



Brussels, 17 March 2025
(OR. en)

7178/25

Interinstitutional File:
2022/0403(COD)

EF 64
ECOFIN 291
SURE 3
CODEC 277

COVER NOTE

From: John BERRIGAN, Director-General, DG FISMA, European Commission
date of receipt: 10 March 2025
To: José Manuel CAMPA, Chairperson , European Banking Authority (EBA);
Petra HIELKEMA, Chairperson, European Insurance and Occupational
Pensions Authority (EIOPA);
Verena ROSS, Chairperson, European Securities and Markets Authority
(ESMA)

Subject: COMMUNICATION TO THE COMMISSION on the intention to not
adopt the draft regulatory technical standards proposing to amend
Delegated Regulation (EU) 2016/2251 supplementing Regulation (EU)
No 648/2012 of the European Parliament and of the Council ('EMIR')
with regards to the timing of when certain risk management procedures
will start to apply for the purpose of the exchange of collateral.
Ares(2025)1790434

Delegations will find attached a letter from the European Commission to the European Supervisory
Authorities (ESAs) on the item in subject.

Encl.: _____



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR FINANCIAL STABILITY, FINANCIAL SERVICES AND CAPITAL
MARKETS UNION

The Director-General

IM 2467 2025
10-03-2025

Brussels
FISMA.C.2/AZ(2025) 3312497

Mr José Manuel Campa
Chairperson
European Banking Authority
20 avenue André Prothin
CS 30154
92927 Paris La Défense Cedex
France

Ms Petra Hielkema
Chairperson
European Insurance and Occupational
Pensions Authority
Westhafenplatz 1
60327 Frankfurt am Main
Germany

Ms Verena Ross
Chairperson
European Securities and Markets Authority
201-203 Rue de Bercy
75012 Paris
France

Dear José Manuel, Petra and Verena,

On 20 December 2023, the European Banking Authority (EBA), the European Insurance and Occupational Pensions Authority (EIOPA) and the European Securities and Markets Authority (ESMA) – together the European Supervisory Authorities (ESAs) – submitted draft regulatory technical standards (RTS)⁽¹⁾ proposing to amend Commission Delegated Regulation (EU) 2016/2251⁽²⁾, supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council ('EMIR')⁽³⁾ with regards to the timing of when certain risk management procedures will start to apply for the purpose of the exchange of collateral. The ESAs proposed to further extend the temporary deferred date of application for single stock options and equity index options not cleared by a CCP until 4 January 2026.

⁽¹⁾ [ESA_2023_33 - Amending RTS - Equity option bilateral margining.pdf](#)

⁽²⁾ Commission Delegated Regulation (EU) 2016/2251 of 4 October 2016 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories with regard to regulatory technical standards for risk-mitigation techniques for OTC derivative contracts not cleared by a central counterparty (OJ L 340, 15.12.2016, p. 9–46)

⁽³⁾ Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201 27.7.2012, p. 1)

With this letter, and in line with the procedure set out in Article 10(1), fifth subparagraph, of Regulations (EU) No 1093/2010 ⁽⁴⁾, (EU) No 1094/2010 ⁽⁵⁾ and (EU) No 1095/2010 ⁽⁶⁾, I would like to inform EBA, EIOPA and ESMA that the Commission intends to not adopt the proposed RTS.

The reason for this rejection, further elaborated on below, is due to the entry into force of Regulation (EU) 2024/2987 ⁽⁷⁾ ('EMIR 3') on 24 December 2024, which has rendered these draft RTS no longer relevant.

Indeed, EMIR 3 has introduced a new paragraph (3a) in Article 11 of EMIR to specify that, by way of derogation from paragraph 3 of that Article, single stock options and equity index options not cleared by a CCP shall not be subject to risk-management procedures requiring the timely, accurate and appropriately segregated exchange of collateral, without any end date. Subject to further specific developments, the Commission is nonetheless empowered to adopt a delegated act in accordance with Article 82 to amend EMIR by revoking this derogation, following an adaptation period.

As a result of these changes introduced by EMIR 3, the draft RTS submitted by the ESAs proposing to extend the deferred date of application for non-centrally cleared OTC derivatives which are single-stock equity options or index options until 4 January 2026, are no longer relevant.

In light of the above, I would like to inform you that the Commission, acting in accordance with the procedure set out in Article 10(1), fifth subparagraph, of Regulations (EU) No 1093/2010, (EU) No 1094/2010 and (EU) No 1095/2010, intends to not adopt the RTS submitted by the ESAs.

I would like to express our appreciation for the work undertaken by the ESAs to deliver the draft RTS and look forward to continuing our good cooperation on the implementation of the requirements introduced by EMIR 3.

Yours sincerely,

Electronically signed

John BERRIGAN

c.c.: Aurore Lalucq MEP , Chair of the Committee on Economic and Monetary Affairs,
European Parliament;
Thérèse Blanchet, Secretary-General of the Council of the European Union.

⁽⁴⁾ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p.12)

⁽⁵⁾ Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010, p. 48–83)

⁽⁶⁾ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84–119)

⁽⁷⁾ Regulation (EU) 2024/2987 of the European Parliament and of the Council of 27 November 2024 amending Regulations (EU) No 648/2012, (EU) No 575/2013 and (EU) 2017/1131 as regards measures to mitigate excessive exposures to third-country central counterparties and improve the efficiency of Union clearing markets (OJ L, 2024/2987, 4.12.2024)