

Consultation Paper

CP25/30**

Streamlining the UK EMIR Intragroup Regime

November 2025

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Chapter 1

Summary

Why we are consulting

1.1 The UK version of the European Market Infrastructure Regulation (UK EMIR) sets out requirements for counterparties who enter into derivative transactions. Under UK EMIR, counterparties are required to centrally clear certain over-the-counter (OTC) derivatives via a Central Counterparty (CCP). Counterparties must meet bilateral margin requirements for all OTC derivatives that don't require mandatory clearing. UK EMIR provides exemptions from the clearing obligation and margin requirements for intragroup transactions, as long as they meet certain conditions.

1.2 On 5 November, the Treasury published a [draft statutory instrument \(SI\)](#) for technical comment, which set out proposals to amend UK EMIR. The proposals aim to create a permanent, more streamlined Intragroup Regime within UK EMIR and associated Binding Technical Standards (BTS) (Intragroup Regime). These proposals will give clarity on the status of a counterparty's intragroup exemptions and reduce regulatory burdens for counterparties, while retaining appropriate regulatory oversight of intragroup transactions.

1.3 This CP summarises the Treasury's proposed legislative changes to the Intragroup Regime. It also sets out our proposals to implement these changes alongside additional changes to consolidate the regime and further reduce burdens on counterparties. By streamlining the Intragroup Regime, we are reducing disproportionate burdens for counterparties as part of our strategic priorities to support growth and be a smarter regulator.

1.4 Our CP should be read in conjunction with the Treasury's draft SI to get a full picture of the proposed changes to the Intragroup Regime.

Who this applies to

1.5 Our proposals will be of interest to:

- Counterparties subject to UK EMIR requirements
- Industry associations
- Law firms
- Consultants

What we want to change

1.6 We propose to amend our BTS on the Intragroup Regime to support the Treasury's reforms to create a consolidated, more streamlined Intragroup Regime under UK EMIR. The relevant BTS are the UK version of Commission Delegated Regulation (EU) 2016/2251 (BTS 2016/2251) and the UK version of Commission Delegated Regulation (EU) No. 149/2013 (BTS 2013/149).

1.7 Alongside the Treasury's proposed changes, our proposals respond to industry feedback to implement a permanent Intragroup Regime to give clarity on the status of a counterparty's intragroup exemptions and reduce disproportionate regulatory burdens. This will allow counterparties to benefit from the operational efficiencies and risk management benefits of intragroup transactions.

1.8 The specific proposals we are making are:

Streamlining the Intragroup Regime (Chapter 3)

- **To reduce the supplementary documents required for intragroup exemptions from the bilateral margin requirements** (margin exemptions). This will align the process more closely with the details required for intragroup exemptions from the clearing obligation (clearing exemptions). This should result in a more consistent, less burdensome process for counterparties. This proposal would also mean counterparties do not have to re-notify us if they want to extend existing margin exemptions to new transactions. This approach will streamline the margin exemption process, making it simpler and faster for counterparties to get margin exemptions, while maintaining an appropriate degree of regulatory oversight.

Simplifying our Binding Technical Standards (Chapter 4)

- **To consolidate intragroup requirements in BTS 2016/2251.** Currently, some of the procedural requirements for intragroup margin exemptions sit in BTS 2016/2251 and BTS 2013/149. This proposal will consolidate these requirements into BTS 2016/2251, which supplements Article 11(15) of UK EMIR, with requirements for the exchange of margin. This will simplify the process for counterparties, making it easier to navigate the requirements of the UK EMIR Intragroup Regime, specifically for margin exemptions.

Consequential amendments (Chapter 5)

- **To make consequential amendments to align with changes to UK EMIR.** This proposal will result in changes to our BTS and supporting guidance in the EMIR Q&As so they remain aligned with UK EMIR. This will maintain the regulatory framework's coherence and give clarity and certainty to counterparties seeking intragroup exemptions.

