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Consultation Paper

Draft Guidelines

on the authorisation of initial margin
models under Article 11(3) EMIR

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1. Responding to this consultation

The EBA invites comments on all proposals put forward in this paper and in particular on the specific questions summarised in 5.2.

Comments are most helpful if they:

- respond to the question stated;
- indicate the specific point to which a comment relates;
- contain a clear rationale;
- provide evidence to support the views expressed/ rationale proposed; and
- describe any alternative regulatory choices the EBA should consider.

Submission of responses

To submit your comments, click on the 'send your comments' button on the consultation page by 17.06.2026. Please note that comments submitted after this deadline, or submitted via other means may not be processed.

Publication of responses

Please clearly indicate in the consultation form if you wish your comments to be disclosed or to be treated as confidential. A confidential response may be requested from us in accordance with the EBA's rules on public 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 the EBA's Board of Appeal and the European Ombudsman.

Data protection

The protection of individuals with regard to the processing of personal data by the EBA is based on Regulation (EU) 1725/2018 of the European Parliament and of the Council of 23 October 2018. Further information on data protection can be found under the [Legal notice section](#) of the EBA website.

2. Executive Summary

Regulation (EU) 2024/2987 (EMIR 3) introduced the requirement to request prior authorisation for the use of initial margin (IM) models as a risk-mitigation technique for OTC derivative contracts not cleared by a CCP.

The same regulation also introduced the concept of ‘pro forma models’, defined as initial margin model established, published, and revised through market-led initiatives, and tasks the EBA with validating such pro forma models once for the entire EU. Competent authorities can only authorise the use of an initial margin model based on a pro forma model, where the pro forma model has been validated by EBA.

Whether an IM model is based on a pro forma model or not, EMIR requires the authorisation and validation proceedings to be completed within a short period of time. In order for the authorisation to be granted in a smooth manner, in particular in case of IM models based on a pro forma model, a close cooperation between the counterparty seeking authorisation and the competent authority granting it, as well as the EBA paving the way to authorisation by validating the model, is necessary.

Article 11(3), sixth subparagraph, EMIR empowers the EBA, in cooperation with ESMA and EIOPA, to issue guidelines or recommendations with a view to ensuring the uniform application and authorisation process of the risk-management procedures. In the light of the need for close cooperation, the Guidelines presented in this report detail two core aspects of the authorisation process:

- The minimum set of information to be included in an application for authorisation of the use of an initial margin model and
- Guidance on what constitutes a change triggering the need for (re-)authorisation.

These Guidelines also set out notification obligations on aspects relevant for the authorisation, or its withdrawal, as well as guidance on the specific documentation that less active counterparties should have in place on a permanent basis, and should be able to make available to competent authorities upon request.

Next steps

The EBA will revise the proposed draft Guidelines, where appropriate, considering the feedback collected during the public consultation, and make the final version public. It is currently intended to gradually roll-out the application of the Guidelines over a period of 18 months, staggering the application for different groups of counterparties based on the significance of their OTC trading activities.

3. Background and rationale

Authorisation of the use of initial margin models under EMIR3

1. Regulation (EU) 2024/2987 (EMIR 3) introduced the requirement to request prior authorisation for the use of initial margin (IM) models as a risk-mitigation technique for OTC derivative contracts not cleared by a CCP. More specifically, the new Article 11(3), third subparagraph, of Regulation (EU) No 648/2012 (EMIR) foresees that ‘financial counterparties and non-financial counterparties referred to in Article 10(1) EMIR shall apply for authorisation from their competent authorities before using, or adopting a change to, a model for initial margin calculation with regard to the risk-management procedures laid down in the first subparagraph of this paragraph’.
2. EMIR 3 also introduces the concept of ‘pro forma models’, defined as ‘an initial margin model established, published, and revised through market-led initiatives’. Currently, the most widely used and only model qualifying as such a pro forma model is ISDA’s Standard Initial Margin Model (ISDA SIMM).
3. EMIR 3 tasks the EBA with validating such pro forma models: ‘Where the model referred to in the third subparagraph of this paragraph is based on a pro forma model, the counterparty shall apply for the validation of that model to EBA and shall provide EBA with all relevant information referred to in that subparagraph via the central database. In addition, the counterparty shall provide EBA with the information on the outstanding notional amount referred to in paragraph 12a of this Article via the central database.’¹ (Article 11(3), fourth subparagraph, EMIR).
4. EMIR 3 also clarifies that competent authorities can only authorise the use of an IM model based on a pro forma model, where the pro forma model has been validated by EBA (Article 11(3), fifth subparagraph, EMIR). Whether an IM model is based on a pro forma model or not, EMIR requires the authorisation proceedings (including the validation) to be completed within six months for new models and within three months in case of changes to previously authorised models.
5. In order for the authorisation to be granted in a smooth manner, in particular in the case of IM models based on a pro forma model like ISDA SIMM, a close cooperation between the counterparty seeking authorisation, the EBA validating the pro forma model, where applicable, and the competent authority granting authorisation to use the IM model, is

¹ Until ESMA has put in place a central database (in accordance with Article 17c EMIR) that supports the interactions between counterparties, competent authorities and the EBA regarding the authorisation of the use of initial margin models, the EBA will establish its own platform and procedures for the interaction with counterparties and competent authorities.

necessary. Given the need to cooperate in the context of the tight timeline foreseen by EMIR, counterparties should liaise with their competent authority as early as possible, and ideally even before submitting an application for authorisation, to identify the documents and input needed by the competent authority to assess the IM model of the counterparty and efficiently process the application, and, where applicable, to prepare the onboarding to the EBA's IT solution for processing applications for validation of pro forma models.

