpose the provision of retirement benefits; and (v) are exempted from the clearing obligation under their national law.	No preference
<b>Active account obligation</b> (Articles 7a and 7b EU EMIR)	Some EU market participants will need to hold active accounts with EU CCPs and clear a representative number of trades through these accounts. In-scope market participants will also need to report regularly to NCAs to facilitate monitoring of the active account obligation.	ISDA and UK Finance do not support making the same changes to UK EMIR. Such requirements may lead to greater market fragmentation, potentially creating systemic and operational risks.
<b>Information requirements for clearing providers</b> (Articles 7c EU EMIR)	Providers of clearing services will need to provide information to clients to ensure they can take informed decisions where to clear their derivative transactions.	Firms that provide clearing services question the benefit to clients of such requirements.
<b>Reporting requirements for firms clearing at non-EU CCPs</b> (Article 7d EU EMIR)	To increase the EU's visibility over clearing activities taking place at non-EU CCPs, clearing members and clients that clear contracts at recognised non-EU CCPs must report information on their clearing activities at such CCPs.	ISDA and UK Finance do not support making the same changes to UK EMIR. UK regulators have sufficient visibility over clearing activities taking place at non-UK CCPs through their cooperation arrangements with non-UK regulatory authorities.
<b>Changes to prudential requirements for credit institutions and investment firms</b> (Various articles in CRD and IFD)	EU credit institutions and investment firms must have processes to manage concentration risk arising from exposures towards CCPs, especially CCPs offering services of substantial systemic importance.	ISDA and UK Finance do not support making the same changes to UK EMIR. UK regulators can address any concerns about concentration risk through their usual supervisory tools.
<b>Limitations on NFCs becoming clearing members</b> (Articles 37(1a) EU EMIR)	EU CCPs will only be able to accept NFCs as clearing members if they can demonstrate how they intend to fulfil the margin requirements and default fund contributions of the CCP, including in stressed market conditions. An NFC which acts as a clearing member may provide client clearing services only to NFCs belonging to the same group.	ISDA and UK Finance do not support making the same changes to UK EMIR. The Bank of England can address any concerns about UK CCPs' membership requirements through its usual supervisory tools.

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## Changes to clearing threshold calculations for FCs

### EMIR 3.0 position

FCs will need to conduct two calculations:

- **Uncleared positions:** FCs must calculate their group-wide aggregate month-end average position for the previous 12 months in OTC derivatives which are not cleared through an EU CCP or a recognised non-EU CCP. The existing clearing thresholds (which may be revised by ESMA) will apply for this calculation.
- **Aggregate positions (cleared and uncleared):** FCs must calculate their group-wide aggregate month-end average position for the previous 12 months in cleared and uncleared OTC derivative contracts. ESMA has a new mandate to prepare RTS specifying the clearing thresholds for this calculation to “ensure the prudent coverage” of FCs under the clearing obligation.

FCs will be subject to the clearing obligation if they exceed a clearing threshold for uncleared or aggregate positions (or if they do not undertake the calculations).

### Proposal for UK EMIR Reform

- The clearing threshold calculation for FCs should only include OTC derivatives which are not cleared at a CCP. This approach would recognise the benefits of clearing and be more in line with the approach taken for the calculation of the threshold for the exchange of initial margin (AANA calculation).
- An OTC derivative should be considered cleared so long as it is cleared at a CCP, irrespective of whether that CCP is authorised/recognised under UK EMIR.
- The FC calculation should continue to be undertaken at a group level but only in respect of uncleared OTC derivatives which have a connection to the UK.\*
- Values of clearing thresholds for FCs should be kept the same or set at a higher level.