Outcomes we are seeking

1.9 Our proposals aim to put in place an Intragroup Regime under UK EMIR that is clear and less burdensome for counterparties seeking intragroup exemptions, while maintaining regulatory oversight. We are also making these changes in response to industry feedback that the existing process is overly burdensome and based on our experience that the process could be simplified.

1.10 By streamlining the Intragroup Regime, counterparties can use exemptions to support their business activities more quickly and efficiently. By helping reduce the regulatory burdens on counterparties and enabling business activities, these measures will contribute towards our Secondary International Competitiveness and Growth Objective (SICGO) and strategic priority to support growth.

1.11 A more streamlined exemption process will also let us take a more agile risk-based supervisory approach when assessing notifications. By focusing supervision on the greatest risks, we can reduce firm burdens while effectively protecting the integrity of UK financial markets. This aligns with our strategic ambition to become a smarter, more proportionate regulator.

Measuring success

1.12 Due to the limited nature of our proposals, we consider it disproportionate to collect metrics to measure success. Instead, we will collect industry feedback as part of our regular market monitoring to ensure that our proposals:

- Reduce the time counterparties spend submitting notifications for intragroup exemptions.
- Increase the speed and ease with which counterparties can benefit from intragroup exemptions.
- Improve the quality of intragroup exemption notifications.
- Reduce the time we spend reviewing notifications.
- Contribute to delivering an Intragroup Regime which is easier to navigate and less burdensome.

Next steps

1.13 We are consulting on our proposals for 10 weeks during which we will engage with industry to get feedback.

1.14 Please send your comments to us by using the options in the 'How to respond' section at the start of this document by 16 January 2026. Unless you indicate that your response is confidential, we will not treat it as such.

1.15 Following consultation, we will consider the feedback and incorporate it where appropriate. We intend to publish our Policy Statement and final rules once the Treasury's draft SI is finalised in 2026. We intend for the new rules to come into force ahead of the expiration of the Temporary Intragroup Exemption Regime (TIGER) on 31 December 2026.

Chapter 2

The wider context

Background

UK EMIR

2.1 Following the global financial crisis in 2008/09, the Group of 20 (G20) brought in reforms to reduce the systemic risks posed by OTC derivative transactions. The G20 reforms were first implemented in the UK in 2012 under EU EMIR. EU EMIR was later converted into UK legislation following the UK's withdrawal from the EU (UK EMIR).

2.2 UK EMIR requires the mandatory clearing of some OTC derivatives via a CCP. However, not all OTC derivatives are suitable for clearing and substantial OTC markets remain. To address the residual counterparty risk of these transactions, UK EMIR also requires counterparties to bilaterally exchange 2 types of margin. Variation margin is exchanged daily and used to cover differences in the mark-to-market value of a trade. Initial margin is exchanged between counterparties and used if a counterparty defaults to cover loss of value during the time it would take to 'port' (i.e. move) the position of a defaulting firm to another counterparty or to liquidate the position.

Intragroup Regime

2.3 Some OTC derivatives subject to the clearing obligation and bilateral margin requirements are entered into by entities that are part of the same consolidated group (intragroup transactions). Intragroup transactions are often managed differently to OTC derivatives entered into by 2 external facing counterparties. This is because the group can manage any counterparty credit risks from these transactions centrally. Intragroup transactions are often used to improve operational efficiency and risk management.

2.4 As a result, UK EMIR provides exemptions for intragroup transactions from both the clearing obligation and the bilateral margin requirements, as long as certain conditions are met. Counterparties must demonstrate they meet these conditions before they can use an exemption. This is to ensure exemptions do not present unacceptable risks. The conditions to be met and details and documentation required are currently more extensive for margin exemptions compared to clearing exemptions as they require a broader assessment of risks within a group.