6. Article 11(3), sixth subparagraph, EMIR empowers the EBA, in cooperation with ESMA and EIOPA, to issue guidelines or recommendations with a view to ensuring the uniform application and authorisation process of the risk-management procedures.
7. In the light of the need for close cooperation, the Guidelines presented in this report detail two core aspects of the authorisation process:
 - The minimum set of information to be included in an application for authorisation by the applying counterparty and
 - Guidance on what constitutes a change triggering the need for renewing the authorisation in accordance with Article 11(3) EMIR.
8. That guidance is further complemented by two notification obligations on aspects relevant for the authorisation or its withdrawal. The Guidelines also set out specific documentation that less active counterparties should have in place on a permanent basis, enabling them to make it available to competent authorities at short notice, should the competent authorities request it, for example in the context of an ongoing authorisation process or for the purposes of a review of the counterparty's compliance with the requirements of EMIR and Commission Delegated Regulation (EU) 2016/2251 on risk-mitigation techniques for OTC derivative contracts not cleared by a central counterparty ('Joint ESAs RTS').

Authorisation process and documentation

9. The authorisation requirement of Article 11(3) EMIR applies to a wide range of counterparties with varying degrees of activity in OTC markets, that use different categories of IM models in different setups. For example, the obligation to seek authorisation applies to counterparties engaged extensively in OTC trading, and counterparties whose relevant activities barely exceed the thresholds requiring an exchange of initial margins. The IM model may be a model directly and fully developed by the counterparty using it ('own initial margin model'), it may be a model based on a pro forma model implemented locally, or it may be a model developed by a partner or service provider used indirectly (i.e. with the use and maintenance of the model effectively being outsourced to that partner or service provider).
10. Catering for the diverse set of circumstances, these Guidelines set out the minimum amount of information and documentation to be provided by counterparties for their application to be considered complete. This minimum information and documentation

builds on the information that counterparties are asked to share with their competent authorities in accordance with the Annexes to the [No Action Letter on the application of EMIR](#), which was published by the EBA in December 2024 and which will cease to apply once these Guidelines are applied. The set of information to be provided comprises information about the counterparty applying for authorisation, and information about the model and model use. In the most common scenario – use of an IM model based on a pro forma model – the former set of information on the identity and situation of the counterparty is the basic information necessary to be passed on in the process for both the competent authority and the EBA to interact with the counterparty and ultimately issue validation and authorisation decisions.

11. Among the information about the identity and situation of the applying counterparty, the information on whether the average outstanding notional amount of non-centrally cleared OTC derivatives (AANA) exceeds the EUR 750 bn threshold (a qualitative statement is requested) determines, in case of counterparties that are credit institutions or investment firms, whether the competent authority performs its assessment of the IM model in accordance with the Regulatory Technical Standards developed in accordance with Article 11(15), point (aa), of EMIR ('RTS on initial margin model authorisation', 'RTS on IMMA'). Information about the group that the counterparty belongs to facilitates the international coordination, given that ISDA SIMM is used worldwide.
12. When assessing the application for authorisation of the use of an IM model, the competent authority will take the circumstances of the applicant into consideration. For example, an application of the use of an own model will be scrutinised more extensively by the competent authority, as both the 'model engine' itself and the implementation of that model engine at the counterparty have to be verified. The counterparty is expected to provide more comprehensive information and documentation in this scenario. The Guidelines only point to the generic need to provide a description of the model and its scope of application; it will be up to the competent authority to detail which complementary information or documentation it needs for assessing the application of the counterparty for the use of that specific IM model.
13. Where a counterparty uses an IM model based on a pro forma model, the competent authority's check of compliance with the requirements of EMIR and the Joint ESAs RTS focuses on the implementation (e.g. on the mapping of the counterparty's risk factors to the model engine, the embedding of the use of the model into the counterparty's processes, or governance arrangements) of the model, rather than the 'model engine'. Instead of having to provide the information on the design of the pro forma model (the model engine) themselves, counterparties only have to indicate the relevant model version of the pro forma model; the documentation needed by the EBA for the validation is expected to be provided by the model developer to the EBA only once for all counterparties using or planning to use that version of the model.