## Changes to clearing threshold calculations for NFCs

### EMIR 3.0 position

- NFCs will only need to conduct one calculation. They will need to calculate their aggregate month-end average position for the previous 12 months in OTC derivatives which are not cleared through an EU CCP or a recognised non-EU CCP. The existing clearing thresholds (which may be revised by ESMA) will apply for this calculation.
- NFCs must undertake calculation on an entity-level basis, rather than a group-basis. Hedging exemption will continue to apply to OTC derivatives which hedge group risks.
- NFCs will be subject to the clearing obligation on an asset class-by-asset class basis if they exceed a clearing threshold (or for all asset classes if they do not undertake the calculation).
- EMIR 3.0 introduced new supervisory and reporting arrangements for NFCs in groups to ensure EU authorities understand the level of exposure at group level.

### Proposal for UK EMIR Reform

- The clearing threshold calculation for NFCs should only include OTC derivatives which are not cleared at a CCP. This approach would recognise the benefits of clearing and be more in line with the approach taken for the AANA calculation.
- An OTC derivative should be considered cleared so long as it is cleared at a CCP, irrespective of whether that CCP is authorised/recognised under UK EMIR.
- The NFC calculation should be undertaken at an individual counterparty level rather than at a group level, although the hedging exemption should continue to apply to uncleared OTC derivatives entered into by an NFC to hedge group risks.
- Values of clearing thresholds for NFCs should be kept the same or set at a higher level.
- No need for new supervisory and reporting arrangements for NFCs in groups.

\* For UK FCs: (i) uncleared OTC derivatives entered into by the FC or by any other UK FC in its group; and (ii) uncleared OTC derivatives entered into by any non-UK FCs in its group so long as the counterparties to such transactions are UK entities. For non-UK FCs which must determine how they would be categorised if established in the UK: (i) uncleared OTC derivatives entered into by any UK FCs in its group; and (ii) uncleared OTC derivatives entered into by that non-UK FC or by any other non-UK FC in its group so long as the counterparties to such transactions are UK entities.

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### Permanent exemption from the margin obligation for single-stock options and equity index options

#### EMIR 3.0 position

EMIR 3.0 introduced a permanent exemption to replace the rolling temporary derogation in the EU Margin RTS (which expired on 4 January 2024, although the ESAs had issued a no-action opinion instructing NCAs to deprioritise enforcement in relation to equity options until the entry into force of EMIR 3.0).

ESMA is required to monitor and, every three years, report on:

- regulatory developments in non-EU jurisdictions in relation to the treatment of single stock options and equity index options;
- the impact of the derogation on the financial stability of the EU or of one or more Member States; and
- the development of exposures in single stock options and equity index options not cleared by a CCP.

Within one year of receipt of ESMA's report, the Commission must assess whether international developments have led to more convergence in the treatment of single stock options and equity index options and whether the derogation endangers the financial stability of the EU or of one or more Member States. The Commission has the power to revoke the derogation by way of a delegated act following an adaption period which cannot exceed two years.

#### Proposal for UK EMIR Reform

ISDA and UK Finance support the UK regulators' proposal in CP5/25 to replace the UK temporary exemption (which expires on 4 January 2026) with a permanent exemption.

ISDA has responded to CP5/25, welcoming all proposals.

# RISK MITIGATION OBLIGATIONS (CONTINUED)

Articles 11(2) and 11(3) EU EMIR



## INITIAL MARGIN MODEL APPROVAL

### EMIR 3.0 position

FCs and NFC+s will need to apply for authorisation before using, or adopting a change, to an initial margin (IM) model.

### Proposal for UK EMIR Reform

The PRA and the FCA have confirmed that they do not intend to introduce requirements for UK firms to apply for pre-approval of IM models. ISDA and UK Finance support this position.



## IMPLEMENTATION PERIOD FOR NFC-S WHICH BECOME NFC+S

### EMIR 3.0 position

NFC-s which become NFC+s have a four-month implementation period to prepare for daily valuations and the margin obligation. NFC+s will not need to comply with these requirements for any uncleared OTC derivatives entered into during this period.