2.5 Counterparties must notify us in advance if they intend to use exemptions. The exception is margin exemptions between 2 UK counterparties, where counterparties must self-assess that they meet the relevant conditions before using an exemption. The notification period for clearing exemptions is 30 days. In contrast, and to reflect the broader assessment required, the notification period for margin exemptions is 3 months. We may object to the use of exemptions if counterparties do not meet the relevant conditions.

2.6 While a counterparty may apply for an intragroup exemption when trading with any entity within the same group, there is a difference in their treatment depending on the jurisdiction of the intragroup counterparty. Under the current Intragroup Regime, there are 3 types of exemptions available:

- A UK counterparty entering into OTC derivatives with an intragroup counterparty established in the UK.
- A UK counterparty entering into OTC derivatives with an intragroup counterparty established in a third country deemed equivalent under UK EMIR.
- A UK counterparty entering into OTC derivatives with an intragroup counterparty established in a third country not deemed equivalent under UK EMIR.

2.7 Counterparties are also required to publicly disclose details of any margin exemptions they currently benefit from.

2.8 The conditions and processes applicable to the Intragroup Regime for counterparties to obtain intragroup exemptions from the clearing obligation and bilateral margin requirements sit principally within Articles 3, 4 and 11 of UK EMIR, the associated BTS (BTS 2016/2251 and BTS 2013/149) and the supporting guidance in the EMIR Q&As.

2.9 UK EMIR also contains an intragroup exemption from the reporting obligation where one of the intragroup counterparties is a non-financial counterparty. As this exemption is narrower and forms part of the derivatives reporting regime in Article 9 of UK EMIR, we have not considered this intragroup exemption as part of this CP.

Temporary Intragroup Exemption Regime (TIGER)

2.10 As long as all the other relevant conditions are met, UK counterparties transacting with group entities established in the UK, or a jurisdiction deemed equivalent under UK EMIR, may benefit from a permanent intragroup exemption.

2.11 The Treasury brought TIGER into legislation for UK counterparties transacting with group entities in third countries where no equivalence determination has been made by the Treasury. TIGER allows for the continuation of intragroup clearing and margin exemptions obtained before the end of the Brexit transition period between UK counterparties and group entities in third countries where no equivalence determination has been made. It also allows UK counterparties to apply for new intragroup exemptions from the clearing obligation and margin requirements with group entities in third countries where no equivalence determination has been made. However, the exemptions continued or granted under TIGER only apply on a temporary basis (currently until 31 December 2026).

2.12 TIGER was originally set to expire in December 2023. However, the Treasury extended TIGER until 31 December 2026, stating its intention to identify a longer-term approach to intragroup exemptions before the expiration date.

Treasury reforms

2.13 The Treasury have published a draft SI proposing amendments to UK EMIR relating to intragroup exemptions. The proposals aim to make intragroup exemptions from the margin and clearing requirements currently enabled by TIGER permanent. This would enable counterparties to obtain permanent exemptions for their OTC derivatives transactions with intragroup counterparties in third countries where no equivalence determination has been made by the Treasury. This would remove counterparties' uncertainty about the status of their exemptions. In response to industry feedback, the Treasury also reviewed the wider Intragroup Regime to identify ways to further streamline the requirements.

2.14 Specifically, the Treasury's draft SI proposes to:

- Remove the requirement for intragroup counterparties to be established in a third country that is equivalent under UK EMIR to benefit from permanent intragroup exemptions. This will enable counterparties to obtain and use intragroup exemptions with intragroup counterparties in third countries on a permanent basis, as long as the relevant conditions are met.
- Move from an application-based regime to a notification-based regime for exemptions with counterparties established in third countries. This will allow counterparties to use intragroup exemptions following the statutory notification period if the relevant conditions are met.
- Align the intragroup exemption processes for clearing and margin exemptions by:
 - Reducing the notification period for margin exemptions from 3 months to 30 calendar days beginning on the day after we receive the complete notification,
 - Removing the requirement for counterparties to publicly disclose their margin exemptions, and
 - Removing the requirement for UK counterparties to notify us before applying a clearing exemption to transactions with another UK counterparty.
- Simplify the exemption framework by removing unnecessary distinctions between financial and non-financial counterparties.

