



European Securities and
Markets Authority

Response form for the Consultation Paper on the Amendments to the EMIR Clearing Obligation un- der the Securitisation Regulation



23 May 2018

Responding to this paper

ESMA invites responses to the questions set out throughout its Consultation Paper on the Amendments to the EMIR Clearing Obligation under the Securitisation Regulation (Regulation (EU) 2017/2402). Responses are most helpful if they:

- respond to the question stated;
- contain a clear rationale; and
- describe any alternatives ESMA should consider.

ESMA will consider all responses received by 15 June 2018.

Instructions

In order to facilitate analysis of responses to the Consultation Paper, respondents are requested to follow the below steps when preparing and submitting their response:

- Insert your responses to the questions in the Consultation Paper in the present response form.
- Please do not remove tags of the type <ESMA_QUESTION_ECO_1>. Your response to each question has to be framed by the two tags corresponding to the question.
- If you do not wish to respond to a given question, please do not delete it but simply leave the text “TYPE YOUR TEXT HERE” between the tags.
- When you have drafted your response, name your response form according to the following convention: ESMA_ECO_nameofrespondent_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA_ECO_ABCD_RESPONSEFORM.
 - Upload the form containing your responses, **in Word format**, to ESMA’s website (www.esma.europa.eu under the heading “Your input – Open consultations” → “Consultation on Securitisation Repositories Application Requirements”).

Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise. **Please clearly indicate by ticking the appropriate checkbox on the website submission page if you do not wish your contribution to be publicly disclosed.** A confidential response may be requested from us in accordance with ESMA’s rules on access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESMA’s Board of Appeal and the European Ombudsman.



Data protection

Information on data protection can be found at www.esma.europa.eu under the heading “Data protection”.

Who should read the Consultation Paper

All interested stakeholders are invited to respond to this consultation paper. In particular, responses are sought from counterparties who are entering into OTC derivatives transactions with covered bond issuers or with cover pools for covered bonds, or who are entering into OTC derivatives transactions with Securitisation Special Purpose Entities (SSPEs), as well as central counterparties (CCPs).



General information about respondent

Name of the company / organisation	Association of the Luxembourg Fund Industry (ALFI)
Activity	Other Financial service providers
Are you representing an association?	<input checked="" type="checkbox"/>
Country/Region	Luxembourg

Introduction

Please make your introductory comments below, if any:

<ESMA_COMMENT_ECO_1>

The Association of the Luxembourg Fund Industry (ALFI) is the representative body of the Luxembourg investment fund community. Created in 1988, the Association today represents over 1,400 Luxembourg domiciled investment funds, asset management companies and a wide range of service providers such as depositary banks, fund administrators, transfer agents, distributors, legal firms, consultants, tax experts, auditors and accountants, specialist IT providers and communication companies. The Luxembourg Fund Industry is the largest fund domicile in Europe and a world-wide leader in cross-border distribution of funds. Luxembourg-domiciled investment structures are distributed in more than 70 countries around the world.

We thank the ESAs for the opportunity to participate in this consultation.

<ESMA_COMMENT_ECO_1>



Q 1: Do you have any comments on the conditions and objectives for developing the technical standards on the clearing obligation under the mandate of Article 4(6) of EMIR?

<ESMA_QUESTION_ECO_1>

ALFI supports this initiative to simplify the clearing obligation.

<ESMA_QUESTION_ECO_1>

Q 2: Do you agree with the proposed approach to migrate the conditions of the two Delegated Regulations on the clearing obligation into the new technical standards developed under Article 4(6)? If not, what new information should be taken into account to decide on a different approach and different conditions?

<ESMA_QUESTION_ECO_2>

As Title III, Article 4 of EMIR defines the clearing obligation, we believe this article is appropriate to cover additional provisions regarding the clearing obligations of OTC derivatives.

<ESMA_QUESTION_ECO_2>

Q 3: Do you agree with the proposed approach to mirror for securitisation the conditions applicable in the case of covered bonds but to exclude the conditions that are assessed as only relevant for covered bonds? If not, what additional information should be taken into account to decide on a different approach and different conditions, and specifically what should be these different conditions?

<ESMA_QUESTION_ECO_3>

We support this approach as a general simplification of the detailed rules of the clearing obligation for OTC derivatives.

<ESMA_QUESTION_ECO_3>

Q 4: Do you agree that the waiver of the pari passu rank only applies for covered bonds and not to securitisations? Do you agree that it is better to clarify that the pari passu ranking applies with respect to the most senior bondholders?

<ESMA_QUESTION_ECO_4>

As our industry is not materially exposed to this type of transaction we do not express any specific opinion on this subject.

<ESMA_QUESTION_ECO_4>

Q 5: Do you identify other benefits and costs not mentioned above associated to the proposed approach? If you advocated for a different approach in the responses to the previous questions, how would it impact this section on the impact assessment? Please provide details.

<ESMA_QUESTION_ECO_5>

As the use of OTC derivatives instruments by the buy-side industry is mostly for hedging purposes, we welcome the proposed clearing exemption.

<ESMA_QUESTION_ECO_5>