### Proposal for UK EMIR Reform

- The PRA and the FCA have already introduced an implementation period in the UK Margin RTS which applies (amongst other things) to NFC-s which become NFC+s. However, UK EMIR does not yet include an implementation period for NFC-s which become NFC+s in respect of the daily valuation obligation.
- An implementation period should be introduced for NFC-s which become NFC+s in respect of the daily valuation obligation. Counterparties may need time to prepare to perform daily valuations.

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## Exemption for NFC-s which trade with non-EU/non-UK FCs

### EMIR 3.0 position

- EMIR provides an exemption from the reporting obligation for NFC-s which trade OTC derivatives with a non-EU FC provided certain conditions are met.
- EMIR 3.0 removed the condition that the non-EU FC must be established in a jurisdiction declared equivalent for reporting purposes under Article 13 EMIR.
- However, EMIR 3.0 has not removed the need for the non-EU FC to report transactions to a trade repository that is subject to a legally binding and enforceable obligation to grant EU authorities direct and immediate access to such data. Currently there are no arrangements between the EU and any non-EU jurisdictions which grant this type of access for EU authorities to data held by non-EU trade repositories.

### Proposal for UK EMIR Reform

- The UK should remove both the requirement for an equivalence decision for non-UK jurisdictions and the requirement for the non-UK FC to report transactions to a trade repository that is subject to a legally binding and enforceable obligation to grant UK authorities direct and immediate access to such data.
- The lack of equivalence decisions and data-sharing arrangements between UK and non-UK authorities currently prevents any UK NFC-s from benefiting from this exemption, which means that, in practice, they must delegate reporting to non-UK FCs or engage third-party service-providers to provide a delegated reporting service. This is an obstacle to cross-border business.

### ISDA AND UK FINANCE DO NOT SUPPORT CHANGES TO UK EMIR TO ALIGN WITH THE FOLLOWING EMIR 3.0 CHANGES:

EMIR 3.0 change	Description	Proposal for UK EMIR Reform
<b>Further measures to improve the quality of data reported under Article 9 of EMIR (Article 9 EU EMIR)</b>	Reporting parties must put in place appropriate procedures and arrangements to ensure the quality of the data they report. ESMA must publish guidelines further specifying these procedures and arrangements, taking into account the possibility to apply the requirements in a proportionate manner.	ISDA and UK Finance do not support making the same changes to UK EMIR. The FCA already has the power to publish guidance on EMIR reporting.
<b>Enhanced penalties for systematic manifest errors (Article 12(1a) EU EMIR)</b>	Where the “details reported repeatedly contain systematic manifest errors” NCAs must impose administrative penalties or periodic penalty payments (up to a maximum of 1% of the average daily turnover for the preceding business year).	ISDA and UK Finance do not support making the same changes to UK EMIR. The FCA's enforcement framework is sufficiently flexible for the FCA to consider the particular facts of each case.



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## EMIR 3.0 position

### (i) Clearing and margining exemptions

EMIR 3.0 replaced the equivalence condition for non-EU jurisdictions with a requirement that the non-EU entity is not established in:

- a high-risk third country that has strategic deficiencies in its anti-money laundering/counter-terrorism financing regime;
- a third country listed as non-cooperative for tax purposes; or
- a third country identified by the Commission in a delegated act.

The Commission has the power to adopt a delegated act for a third country “where appropriate due to identified issues in the legal, supervisory and enforcement arrangements of a third country and where those issues result in increased risks, including counterparty credit risk and legal risk”.

### (ii) Reporting exemption

EMIR 3.0 maintained the conditions for groups to benefit from the intragroup exemption from the reporting exemption in respect of transactions involving an NFC or non-EU NFC.

Where an NFC+ benefits from the intragroup reporting exemption, its EU parent undertaking must report the net aggregate positions by class of derivatives of that NFC+ to its NCA on a weekly basis. The NCA of the parent undertaking must share the information with ESMA and with the NCA of the EU counterparty.