14. An internal validation of the IM model, and the approval of its use, are crucial to ensure that counterparties have verified and confirmed that the IM model complies with the regulatory requirements and is a suitable choice for their business activities, that they understand how the model works and have properly integrated the use of the model in their relevant processes. Irrespective of whether the IM model used is an own model or a model based on a pro forma model, and irrespective of whether the model is developed, used and maintained directly by the counterparty, or the use and maintenance of the model are outsourced to a third party², counterparties are therefore expected to supply proof that the use of the IM model has been internally validated and approved.
15. Most of the considerations presented above for the case of an initial application hold true also for the case of changes to the model requiring authorisation. Counterparties are asked to provide basic descriptive information on the change itself; more comprehensive information on counterparty-specific changes (e.g. changes by the counterparty to its internal governance for the IM model use or the local implementation), and references to relevant documentation for the changes to the pro forma model that the model is based on. Besides that, counterparties should quantify the impact of the change, both in terms of the volume of business activities affected and the expected change in the volume of initial margins exchanged, provided the change affects the latter (for example, no quantitative information would be expected, if the change is purely limited to pure revision of the governance framework). With a view to catering for the diverse types of changes that are possible, and allowing counterparties to use a suitable and available metric, the Guidelines do not provide more guidance on how to measure the impacted business activities or the impact itself.
16. As explained in more detail in the next section, not every update made to an IM model qualifies as a change triggering the authorisation requirement set out in EMIR. Whenever counterparties apply for the authorisation of a change, the application should include an overview over all updates that did not qualify as a change, made since the last authorisation, in order for the competent authority to have a complete view over the history of the model. Detailing such updates in the application would not be necessary, if those updates bear no relevance for the most recent version of the model and its implementation.
17. In case of an application for the authorisation of a change, counterparties should also inform their competent authority of any change to their identity data. In particular, credit institutions or investment firms should indicate in their application whether their position in relation to the EUR 750 bn threshold has changed (i.e. whether their activities or those of the group they belong to started or stopped exceeding the threshold since the last time

² Article 14(1), second subparagraph, of the Joint ESAs RTS, emphasises that a counterparty remains responsible for the compliance of the IM model with the regulatory requirements, even if the model is developed by a third-party agent.

an authorisation was granted), as this influences the way the authorisation process is performed.

Changes as triggers for an authorisation

18. Article 11(3) EMIR foresees the need to seek authorisation in case of a change to the initial margin model. Neither EMIR nor the Joint ESAs RTS provide further indication of what constitutes a change. With a view to arriving at a more common and harmonised understanding, the Guidelines provide high-level guidance on what type of update is significant enough to qualify as a trigger for an authorisation request. Given the diverse nature of potential updates (and changes), however, the Guidelines cannot provide an exhaustive list.
19. In principle, the Guidelines aim to qualify an update as change, where
 - There is a fundamental change to the design of the model, to how it works,
 - There is a fundamental change to what the model is used for, i.e. the type and scope of positions that it is applied to is significantly extended, and/or
 - There is a fundamental change to the internal governance structure for the model.
20. In the spirit of the guidance provided, a mere recalibration of existing risk weights, in line with a previously authorised methodology, would not qualify as a change.
21. As regards the extension of the scope of positions covered by the IM model, both 'general' (model-coverage) related updates – for example, a new risk class 'crypto' is added to a model previously only catering for interest rate and FX products – and counterparty-specific updates – for example, the model has always covered commodities derivatives, among other asset classes, but the counterparty has not used the model for this particular asset class before – can qualify as change.
22. A revision of the governance framework would qualify as a change, where the allocation of the responsibilities for validating and auditing the use of the IM model are shifted or significantly adapted. The audit and validation functions of a counterparty should be among the first to detect weaknesses of the counterparty's understanding of the purpose and functioning of the model, weaknesses of the processes where the model is used, and weaknesses of the compliance with regulatory requirements. They should be well-placed to initiate remedial actions and changes, where necessary. A major transfer of responsibilities may deprive the audit and validation functions of the knowledge and expertise needed to challenge the parts of the counterparty's organisation that use the model on a continuous basis, and should therefore be notified to and assessed by the competent authority.

23. Where a counterparty uses an IM model based on a pro forma model, the updates made by the model developer to the model, updates made by the counterparty to the model implementation, or both may qualify as a change. It is also possible that neither the update to the model nor the one to the model implementation qualifies as a change.
24. With regard to the updates made by the model developer to the pro forma model, competent authorities should rely on the EBA's assessment whether the update in question is of a nature and significant enough to qualify as a change. But even in cases where the EBA deems the pro forma model not to have changed, there may be the case where the counterparty would still have to obtain a new authorisation from the competent authority, for example if the counterparty has to overhaul its implementation of the model.
25. Where the EBA qualifies an update to the pro forma model as a change and revalidates the model, a new authorisation is necessary, both where the local implementation of the model is revised, and where that implementation does not change at all.