2.15 The Treasury propose to make these changes by amending UK EMIR to address TIGER's expiration at the end of 2026. The Treasury have said it intends to review the remainder of UK EMIR Title II in due course. As part of this process, we and the Treasury may look to further consolidate elements of the Intragroup Regime into our rules.

Our proposals

2.16 We propose amending our BTS, specifically BTS 2016/2251 and BTS 2013/149, to further **streamline the Intragroup Regime**, specifically for margin exemptions.

2.17 We also propose **simplifying our BTS** provisions. We propose to consolidate all the provisions covering the notification process for margin exemptions into BTS 2016/2251.

2.18 To ensure alignment with the Treasury's proposed changes to UK EMIR, we also propose **consequential amendments** to BTS 2016/2251, BTS 2013/149 and the associated EMIR Q&As.

Panel engagement

2.19 We have shared these proposals with our Markets Practitioner Panel. We did not receive any feedback.

How it links to our objectives

Market integrity

2.20 Our proposals support the Treasury's proposed reforms in reducing the regulatory burdens of the Intragroup Regime while keeping appropriate regulatory oversight to support our market integrity objective. By creating a more streamlined regime, the changes will also further our aim of being a smarter, more proportionate regulator.

Secondary international competitiveness and growth objective

2.21 Our proposals support the Treasury in reducing the regulatory burdens on counterparties while maintaining appropriate standards of regulatory oversight. This will contribute towards a more proportionate regulatory environment, supporting the UK's growth and international competitiveness as a centre for financial services in line with our SICGO and strategic goal of supporting growth.

Environmental, social & governance considerations

2.22 In developing this CP, we have considered the environmental, social and governance implications of our proposals and our duty under ss. 1B(5) and s. 3B(1)(c) of the Financial Services and Markets Act (FSMA) to have regard to contributing towards the Secretary of State achieving compliance with the net-zero emissions target under section 1 of the Climate Change Act 2008 and environmental targets under s. 5 of the Environment Act 2021. Overall, we do not consider that the proposals are relevant to contributing to those targets. We will keep this issue under review during the course of the consultation period and when considering whether to make the final rules.

2.23 In the meantime, we welcome your input to this consultation on this.

Equality and diversity considerations

2.24 We have considered the equality and diversity issues that may arise from the proposals in this CP. Overall, we do not consider that the proposals materially impact any of the groups with protected characteristics under the Equality Act 2010 (in Northern Ireland, the Equality Act is not enacted but other antidiscrimination legislation applies).

2.25 We will continue to consider the equality and diversity implications of the proposals during the consultation period and revisit them when making the final rules. In the meantime, we welcome your input to this consultation on this.

Chapter 3

Streamlining the Intragroup Regime

3.1 This chapter sets out our proposal to support the Treasury's changes and further streamline the Intragroup Regime.

Background

3.2 Under the current Intragroup Regime, counterparties are required to submit notifications for clearing exemptions and applications for margin exemptions to us. However, the conditions to be met and details required are different for clearing and margin exemptions.

3.3 Following the implementation of the changes to UK EMIR in the Treasury's draft SI, to benefit from **clearing exemptions** counterparties must demonstrate that both counterparties are:

- Included in the same consolidation on a full basis, either in line with relevant accounting standards or through consolidated supervision, and
- Have appropriate centralised risk evaluation, measurement and control procedures.

3.4 Once the changes to UK EMIR in the Treasury's draft SI come into force, for **margin exemptions** counterparties must additionally demonstrate they meet the following conditions in UK EMIR:

- That the counterparties' risk management procedures are adequately sound, robust and consistent with the complexity of the derivative transactions, and
- That there is no current or foreseen practical or legal impediment to the prompt transfer of own funds or repayment of liabilities between the counterparties.