## Proposal for UK EMIR Reform

### (i) Clearing and margining exemptions

ISDA and UK Finance welcome the announcement that HMT will amend Article 3 of UK EMIR to put in place a permanent solution for intragroup transactions and that the FCA will consult on changes to streamline the current process for intragroup exemptions.\*

ISDA and UK Finance support the following changes:

- Removal of the equivalence condition for non-UK jurisdictions. This would allow UK firms to benefit from a permanent exemption when trading with non-UK group members and remove the uncertainty of relying on the current temporary exemption regime.
- Removal of all conditions in the intragroup exemptions other than the requirement for both counterparties to be members of the same group. Many of these conditions are overly complex, lack clarity and could be removed without an adverse impact on the regulatory outcomes intended to be achieved by the UK regime.
- Broadening the exemptions to apply to transactions between two non-UK counterparties (e.g., where two UK branches of non-UK FCs trade together).
- Removal of the requirement for counterparties to publicly disclose information on their use of the margining exemption. This provides little useful information to shareholders or creditors and adds little regulatory value.

### (ii) Reporting exemption

- All conditions in the intragroup exemption from the reporting obligation for transactions involving an NFC or non-UK NFC should be removed other than for the requirement for both counterparties to be members of the same group. This would simplify and clarify the process for firms and end the discrimination against groups headed by UK counterparties that are FCs.
- ISDA and UK Finance do not support the introduction of a new reporting requirement for NFC+s which benefit from the intragroup exemption, as this would undermine the utility of the exemption.

\* The Regulatory Initiatives Grid indicates that HMT will publish a statutory instrument and the FCA will publish a consultation paper in H2 2025.

# INTRAGROUP TRANSACTIONS (CONTINUED)

382 EU CRR

## EMIR 3.0 position

### (iii) CVA exemption

The CVA exemption in CRR is no longer linked to EU EMIR. Instead, for transactions with non-EU group entities, it is necessary for the Commission to adopt an equivalence decision for the relevant non-EU jurisdiction under EU CRR.

Where a firm wishes to rely on the CVA exemption in respect of transactions with an NFC, the following conditions must also be met:

- the firm and the NFC must be included in the same consolidation on a full basis and subject to supervision on a consolidated basis in accordance with Part One, Title II, Chapter 2 of CRR; and
- the firm and the NFC must be subject to appropriate centralised risk evaluation, measurement and control procedures.

## Proposal for UK EMIR Reform

### (iii) CVA exemption

HMT and the PRA have proposed changes to the CVA exemption for intragroup transactions as part of the Basel 3.1 implementation package. ISDA and UK Finance support these changes.

# ARTICLE 13 EQUIVALENCE MECHANISM

## Article 13 EU EMIR

### EMIR 3.0 position

The Article 13 mechanism for avoiding duplicative or conflicting rules is:

- Limited to the risk mitigation obligations in Article 11 EMIR.
- Applicable where at least one of the counterparties is subject to the requirements of the relevant non-EU jurisdiction. This is an improvement on the previous wording which required at least one of the counterparties to be established in the relevant non-EU jurisdiction. This change is helpful in scenarios where a non-EU jurisdiction's rules apply to EU firms directly, e.g.:
  - Some non-EU jurisdictions apply their rules to foreign entities with no local presence if they have a local affiliate or carry on business with local entities that requires them to be registered or authorised under local law.
  - Some non-EU jurisdictions apply their rules to foreign entities with a branch in the jurisdiction.