Ad hoc notifications on aspects relevant for the authorisation

26. As mentioned above, the volume of OTC trading activities of credit institutions and investment firms determines whether the competent authority assesses the compliance of the IM model used by that credit institution or investment firm based on the techniques set out in the RTS on IMMA, or not.
27. Counterparties are supposed to measure the size of their activities based on data for the months March to May of a year, and perform that assessment at the latest by the end of the respective calendar year (i.e. between the beginning of June and the end of December).
28. If the OTC trading business of the credit institution or investment firm or the group they belong to grows over time, the RTS may become applicable after an initial authorisation has been granted; equally, if the business shrinks, the counterparty may no longer be in scope of the RTS. Against this background, counterparties should inform the competent authority, outside any process of application for authorisation, if their position in relation to the threshold has changed (i.e. if their relevant business activities started or stopped being above the threshold), so that the competent authority can assess the need for further supervisory actions.
29. Over time, the business of a counterparty, or the group that this counterparty belongs to, may shrink to an extent that it is no longer required to exchange initial margins. In such a case, counterparties can choose to return the authorisation for the use of an IM model, or they can keep it (e.g. if they continue using the model to calculate margins and expect their business to re-grow in a manner that they may have to resume exchanging initial margins in a foreseeable future). If counterparties keep their authorisation, they remain obliged to comply with obligations arising from the authorisation (e.g. payment of annual supervisory fees, reporting requirements). If counterparties opt for giving back the authorisation, they

should inform their competent authority; where counterparties use an IM model based on a pro forma model, they also have to actively withdraw the request for validation³ in the EBA's IT solution for validating pro forma models.

Minimum documentation requirements for OCPs

30. EMIR 3 introduces an element of proportionality for the authorisation of IM models, distinguishing between counterparties that are credit institutions and investment firms that have an AANA of above EUR 750 bn, or belong to groups with such an AANA (referred to as 'High volume institutions counterparties (HVICPs)' in these Guidelines) on one hand, and other counterparties subject to the obligation to seek authorisation (referred to as 'other counterparties (OCPs)' in these guidelines) on the other hand. The group of OCPs is diverse; it comprises financial and non-financial counterparties that are less active in OTC trading, but also includes actively trading counterparties that are neither credit institutions nor investment firms.
31. With a view to making the high-level documentation requirements in relation to the use of IM models explicitly or implicitly embedded in EMIR and the Joint ESAs RTS more tangible, these Guidelines provide the guidance on the specific sets of documents that OCPs should have in place, and should be prepared to make available at short notice to the competent authority.
32. All OCPs are expected to perform a self-assessment with the requirements of EMIR and the Joint ESAs RTS and document the results. In particular for OCPs engaged only in very limited trading activities that use initial margin models based on pro forma models, this self-assessment may be used by the competent authority as a core input for its decision on the authorisation.
33. The remaining minimum documentation requirements addressed to all OCPs cover the involvement of the management in the decision on the use of the IM model, the reviews and conclusions of the audit and validation function with regard to the design and use of the model, the basic IT setup and outsourcing activities. The competent authority may use this documentation to assess whether all relevant parts of the counterparty's organisation have an adequate understanding of the IM model and its use and would be capable of identifying, and addressing, if necessary, weaknesses and issues that may affect the model or its use.

³ The EBA validation system is expected to be designed in a way that counterparties make a request for validation once, and that request will be automatically carried forward to cover all subsequent updates and changes made by the model developer to the pro forma model. Thus, while no action from the counterparty is required on an ongoing basis, the request for validation must be explicitly withdrawn, where the counterparty no longer uses the IM model based on the pro forma model, for the counterparty to be no longer liable to pay the validation fees.

34. Where OCPs use an own IM model, and where they are engaged in significant OTC trading activities without being credit institutions or investment firms, it is even more important that the counterparty understands the benefits and limits of the IM model it uses. This requires the audit and validation function, as well as the unit or team developing and maintaining the model in case of use of an own IM model, to be sufficiently independent, empowered and equipped to fulfil their respective tasks, and if necessary, to challenge other parts of the organisation using or designing the model and trigger remedial action. For this reason, the Guidelines impose more comprehensive documentation requirements on the role of these units and teams for a subset of the OCPs.

4. Draft guidelines

In between the text of the draft RTS/ITS/Guidelines/advice that follows, further explanations on specific aspects of the proposed text are occasionally provided, which either offer examples or provide the rationale behind a provision, or set out specific questions for the consultation process. Where this is the case, this explanatory text appears in a framed text box.

EBA/GL/2026/XX

DD Month YYYY

Draft Guidelines

on the authorisation of initial margin models

5. Compliance and reporting obligations

Status of these guidelines

35. This document contains guidelines issued pursuant to Article 16 of Regulation (EU) No 1093/2010⁴. In accordance with Article 16(3) of Regulation (EU) No 1093/2010, competent authorities and counterparties must make every effort to comply with the guidelines.
36. Guidelines set the EBA view of appropriate supervisory practices within the European System of Financial Supervision or of how Union law should be applied in a particular area. Competent authorities to whom guidelines apply should comply by incorporating them into their practices as appropriate (e.g. by amending their legal framework or their supervisory processes), including where guidelines are directed primarily at counterparties.