3.5 As part of their notification or application, we expect firms to evidence how they are meeting these conditions. This includes providing details of the intragroup relationship and a description of the applicable risk management procedures. We are not proposing to change this.

3.6 However, for margin exemptions, counterparties must also provide further details and supporting documentation specified in Article 18 of BTS 2013/149. This makes the margin exemption process more burdensome than the clearing exemption process. The additional documentary burden includes requiring counterparties to:

- Specify, as part of their notification, details of the transactions the exemption would apply to.
- Provide copies of documented risk management procedures.
- Provide details of historical transaction information, and
- Provide copies of the relevant contracts between the counterparties.

3.7 The additional information required for margin exemptions was originally put in place to reflect the broader assessment required by us when reviewing these applications. The broader assessment was needed due to the high volume and complexity of the OTC derivative transactions subject to the margin requirements. This contrasts with the clearing obligation, which only applies to a small population of standardised OTC derivatives. It also takes into account the nature of the bilateral margin requirements. For example, how the margin to be exchanged between counterparties is calculated based on the specific characteristics of an OTC derivative transaction.

3.8 Industry has told us that the process for submitting applications for margin exemptions is disproportionately burdensome compared to the notification process for clearing exemptions. As part of our review process, we also found a high level of incomplete margin exemption applications. These require time-consuming supervisory follow-up from us, delaying when a counterparty may get our approval and start benefitting from the exemption. Removing the need for certain details and documentation for these exemptions will mean we lose some visibility on specific transactions. However, the explanation in margin applications of how the counterparties meet the relevant conditions under UK EMIR, including details of the intragroup relationship and description of centralised risk management procedures, form the core focus of our risk-based supervisory approach and has proven sufficient to inform our decision making.

3.9 The Treasury propose to streamline the margin exemption process by moving from an application-based to a notification-based approach. They also propose to reduce the notification period from 3 months to 30 calendar days beginning on the day after we receive the complete notification and simplify the exemption framework. Our proposal is intended to support this by further streamlining the Intragroup Regime.

Our proposal

Proposal 1: Reduce the supplementary documents required for intragroup exemptions from the bilateral margin requirements

3.10 We propose to reduce the amount of detail and supporting documentation counterparties are required to submit in support of their margin exemption notifications.

3.11 Under this proposal, we will remove the requirement to provide the full suite of documentation listed in Article 18 of the current version of BTS 2013/149. Counterparties would only need to provide certain core information as part of their notification as outlined in the table below.

	Information and documentation currently required under BTS 2013/149 Article 18	Information and documentation currently required under Proposal 1
Details of legal counterparties and Legal Entity Identifiers	Yes	Yes
Corporate relationship and details of supporting contractual relationship between the counterparties	Yes	Yes
Category of intragroup transaction	Yes	No – (note that this requirement is removed by Proposal 3)
Details of the transactions for which the exemption would apply	Yes	No – unless requested
Copies of documented risk management procedures	Yes	No – unless requested
Historical transaction information	Yes	No – unless requested
Copies of relevant contracts	Yes	No – unless requested
Legal opinion	No – unless requested	No – unless requested

3.12 In some cases, we may still need to validate certain notifications. As a result, we will maintain the right to request, in writing, additional documentation to further support an application where needed. In these cases, the 30-day notification period will begin when we receive the further information we have requested, provided that we make our request within the 30 calendar day period beginning on the day after we receive the notification.

3.13 As previously noted, under the current Intragroup Regime, counterparties must provide details of the specific products for which they require the margin exemption. As a result, a margin exemption, if approved, would only apply to the products listed in a counterparty's application. This means a counterparty would need to submit a new application with the same intragroup counterparty if they require a margin exemption for any new types of transaction. Removing the requirement for a counterparty to provide specific transaction details as part of their notification means they will no longer have to re-notify us if they enter into any new transaction types with an intragroup counterparty where they have already been given a margin exemption.

