

ESMA issues clarifications on the clearing obligation for pension scheme arrangements

The European Securities and Markets Authority (ESMA) has issued today [a statement on the clearing obligation for pension scheme arrangements](#) (PSAs), with the objective to avoid, to the extent possible, disruption to certain PSAs who may face potential challenges clearing their OTC derivative contracts on 17 August 2018, when the current, and final, exemption from the clearing obligation under EMIR expires.

EMIR introduced a temporary exemption for PSAs from the clearing obligation to allow time for a suitable technical solution for the transfer of non-cash collateral as variation margins to be developed by CCPs. With the two possible extensions already granted, there is no possibility to further extend this temporary exemption under EMIR. However, a further extension of the temporary exemption is part of the Refit negotiations.

ESMA, in its statement, indicates it expects national competent authorities to not prioritise their supervisory actions towards entities that are expected to be exempted again in a relatively short period of time, and to generally apply their risk-based supervisory powers in their day-to-day enforcement of applicable legislation in a proportionate manner.