Reporting requirements

37. According to Article 16(3) of Regulation (EU) No 1093/2010, competent authorities to whom guidelines apply must notify the EBA as to whether they comply or intend to comply with these guidelines, or otherwise with reasons for non-compliance, by [dd.mm.yyyy]. In the absence of any notification by this deadline, competent authorities will be considered by the EBA to be non-compliant. Notifications should be sent by submitting the form available on the EBA website with the reference 'EBA/GL/202x/xx'. Notifications should be submitted by persons with appropriate authority to report compliance on behalf of their competent authorities. Any change in the status of compliance must also be reported to EBA.
38. Notifications will be published on the EBA website, in line with Article 16(3).

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).

6. Subject matter, scope and definitions

Subject matter

39. These guidelines specify the uniform application and authorisation process of the risk-management procedures referred to in Article 11(3), first subparagraph, of Regulation (EU) No 648/2012 in accordance with Article 11(3), last subparagraph, of that Regulation, as well as certain harmonised notification and documentation requirements for the use of initial margin models.

Scope of application

40. These guidelines apply in relation to the process for authorising the use of models for initial margin calculation in accordance with Article 11(3), third subparagraph, of Regulation (EU) No 648/2012, as well as in relation to the use of initial margin models, including where those models are based on a pro forma model.

Addresses

41. These guidelines are addressed to competent authorities referred to in Article 2, point (13), of Regulation (EU) No 648/2012 that are responsible for the authorisation of the use of initial margin models in accordance with Article 11(3), third subparagraph of that Regulation, as well as to financial counterparties and non-financial counterparties as defined in Article 2, points (8) and (9), of that Regulation that are subject to the obligation to apply for authorisation of the use of an initial margin model in accordance with Article 11(3), third subparagraph, of that Regulation.

Definitions

42. Unless otherwise specified, terms used and defined in Regulation (EU) No 648/2012 and Delegated Regulation (EU) 2016/2251⁵ have the same meaning in the guidelines. In addition, for the purposes of these guidelines, the following definitions apply:

AANA	Aggregate average notional amount of non-centrally cleared derivatives, as referred to and calculated in accordance with Article 39 of Delegated Regulation (EU) 2016/2251
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⁵ 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, pp. 9–46, ELI: http://data.europa.eu/eli/reg_del/2016/2251/oj)

Initial margin model (IM model)	Model for initial margin calculation, as referred to in Article 11(3) of Regulation (EU) No 648/2012
Own initial margin model (own IM model)	Initial margin models that are not based on a pro forma model.
High volume institutions counterparties (HVICPs)	Credit institutions authorised in accordance with Directive 2013/36/EU and investment firms authorised in accordance with Directive 2014/65/EU that have, or belong to a group that has, a monthly average outstanding notional amount of non-centrally cleared OTC derivatives of at least EUR 750 billion, calculated in accordance with Delegated Regulation (EU) 2016/2251
Other counterparties subject to the obligation to seek authorisation for the use of an initial margin model (OCPs)	Counterparties other than HVICPs that are subject to the obligation to seek authorisation of the use of an initial margin model
Initial authorisation	Authorisation for the use of a model the use of which by the counterparty in question has not been previously authorised by a competent authority

7. Implementation

Explanatory text for consultation purposes

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.

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.

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

- 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).

Date of application

43. Counterparties that have, or belong to a group that has, an AANA that is above EUR 2 250 billion, calculated for the months March, April and May of the most recent calendar year, should comply with the Guidelines from *[indicatively: 1 January 2028]*. 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.
44. Counterparties that have, or belong to a group that has, an AANA that is above EUR 750 billion and below or equal to EUR 2 250 billion, calculated for the months March, April and May of the most recent calendar year, should comply with the Guidelines from *[indicatively: 1 July 2028]*. 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.

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.

8. Guidelines on the authorisation of initial margin models

8.1. Authorisation process and documentation

8.1.1. Minimum procedural requirements for authorisation requests

46. In order to apply for the initial authorisation of the use of an IM model, or the authorisation of a change to such an IM model, counterparties should provide at least the information set out in subsections 8.1.2 and 8.1.3.
47. Competent authorities should inform the counterparty without undue delay, when they deem the information in the application for authorisation to be complete and sufficiently clear to proceed with the authorisation process. This is without prejudice to the competent authority's right to request further information as part of the authorisation proceedings.

