

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 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 under the headings 'Legal notice' and heading '[Data protection](#)'..

1. General information about respondent

Name of the company / organisation	GDV
Activity	Insurance and Pension
Are you representing an association?	<input checked="" 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>

|No, we don't see any additional aspects. |

<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 generally agree with the approach. But in our view it is key to draw on existing documents wherever it is possible. Also, if this comes along with additional analytical effort from ESMA side. Additional documents should only be required if it cannot be avoided. Financial Market Participants are faced with a constantly growing bureaucratic burden. Therefore, relying on already existing documents may create a relief for Financial Market Participants instead of additional bureaucratic burden. |

<ESMA_QUESTION_AAR_02>

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

<ESMA_QUESTION_AAR_03>

[We generally agree with the approach. But we don't believe that it is appropriate to appoint at least one dedicated staff member to support the proper functioning of the clearing arrangements at all times. This might be adequate for direct clearing members. German insurers exclusively act as indirect clearing members. Therefore, the appointment of at least one dedicated staff member is too much for indirect clearing members and would create an unnecessary additional burden for the affected companies. Differences between direct and indirect clearing members must be recognized and the proposed requirement for indirect clearing members dropped.]

<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>

[TYPE YOUR TEXT HERE]

<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>

[TYPE YOUR TEXT HERE]

<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.]

<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.]

<ESMA_QUESTION_AAR_07>

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

<ESMA_QUESTION_AAR_08>

[Yes, we agree.]

<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.]

<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.]

<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.]

<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.]

<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.]

<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. We do not see merits in more granular reference periods. |

<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. |

<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>

|Yes, we agree. |

<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>

|We urge not to include information in the reporting that is not explicitly legally required. As already stated in our answer to Q2, Financial Market Participants face an already too high and steadily growing reporting burden. Any further increase of this burden would contradict the clear political statements and the will of the EU Commission to reduce bureaucracy. |

<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>

[See answer to Q17]

<ESMA_QUESTION_AAR_18>

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

<ESMA_QUESTION_AAR_19>

[We generally agree with proposed approach. But we would like to point out, that the reporting of an indirect clearing member like German insurers must necessarily differ from those of direct clearing member. Any reporting must be restricted to the essential information without creating any additional reporting that is not legally required.]

<ESMA_QUESTION_AAR_19>

Q20 Do you agree with the proposed approach for the reporting of the representative-ness obligation?

<ESMA_QUESTION_AAR_20>

[Yes, we generally agree with the proposed approach. Regarding the reporting burden, see our answers to Q17 and Q19.]

<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>

[Yes, we agree with the proposed approach of a harmonization to the maximum extent. But we assume that differentiation due to the prevailing market practices of counterparties (i.e., indirect

clearing by German insurers) will be considered. Hence, we object to any new reporting regime that is not explicitly legally required to avoid any undue additional reporting burden. |

<ESMA_QUESTION_AAR_21>