Assogestioni's response to the EBA's Draft Guidelines on the authorisation of initial margin models under Article 11(3) EMIR

Q1. Do you have any comments on the proposed Guidelines? If you identify an issue, please describe it an suggest how to address it.

Assogestioni[1] welcomes the opportunity to comment on the EBA draft Guidelines on the authorisation of initial margin models under Article 11(3) of Regulation (EU) No 648/2012 (EMIR).

We broadly support the objective of ensuring a consistent approach across the Union to the authorisation of initial margin models. In particular, we welcome the EBA's efforts to reflect proportionality considerations in the draft Guidelines, including in relation to other counterparties (OCPs) and to counterparties using pro forma models.

As a targeted drafting point, Assogestioni would welcome an alignment of the explanatory text in the "7. Implementation" section with paragraph 45 of the same section. Paragraph 45 identifies the last category of counterparties covered by the draft Guidelines as those with an aggregate average notional amount of non-centrally cleared derivatives (AANA) above EUR 8 billion and below or equal to EUR 750 billion. However, the corresponding bullet point in the explanatory text of the "7. Implementation" section refers only to Phase 5- and Phase 6-counterparties with an AANA below or equal to EUR 750 billion.

> **Explanatory text for consultation purposes**
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> In December 2024, the EBA published a No Action Letter on the application of EMIR, stating that competent authorities should not prioritise any supervisory or enforcement action in relation to the processing of applications for initial margin (IM) model authorisation received as a result of the entry into force of EMIR 3, until the RTS on the authorisation of initial margin models (RTS on IMMA, RTS) developed in accordance with Article 11(15), point (aa), of EMIR and these Guidelines, respectively, become applicable.
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> With a view to unwinding the NAL in an orderly fashion, the date of application of the RTS on IMMA and the date of application of these Guidelines are expected to be aligned to the extent possible.
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> The date of application of the RTS depends on adoption proceedings, the duration of which cannot be predicted. The specific dates mentioned below are indicative and may change after consultation. The Guidelines are estimated to apply
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> - to Phase 1- and Phase 2-counterparties (AANA > EUR 2 250 bn) from 1 January 2028,
> - to Phase 3- and Phase 4-counterparties (AANA > EUR 750 bn and <= EUR 2 250 bn) six months later (i.e. from 1 July 2028) and
> - to Phase 5- and Phase 6-counterparties (AANA <= EUR 750 bn) 12 months later (i.e. from 1 January 2029).

[1] Assogestioni is the representative association of the Italian Investment Management Industry. Its members include Italian and foreign investment management companies operating in Italy, as well as banks and insurance companies involved in investment management, including pension schemes. Assogestioni's members manage assets of approx. 2,6 trillion euros as of April 2026.

> 45. Counterparties that have, or belong to a group that has, an AANA that is above EUR 8 billion and below or equal to EUR 750 billion, calculated for the months March, April and May of the most recent calendar year, should comply with the Guidelines from [indicatively: 1 January 2029]. Competent authorities should apply these Guidelines from the same date with regard to the authorisation of the use of IM models by counterparties referred to in the first sentence.

The alignment would avoid any unintended impression that counterparties below the EUR 8 billion AANA threshold are covered by Phase 5 and Phase 6, consistently with the EMIR bilateral margin framework under which such counterparties are not subject to the regulatory initial margin exchange obligation.

Assogestioni therefore suggests amending the relevant bullet point in the explanatory text of the “7. Implementation” section as follows:

“*(…) to Phase 5- and Phase 6-counterparties (AANA* ***> EUR 8 bn and*** *<= EUR 750 bn) 12 months later (i.e. from 1 January 2029).*”