8.1.2. Minimum information to be provided in the initial application for authorisation of the use of an IM model

48. In order to apply for the initial authorisation of the use of an IM model, counterparties should provide at least the following information for the purposes of identification:
 - (a) Counterparty name;
 - (b) Legal entity identifier (LEI);
 - (c) Information about the type of entity;
 - (d) whether the counterparty has a monthly average outstanding notional amount of non-centrally cleared OTC derivatives of at least EUR 750 billion, calculated in accordance with Article 39 of Delegated Regulation (EU) 2016/2251, or belongs to a group that has a monthly average outstanding notional amount of non-centrally cleared OTC derivatives of at least EUR 750 billion, considering data for the last business days of the three full months preceding the date of application instead of the dates specified in that article.
49. In order to apply for the initial authorisation of the use of an IM model, counterparties that are part of a group should provide the following information about the group they belong to:
 - (a) Name of the group,

- (b) LEI of the parent of the ultimate parent of the group, or if no LEI is available, a suitable alternative entity identifier of that ultimate parent or a group identifier,
 - (c) Jurisdiction of incorporation of the group's parent or headquarters,
50. In order to apply for the initial authorisation of the use of an IM model, counterparties should provide at least the following information on the model and model use to their competent authority:
- (a) The identification of the model they seek authorisation for, including at least the name and version of the model,
 - (b) whether the IM model is based on a pro forma model as defined in Article 11(12a) of Regulation (EU) No 648/2012,
 - (c) the total amount of initial margin, including both posted and collected margin, for non-centrally cleared OTC derivatives of all netting sets, for which the applying entity exchanges initial margin, as of the end of the month preceding the date of application;
 - (d) the total amount of initial margin, including both posted and collected margin, for non-centrally cleared OTC derivatives of all netting sets, for which the applying entity uses an IM model to exchange initial margin ['Total IM_mod'], as of the end of the month preceding the date of application;
 - (e) the confirmation that the use of the IM model has been audited and internally validated in accordance with the counterparties' internal policies and procedures for the use of the IM model, including the date of the internal approval of the use of the IM model by the competent body.
51. Where a counterparty seeks authorisation for the use of an own IM model, they should provide the following information in addition to the information specified in paragraph 49:
- (a) a description of the IM model, including its rationale and objective,
 - (b) information on the scope of application of the IM model, including covered risk classes and covered product classes.
52. Where a counterparty seeks authorisation for the use of an IM model that is based on a pro forma model, they should do the following in addition to providing the information specified in paragraph 49:
- (a) Indicate the name and version of the pro forma model,
 - (b) indicate whether they are a licensed user of that pro forma model, and

- (c) confirm that they are aware of the obligation to apply for validation of the pro forma model to the EBA.
- 53. Where a counterparty uses several IM models, the information set out in paragraph 49, points (a) and (b), and, where applicable, paragraphs 50 and 51, should be provided separately for each model.
- 54. Competent authorities should specify which other information, if any, a counterparty should generally include in the application for authorisation in addition to the information listed in this section.

8.1.3. Minimum information to be provided in the application for authorisation of changes to a previously authorised IM model

- 55. In order to apply for the authorisation of changes to a previously authorised IM model, counterparties should provide at least the following information on the model and model use to their competent authority:
 - (a) a description of the change to the IM model, including the rationale and objective of the change;
 - (b) an overview over updates, other than changes, made to the IM model since the most recent authorisation of the model.
 - (c) the version number or name of the IM model after the change and the envisaged implementation date of the change;
 - (d) the scope of application of the model affected by the change, including information on the volume of relevant business activities;
 - (e) the confirmation that the change has been audited and internally validated in accordance with the counterparties internal policies and procedures for the use of the IM model, including the date of the internal approval of the change by the competent body, as applicable;
 - (f) where applicable, the quantitative impact of the change;
 - (g) where the change includes significant changes to the governance framework, an updated version of the documentation of the relevant policies or procedures.
- 56. Where counterparties use an IM model based on a pro forma model, they
 - (a) should indicate in their application whether the change consists exclusively of changes made by the developer of the pro forma model to that pro forma model, or includes also updates made by the counterparties on their own accord,

- (b) do not need to provide the information referred to in paragraph 55, points (a) and (b), with regard to changes and updates made by the developer of the pro forma model to that pro forma model itself, and should replace that information by a reference to the relevant documentation prepared by that model developer instead;
 - (c) should provide detailed information in accordance with paragraph 55 for all changes to their IM model that do not constitute changes to the pro forma model itself, including information on changes to their implementation of the pro forma model.
57. Where counterparties apply for the authorisation of changes to a previously authorised IM model, they should inform their competent authority of updates, if any, to the information referred to in paragraphs 48 and 49.
58. Competent authorities should specify which other information, if any, a counterparty should generally include in the application for the authorisation in addition to the information listed in paragraph 55.