### Proposal for UK EMIR Reform

- Similar changes should be made to Article 13 UK EMIR to ensure that the mechanism captures all cases where counterparties are subject to duplicative or conflicting rules.
- The equivalence mechanism should be retained for all obligations (i.e., not limited to just risk mitigation obligations) as this would preserve the ability for HMT to make equivalence decisions for a wider range of obligations, such as the reporting obligation.
- HMT should make additional equivalence decisions, including for the EU, the US and Switzerland, as well as the jurisdictions covered by EU equivalence decisions. This would facilitate cross-border trade and create a level-playing field between UK and EU firms when dealing with counterparties from other jurisdictions.
- With respect to equivalence decisions for non-UK jurisdictions' margin rules, HMT should have the power to make equivalence decisions even where there are technical product or counterparty scope differences. In particular, it should be possible for equivalence decisions to be made in respect of jurisdictions which exempt bond options and forwards from the scope of their margin rules. This would allow UK counterparties to trade with counterparties in these jurisdictions without having to margin such products. Without this, counterparties in these jurisdictions may be disincentivised from trading with UK counterparties.

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### CLEARING



#### Transparency of CCPs' initial margin requirements

##### Proposal for UK EMIR Reform

- CCPs should be required to provide more transparency on the design of margin frameworks so clearing participants (clearing members and clients) can better understand how these models would behave under market stress.



#### Delinking QCCP status from recognition

##### Proposal for UK EMIR Reform

- Firms subject to UK capital requirements may apply a more favourable capital treatment to exposures to “qualifying CCPs” (QCCPs).
- Firms should be able to treat non-UK CCPs as QCCPs where either:
  - the non-UK CCP is recognised under UK EMIR; or
  - the firm determines, based on its own analysis, that the non-UK CCP is compliant with the Principles for Financial Market Infrastructures.
- This would address the fact that some non-UK CCPs do not wish to seek recognition in the UK under UK EMIR.

### COUNTERPARTY SCOPE



#### Extend list of exempt entities

##### Proposal for UK EMIR Reform

- UK EMIR should contain a full exemption for all non-UK central banks (CBs), debt management offices (DMOs) and multilateral development banks (MDBs) from all UK EMIR requirements and for UK counterparties dealing with these CBs, DMOs and MDBs from all UK EMIR requirements except for the reporting obligation.
- Consideration should also be given to whether other types of public entities should be exempt from all UK EMIR requirements (e.g., sovereign wealth funds) and for UK counterparties dealing with these exempt entities to also be exempt from all UK EMIR requirements except for the reporting obligation.

## OTHER UK EMIR REFORMS (CONTINUED)

### MARGINING



#### Treatment of legacy transactions when a counterparty ceases to be subject to initial margin

##### Proposal for UK EMIR Reform

- ISDA and UK Finance support the UK regulators' proposal in CP5/25 to amend the UK margin rules to remove the requirement to exchange initial margin for legacy contracts once a counterparty subsequently falls out of scope of the initial margin requirements.
- ISDA has responded to CP5/25, welcoming all proposals.



#### Mitigation measures when a jurisdiction changes netting status

##### Proposal for UK EMIR Reform

- In PS11/22, the UK regulators introduced an implementation period for UK counterparties when a jurisdiction changes netting status.
- However, there are a number of scenarios which could mean that it remains impracticable to apply the UK margin requirements extraterritorially, even with an implementation period. E.g., absence of local margin rules.
- ISDA and UK Finance would welcome a discussion with the PRA and the FCA on measures to minimise complexities for UK firms when applying UK margin requirements extraterritorially.



#### Narrow the scope of initial margin model requirements

##### Proposal for UK EMIR Reform

- The margin rules should be amended so that the model monitoring requirements apply only to the largest firms, who would typically already be subject to comparable model rules, with clients able to place reliance on the testing of their dealer counterparties.
- The scope of the UK requirements for initial margin models is too broad. The UK margin rules currently apply related requirements around model performance monitoring to all counterparties and there is no differentiation based on size, systemic importance or sophistication of firm.
- It is disproportionate and unnecessary to require smaller institutions to undertake model performance monitoring. This could ultimately discourage them from use of industry models, without enhancing the overall safety and soundness of the system, because their dealer counterparties will already be model testing vs. SIMM.



