

ESMA clarifies rules for CCPs' membership criteria and due diligence

The report further clarifies existing rules under the European Market Infrastructure Regulation (EMIR) for clearing members in both areas.

ESMA conducted a survey on CCPs' Membership Criteria and Due Diligence in order to map CCPs' practices following the default of a physical person acting as a clearing member in September 2018 at a CCP authorised to offer services and activities in the Union. This event highlighted the importance of membership criteria as a first line of defence of CCPs to control counterparty credit risk.

ESMA investigated the following three topics:

- whether individuals (i.e. a physical person, either as an individual trader or in a business capacity) can be clearing members at EU CCPs, and if so, how the CCP assesses the financial resources and operational capacities of such individuals;
- what membership criteria EU CCPs apply and whether they apply specific criteria to non-financial counterparties as defined in EMIR; and
- how EU CCPs conduct their on-going monitoring of compliance with membership requirements (due diligence of Clearing Members), especially with respect to entities different from banks or investment firms.

With regards to EU CCPs' due diligence practices, ESMA will consider enhancing supervisory practices, possibly by some form of guidance on detailed practices.

The report and Q&A are aimed at National Competent Authorities, CCPs, individuals applying as clearing member and non-financial counterparties applying or acting as clearing member.

With respect to individuals acting as clearing members, along with this report, ESMA is also updating its [Q&A document](#) on the Implementation of EMIR with a new Q&A 23(c) on the level of stringency in admission criteria.