3.14 By reducing the detail and documentation required for margin exemption notifications, we are aligning the process for clearing and margin exemption notifications more closely. This is in line with Treasury's approach to more closely align the 2 processes. Our aim is to reduce any disproportionate burdens for counterparties, making it simpler and quicker to get an intragroup exemption. The proposal also streamlines our review process while maintaining the right level of supervisory oversight.

Question 1: Do you agree with our proposal to reduce the detail and supporting documentation currently listed under Article 18 of BTS 2013/149 from the documentation required for a margin exemption?

Question 2: Is there anything about the notification process for clearing and margin exemptions which you would like to raise?

Chapter 4

Simplifying our Binding Technical Standards

4.1 This chapter sets out our proposals to simplify our BTS provisions supporting the Intragroup Regime.

Background

4.2 Under the current Intragroup Regime, counterparties must comply with provisions covering the Intragroup Regime that sit across legislation, BTS and guidance in the form of EMIR Q&As.

4.3 BTS 2016/2251 is the main BTS which supports implementation of the risk reduction requirements for uncleared derivatives under UK EMIR. Currently, this includes the procedural requirements for margin exemption applications. BTS 2013/149 also contains the provisions which specify the documentation to be included in margin exemption applications (which we are proposing to amend as outlined in Chapter 3). Guidance in the form of EMIR Q&As also details how a counterparty may demonstrate they meet the relevant conditions for intragroup exemptions.

4.4 We recognise the complexity for counterparties who are required to comply with Intragroup Regime requirements across multiple sources and the disproportionate burdens this can create.

Our proposal

Proposal 2: Consolidate intragroup requirements in BTS 2016/2251

4.5 We propose to consolidate all provisions covering the Intragroup Regime for margin exemptions in BTS 2016/2251. This will delete Article 18 of BTS 2013/149 and reformulate these provisions into BTS 2016/2251, supporting implementation of the bilateral margin regime. We will delete Article 20 of BTS 2013/149 as a consequential amendment (see paragraph 5.4 below). The rest of the provisions in BTS 2013/149 which do not relate to intragroup exemptions will remain unchanged.

4.6 In consolidating the relevant provisions for margin exemptions into BTS 2016/2251, counterparties will be able to navigate what is required to submit a notification in 1 BTS, reducing any unnecessary operational burdens. Our aim is to create a more efficient, effective and coherent regulatory framework for the Intragroup Regime.

Question 3: Do you agree with our proposal to consolidate the provisions for margin exemption notifications solely into BTS 2016/2251?

Chapter 5

Consequential amendments

5.1 This chapter sets out our proposal to make consequential amendments to BTS 2016/2251, BTS 2013/149, and the EMIR Q&As to ensure they remain aligned with the primary legislation.

Background

5.2 Our and the Treasury's proposals aim to introduce a more streamlined Intragroup Regime that removes the current requirement for an equivalence determination on a third country. This includes some changes to provisions in UK EMIR. These changes will require consequential amendments to BTS 2016/2251 and BTS 2013/149 to align the provisions.

5.3 In addition to provisions in our BTS, further guidance on the Intragroup Regime is set out within the EMIR Q&As. Specifically, EMIR Q&A OTC Q6 provides guidance on how and when counterparties may get intragroup exemptions. Following the proposed changes to the Intragroup Regime proposed by us and the Treasury, some of these Q&As will no longer be relevant or form part of our supervisory expectations, particularly those Q&As that relate to the existing exemption process.