#### Changes to eligible collateral

##### Proposal for UK EMIR Reform

The UK margin rules should be amended to:

- Reduce the barriers to using MMFs as initial margin, such as the concentration limits applicable to UCITS;
- Allow the use of public debt constant net asset value MMFs as initial margin, without a concentration limit; and
- Raise the current 15% concentration limit for other types of MMFs and remove the EUR 10mn limit.

# GLOSSARY

**AANA** – Aggregate month-end average notional amount of non-centrally cleared OTC derivatives

**CCP** – Central counterparty

**CRD** – Capital Requirements Directive (Directive 2013/36/EU)

**CVA** – Credit valuation adjustment

**DTO** – Derivatives trading obligation

**EMIR 3.0** – Regulation amending EMIR, CRR and the MMF Regulation (Regulation (EU) [2024/2987](#))

**EMIR 3.0 Directive** – Directive amending CRD and the IFD (Directive (EU) [2024/2994](#))

**ESMA** – The European Securities and Markets Authority

**EU** – European Union. References in this briefing to the EU include the European Economic Area where applicable

**EU CRR** – Capital Requirements Regulation (Regulation (EU) No 575/2013)

**EU EMIR** – European Market Infrastructure Regulation (Regulation (EU) 648/2012). References in this briefing to EMIR refer to EMIR as amended by EMIR 3.0

**EU Margin RTS** – Commission Delegated Regulation (EU) 2016/2251

**FC/FC+/FC-** – Financial counterparty, as defined in Article 2(8) of EU EMIR/UK EMIR, which is either a large FC (FC+) or a small FC (FC-)

**FCA** – Financial Conduct Authority

**HMT** – HM Treasury

**IFD** – Investment Firm Directive (Directive (EU) 2019/2034)

**MMF Regulation** – Money Market Funds Regulation (Regulation (EU) 2017/1131)

**NCA** – National competent authority

**NFC/NFC+/NFC-** – Non-financial counterparty, as defined in Article 2(9) of EU EMIR/UK EMIR, which is either a large NFC (NFC+) or a small NFC (NFC-)

**PRA** – Prudential Regulation Authority

**RTS** – Regulatory technical standards

**UCITS Directive** – Directive 2009/65/EC

**UK EMIR** – EMIR as it forms part of the domestic law of the UK by virtue of the European Union (Withdrawal) Act 2018

**UK Margin RTS** – Commission Delegated Regulation (EU) 2016/2251 as it forms part of the domestic law of the UK by virtue of the European Union (Withdrawal) Act 2018

This document is not intended to be comprehensive or to provide legal advice. For more information, speak to one of the lawyers named below or your usual Clifford Chance contact.



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## ABOUT ISDA

Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 1000 member institutions from 76 countries. These members comprise a broad range of derivatives market participants, including corporations, investment managers, government and supranational entities, insurance companies, energy and commodities firms, and international and regional banks. In addition to market participants, members also include key components of the derivatives market infrastructure, such as exchanges, intermediaries, clearing houses and repositories, as well as law firms, accounting firms and other service providers. Information about ISDA and its activities is available on the Association's web site: [www.isda.org](http://www.isda.org). Follow us on [LinkedIn](#), [Facebook](#) and [YouTube](#).

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## ABOUT UK FINANCE

UK Finance is the collective voice for the banking and finance industry. Representing more than 300 firms across the industry, it seeks to enhance competitiveness, support customers and facilitate innovation. Our primary role is to help our members ensure that the UK retains its position as a global leader in financial services. To do this, we facilitate industry-wide collaboration, provide data and evidence-backed representation with policy makers and regulators, and promote the actions necessary to protect the financial system. UK Finance's operational activity enhances members' own services in situations where collective industry action adds value. Our members include both large and small firms, national and regional, domestic and international, corporate and mutual, retail and wholesale, physical and virtual, banks and non-banks. More information is available on our [website](#).

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