

ESMA updates EMIR Q&A

The Q&As clarify:

- OTC Question 2(h) on when counterparties that start taking positions in OTC derivatives need to notify the relevant NCAs and ESMA;
- OTC Question 4 on whether counterparties not subject to the clearing obligation should also obtain representation;
- OTC Question 13 on how a counterparty should determine whether an entity established in a third country would be an FC+/- or NFC+/- if it was established in the Union;
- TR Question 14 on how the derivatives should be reported in the scenario where a Clearing Member defaults and a CCP temporarily assumes both sides of the outstanding transactions;
- TR Question 17 on how to populate the fields Trading Venue and Compression for derivatives reported at position level; and
- TR Question 53 on how to report derivatives based on €STR and other benchmarks that are not explicitly captured by the EMIR ITS.

The purpose of this document is to promote common supervisory approaches and practices in the application of EMIR. It provides responses to questions posed by the general public, market participants and competent authorities in relation to the practical application of the Regulations. The content of this document is aimed at competent authorities under the Regulation to ensure that in their supervisory activities their actions are converging along the lines of the responses adopted by ESMA. It should also help investors and other market participants by providing clarity on reporting requirements