

ESMA Proposes MiFIR Amendments Following EMIR Refit

Article By:

Nathaniel W. Lalone

Carolyn H. Jackson

Neil Robson

John Ahern

On February 7, the European Securities and Markets Authority (ESMA) published a final report (the Final Report) regarding proposed amendments to the Markets in Financial Instruments Regulation (MiFIR). This is in response to the changes introduced by the amended European Market Infrastructure Regulation (EMIR Refit), which became effective on January 1. For more information, please see the June 14 edition of [Corporate & Financial Weekly Digest](#).

The Final Report addresses amendments to the clearing obligation made under EMIR Refit, which have had an impact on the application of the derivatives trading obligation under MiFIR. In particular, EMIR Refit introduced an exemption to the clearing obligation for small financial counterparties and modified the mechanism for determining the obligations of non-financial counterparties, who are above the clearing threshold.

In the Final Report, ESMA notes that these changes have created a “misalignment between the scope of counterparties subject to” EMIR Refit and MiFIR. The proposed amendments, therefore, are to realign the requirements.

ESMA notes that the Final Report was not due to be submitted to the European Commission (EC) until May 18. However, there was some confusion over the scope of a statement ESMA released in July 2019 concerning this issue, and, by publishing the Final Report, ESMA has stated that it hopes this clarifies the issue. In addition, this earlier submission could allow the EC to bring the proposed amendments to MiFIR into law sooner than December 18, as is currently scheduled.

The Final Report is available [here](#).

©2025 Katten Muchin Rosenman LLP

Source URL: <https://natlawreview.com/article/esma-proposes-mifir-amendments-following-emir-refit>