

European Securities and Markets Authority  
Brussels

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## **Norwegian Fund and Asset Management Association response to ESMA Consultation Paper on the clearing obligation for financial counterparties with a limited volume of activity**

### **General remarks**

The Norwegian Fund and Asset Management Association welcomes the opportunity to comment on the ESMA consultation paper on the clearing obligation for financial counterparties with a limited volume of activity.

Our members express support to the proposal to extend the phase-in period for the clearing obligation to financial counterparties in category 3.

We do however raise concerns that postponing the start of clearing for small financial counterparties may take attention and priorities away from establishing clearing solutions for counterparties who has still not started to prepare for clearing. In addition, a delay may not help to alleviate the structural or regulatory reasons why some small counterparties may face problems obtaining access to a clearing solution.

### **Question 1: To which category of counterparties does your organisation belong: (1) in the context of the 1st Commission Delegated Regulation on the clearing obligation, and (2) in the context of the 2nd Commission Delegated Regulation on the clearing obligation?**

The Norwegian Fund and Asset Management Association represents the Norwegian investment fund industry. Currently we have 21 members, all fund management companies. We expect all our members to fall into category 3. We also believe that the vast majority of Norwegian financial counterparties in general will fall into this category. Hence, an extension of the deadline to start mandatory clearing for category 3 counterparts will have a significant impact on the introduction of the clearing obligation in Norway, and will probably in effect delay the entire application of the clearing obligation.

**Question 2: If you offer clearing services, please provide evidence on the constraints that would prevent you from offering clearing services to a wider range of clients.**

This is not applicable to our members.

**Question 3: Have you already established clearing arrangements (1) for interest rate swaps? (2) for credit default swaps? If not, please explain why (including the difficulties that you may be facing in establishing such arrangements) and provide an estimation of the time needed to finalise the arrangements.**

Norwegian fund management companies have a very limited volume of activity in OTC derivatives. Hence, we believe that many of our members have yet to establish or finalise clearing arrangements with a clearing member. We do expect though that Norwegian fund management companies that belong to a group have a higher level of preparedness towards clearing. Generally speaking, and based on input received from some large banks in Norway, it is our impression that the vast majority of small financial counterparts (not restricted to fund and asset managers) in Norway have not started to prepare for clearing. Whether this low level of preparedness is due to real difficulties in obtaining access to a clearing solution, or is simply the result of priorities remains to be seen. The fact that EMIR has still not entered into force in Norway, and given the prolonged legal uncertainty about when the regulation will come into force, has probably contributed to the fact that many small financial counterparts in Norway has not put EMIR at the top of their priority list.

**Question 4: Please provide information and data you may have that could complement this analysis on the level of experience and preparedness of financial counterparties with CCP clearing.**

We do not have information about this, as this is directly related to the business of our members.

**Question 5: Do you agree with the proposal to keep the definitions of the categories of counterparties as they currently are and to postpone the date of application of the clearing obligation for Category 3? If not, which alternative would achieve a better outcome?**

We agree with the proposed approach.

**Question 6: Do you agree with the proposal to modify the phase-in period applicable to Category 3, by adding two years to the current compliance deadlines?**

We agree with the proposed approach.

**Question 7: Do you agree with the proposal to modify the three Commission Delegated Regulations on the clearing obligation at the same time?**

Yes, we consider it highly preferable to have a homogeneous approach across all three regulations to guarantee legal certainty.

Best regards

Norwegian Fund and Asset Management Association



Bernt S. Zakariassen

CEO