8.2. Changes as triggers for an authorisation

59. An update to the IM model should be considered a change requiring authorisation in accordance with Article 11(3), third subparagraph, of Regulation (EU) No 648/2012, at least in the following cases:
- (a) the update would fundamentally alter the structural foundation, design, risk capture, assumptions of the IM model, including cases where a new modelling framework is introduced or a core methodology of the IM model is replaced, or the update would substantially revise the treatment of model dependencies;
 - (b) the update would extend the scope or the use of the IM model to entirely new asset classes or types of risks or would remove an entire asset class or type of risk from the scope of the IM model or the scope of the use of the IM model;
 - (c) the update would fundamentally change the counterparty's governance arrangements for the development, maintenance or use of the IM model, including cases where that update significantly reduces the scope of the internal validation or audit of the IM model, shifts the responsibility for that internal validation or audit to staff previously not involved in those processes, or entails the outsourcing of important or critical functions.
60. When assessing whether an update made by a counterparty qualifies as change in the sense of paragraph 59, points (a) and (b), competent authorities should follow the assessment by the EBA with regard to those elements of the update that exclusively relate to updates made by the model developer to the pro forma model that the counterparty's initial margin model is based on.

61. Competent authorities should assess whether updates made by a counterparty qualify as changes in the sense of paragraph 59, point (a) and (b), with regard to those elements of the update that do not exclusively relate to updates made by the model developer to the pro forma model, or qualify as changes in the sense of paragraph 59, point (c).

8.3. Ad hoc notifications on aspects relevant for the authorisation

62. Counterparties that are credit institutions or investment firms should notify their competent authority that their position, or their group's position, as applicable, with regard to the threshold referred to in paragraph 48, point (d), has changed since the most recent authorisation has been granted or they expect their position with regard to the threshold to change in the foreseeable future. Counterparties should notify their competent authority without undue delay.
63. Where counterparties cease to be subject to the obligation to seek authorisation of the use of an IM model and do not wish to retain their authorisation, they should
 - (a) notify their competent authority of the fact that they are no longer subject to that obligation, or indicate the date by which they cease to be subject to that obligation;
 - (b) request the EBA to exclude them from the scope of the validation decision from the later of the date of the request or the date by which they cease to be subject to that obligation.

8.4. Minimum documentation requirements for OCPs

64. OCPs should assess and document their compliance with the requirements set out in Chapter I, Section 4 of Delegated Regulation (EU) 2016/2251. Those counterparties should review and update their self-assessment at least whenever their IM model is updated, and should make it available to the competent authority upon request.
65. OCPs should have at least the following documentation in place and maintain it on an ongoing basis:
 - (a) evidence, in the form of reports addressed to the management and meeting minutes, demonstrating that the senior management and management body have a general understanding of the IM model;
 - (b) the most recent and other relevant reports on the audit of the IM model, including at least reports issued in the 12 months preceding the assessment date;
 - (c) the most recent and other relevant reports on the internal validation of the IM model, including at least reports issued in the 12 months preceding the assessment date;
 - (d) a description of the IT systems architecture related to the initial margin model calculation;

- (e) documentation of outsourced activities related to the initial margin calculation, including the information on the specific outsourcing arrangements made and processes for their ongoing monitoring.
66. Where OCPs use an own initial margin model, they should have at least the following documentation in place in addition to the one listed in paragraph 65:
- (a) a description of the organisational structure of the model development unit, or the organisational structure of the development team and how it is embedded into the overall organisation;
 - (b) the most recent and other relevant reports of the development unit or team to the management, including at least reports given during in the 12 months preceding the assessment date;
 - (c) evidence demonstrating how the counterparty ensures that units or teams responsible for originating, renewing, or trading exposures cannot alter the model implementation without appropriate control;
 - (d) a description of the organisational structure of the internal validation unit, or of the internal validation team and how it is embedded into the overall organisation;
 - (e) documentation showing that the internal validation unit or team is independent from units or teams responsible for the development of the initial margin model.
67. Where OCPs have a monthly average outstanding notional amount of non-centrally cleared OTC derivatives of at least EUR 750 billion, or belong to a group that has a monthly average outstanding notional amount of non-centrally cleared OTC derivatives of at least EUR 750 billion, as referred to in paragraph 48, point (d), they should have the documentation listed in paragraph 66 in place in addition to the one listed in paragraph 65.
68. OCPs should make the documentation listed in this section available to the competent authority upon request.

Questions for consultation

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

Q2. Do you deem the authorisation process described in these Guidelines to be sufficiently simple and proportionate, in particular regarding the authorisation of OCPs? If not, please suggest how to enhance the proportionality or simplify the authorisation process.

9. Accompanying documents

9.1. Draft cost-benefit analysis / impact assessment

Article 11(3) of Regulation (EU) No 648/2012 (EMIR) mandates the EBA, in cooperation with ESMA and EIOPA, to develop Guidelines (GL) to ensure the uniform application and authorisation process of the risk-management procedures.

Article 16(2) of Regulation (EU) No 1093/2010 (EBA Regulation) provides that any GL and recommendations developed by the EBA should be accompanied by an analysis of ‘the potential related costs and benefits’. This analysis should provide an overview of the findings regarding the problem to be dealt with, the solutions proposed and the potential impact of these options.

