

ESMA PUBLISHES THE FINAL REPORT ON MIFIR ALIGNMENTS FOLLOWING THE INTRODUCTION OF EMIR REFIT

The recent changes introduced to EMIR via Refit modify the scope of counterparties subject to the clearing obligation – exemption for small financial counterparties and modified determination of non-financial counterparties. The introduction of EMIR Refit has not been accompanied by direct amendments to MiFIR, which currently leads to a misalignment between the scope of counterparties subject to the clearing obligation (CO) under EMIR and the derivatives trading obligation (DTO) under MiFIR. In light of the close interconnections between those two obligations, EMIR Refit mandates ESMA to assess whether the DTO under MiFIR should be aligned with changes to the CO introduced by EMIR Refit, and to submit its findings in a report to the Commission.

After consulting with stakeholders, ESMA finalised its recommendations to the European Commission (EC), which consist in aligning the scope of counterparties subject to the clearing and the trading obligations.

Next steps

ESMA is submitting this final report to the EC. On the basis of ESMA's input, the EC's report shall be submitted to the European Parliament and to the Council by 18 December 2020.