

Public Consultation on Guidelines under Article 21 of EMIR

Article 21(1) of Regulation (EU) No. 648/2012 ('EMIR') sets out an obligation for the national competent authorities to review the arrangements, strategies, processes and mechanisms implemented by the central counterparties and to evaluate risks central counterparties are or might be exposed to. Frequency and depth of such review and evaluation are to be established by the competent authorities by taking into account certain criteria provided for in Article 21(3) of EMIR.

In order to ensure consistency in the format, frequency and depth of the review carried out by the national competent authorities, ESMA is mandated in Article 21(6) of EMIR to issue guidelines in accordance with Article 16 of Regulation (EU) No 1095/2010 ('ESMA Regulation') to specify further the common procedures and methodologies for the supervisory review and evaluation process.

The purpose of this consultation paper is to seek views from all interested stakeholders on these draft guidelines aiming at clarifying the common procedures and methodologies for the supervisory review and evaluation process of CCPs by competent authorities, in a manner that is appropriate to the size, structure and internal organisation of CCPs, and the nature, scope and complexity of their activities.

The consultation will be open until 16 November 2020. ESMA will consider the feedback it receives to the consultation in Q4 2020 with a view to finalising the proposed guidelines and publishing a final report by Q1 2021.