This section presents the cost-benefit analysis of the main policy options included in the GL. Given the nature and the scope of the GL, the analysis is high-level and qualitative in nature.

9.1.1. Baseline scenario and problem identification

Article 11(3) EMIR requires financial and non-financial counterparties to have risk-management procedures that require the timely, accurate and appropriately segregated exchange of collateral with respect to selected OTC derivative contracts. With regard to one element of those risk-management procedures, namely the use of initial margin models (IM models) for computing and exchanging initial margins, financial counterparties and non-financial counterparties referred to in Article 10(1) shall apply for authorisation from their competent authorities before using, or adopting a change to, such a model for initial margin calculation. Where the IM model is based on a pro forma model, the competent authority may grant the authorisation only where the pro forma model has been validated by the EBA.

Apart from this pre-requisite no additional requirements are set in EMIR on the application and authorisation process of the risk-management procedures. This may lead to potentially very different practises across Member States when assessing applications and granting authorisation, undermining a level playing field across the EU.

9.1.2. Policy objectives

The Guidelines aim at fostering the level playing field in terms of authorisation process of risk-management procedures across the EU, by establishing a common application and authorisation process for initial margin models. In addition, it provides a common and harmonised understanding on the type of model changes that will trigger an authorisation request.

9.1.3. Options considered, cost-benefit analysis and preferred option

Documentation to be included in application for authorisation

Option 1a: Minimum documentation requirements with flexibility for competent authorities (CAs)

Option 1b: Comprehensive and fully standardised documentation requirements for all counterparties

Under option 1a, the Guidelines would set a baseline, i.e. a minimum set of documentation requirements that all counterparties must have in place (e.g. information on counterparty applying for authorisation and about the model and model use) in order for the CA to have a meaningful starting point for assessing the initial margin model, and the environment it is embedded in, against the applicable regulatory requirements, and, in case of the use of IM models based on pro-forma models, facilitate the interaction between the counterparty, CA and the EBA. CAs would retain the discretion to request additional information where necessary for supervisory purposes or when assessing specific applications. This option ensures proportionality and avoids imposing unnecessary burden on counterparties with less involvement in OTC trading. At the same time, it allows CAs to tailor information requests to the risk profile of each counterparty, and the nature and significance of the IM model used. However, a flexible, proportionate approach may lead to some variation in the scope and nature of information that CAs base their authorisation decision on. However, this variation is expected to remain limited, as all authorities operate within the same common baseline set out in the Guidelines.

Under Option 1b, the Guidelines would prescribe a full, uniform set of documentation to be provided by every counterparty, regardless of size, level and complexity of activities, model type and scope of application. This option will ensure maximum harmonisation, reducing discretion of CAs and providing full clarity to counterparties on what is required. However, it could impose significant burden on small and less active counterparties and reduce supervisory flexibility in cases where the CA deems an aspect of the model, or model implementation, to be deserving less supervisory scrutiny in the light of the particular situation of the counterparty. Finally, it could lead to inefficiencies if counterparties need to prepare documentation that CAs do not need or use in the authorisation process.

Given the heterogeneity of counterparties subject to the authorisation requirement (in terms of size, complexity, and level of OTC activity), and the possibility of a wide-spread use of IM models based on pro-forma models, a proportionate approach as specified in Option 1a is preferred. This ensures that smaller or less active entities are not subject to an excessive administrative burden. At the same time, CAs retain the ability to request additional documentation where justified by the specific risk profile of a counterparty, or the specific model used by that counterparty. This allows the framework to remain both efficient and risk sensitive, while avoiding unnecessary costs for entities with limited trading activity or limited use of such a model.

Option 1a is preferred.

Changes as triggers for authorisation

Option 2a: Include specifications on what constitutes a model change requiring authorisation

Option 2b: Do not include guidance on what constitutes a model change requiring authorisation

Under Option 2a, the GL would describe, on a high-level basis, what types of updates to an initial margin model should be regarded as a 'change' requiring authorisation. This approach offers greater clarity and predictability for counterparties and helps promote supervisory convergence by providing a common reference point for competent authorities, reducing the number of applications to be submitted by counterparties and to be processed by CAs. While some differences in interpretation may still arise, these are expected to remain limited thanks to the common guidance.

Under Option 2b, the GL would not provide further guidance on what qualifies as a model change, leaving competent authorities to rely solely on EMIR and their own supervisory judgement when assessing whether an update triggers an authorisation requirement. This preserves maximum flexibility for authorities to take account of counterparty-specific circumstances, but it also increases the likelihood of divergent supervisory approaches and creates less predictability for counterparties, who may face uncertainty about whether a given update requires authorisation or may invest efforts into requests for renewals of the authorisation, where the authorisation already granted suffices.

Option 2a is preferred.

9.2. Overview of questions for consultation

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

Q2. Do you deem the authorisation process described in these Guidelines to be sufficiently simple and proportionate, in particular regarding the authorisation of OCPs? If not, please suggest how to enhance the proportionality or simplify the authorisation process.