Our proposals

Proposal 3: Consequential amendments to align with the Treasury's changes to UK EMIR

5.4 We propose the following consequential changes to align our BTS with the Treasury's proposed changes to UK EMIR:

- Modifying the language and removing some provisions in BTS 2016/2251 to reflect the Treasury's proposed change from an application-based to a notification-based Intragroup Regime.
- Removing provisions in BTS 2016/2251 specifying that the outcome of margin exemptions should be communicated to counterparties within 3 months. Instead, counterparties will be able to use intragroup exemptions after the expiry of the 30 calendar day period beginning on the day after FCA receipt of a complete notification, provided the relevant conditions are met.
- Removing the requirement for firms to specify the category of intragroup transaction (set out in the table at paragraph 3.11). This reflects the Treasury's simplification of the exemption framework.
- Updating legal cross-references to UK EMIR so they remain accurate, reflecting the omission of paragraphs 9 and 11 of Article 11 of UK EMIR.
- Deleting Article 20 of BTS 2013/149, which specifies the information on intragroup margin exemptions to be publicly disclosed, to align with the Treasury's proposed removal of the public disclosure requirement for margin exemptions.

5.5 We also propose issuing guidance that sets out which of the EMIR Q&As on the Intragroup Regime will no longer form part of our supervisory expectations following the Treasury's proposed changes. Specifically, we propose revoking OTC Question 6 (a), (b), (c), (f) and (g) and OTC Answer 5 (a), (b), (c), (f) and (g).

5.6 EMIR OTC Question 6 (d), (e) and (h) and OTC Answer 5 (d), (e) and (h) would continue to apply, in line with our guidance on EU non-legislative materials.

5.7 As stated above, the EMIR Q&As provide guidance on intragroup exemptions. We have previously issued guidance explaining that EU non-legislative materials, such as the EMIR Q&As, which were in force at the end of the EU withdrawal transition period (i.e. 11pm on 31 December 2020), would continue to apply in the UK after that date. The EU non-legislative materials which we have said continue to apply (including the EMIR Q&As) are available on our Handbook website.

Question 4: Do you agree with our proposal to make consequential amendments to BTS 2016/2251, BTS 2013/149, and the EMIR Q&As on the Intragroup Regime to align with the Treasury's proposed amendments to UK EMIR?

Annex 1

Questions in this paper

Question 1: Do you agree with our proposal to reduce the detail and supporting documentation listed under Article 18 of BTS 2013/149 from the documentation required for a margin exemption?

Question 2: Is there anything about the notification process for clearing and margin exemptions which you would like to raise?

Question 3: Do you agree with our proposal to consolidate the provisions for margin exemption notifications solely into BTS 2016/2251?

Question 4: Do you agree with our proposal to make consequential amendments to BTS 2016/2251, BTS 2013/149, and the EMIR Q&As on the Intragroup Regime to align with the Treasury's proposed amendments to UK EMIR?

Annex 2

Cost benefit analysis

1. FSMA requires us to publish a cost benefit analysis (CBA) of our proposed rules. Specifically, section 1381 requires us to publish a CBA of proposed rules, defined as 'an analysis of the costs, together with an analysis of the benefits that will arise if the proposed rules are made'.
2. We are not, however, required to publish a CBA for proposals where we believe there will be no costs, or the costs will be of 'minimal significance' (compared to a scenario of no FCA intervention).
3. We do not consider that the proposals presented here will create costs of more than minimal significance and have therefore not undertaken a CBA. Our proposals are intended to support the Treasury's wider reforms to the Intragroup Regime. On their own, we expect their impact to be limited.
4. For the same reasons, we do not propose to monitor our proposals under our Rule Review Framework.
5. By supporting the Treasury's reforms, we however expect these proposals to contribute to improving and streamlining the Intragroup Regime overall to reduce firm burdens while maintaining proportionate regulatory oversight to protect market integrity.

Annex 3

Compatibility statement

Compliance with legal requirements

- 1.** This Annex records the FCA's compliance with a number of legal requirements applicable to the proposals in this consultation, including an explanation of the FCA's reasons for concluding that our proposals in this consultation are compatible with certain requirements under FSMA.
- 2.** When consulting on new technical standards, the FCA is required by sections 138S(2)(f) and 138I(2) FSMA to include an explanation of why it believes making the proposed technical standards (a) is compatible with its general duty, under section 1B(1) FSMA, so far as reasonably possible, to act in a way which is compatible with its strategic objective and advances one or more of its operational objectives, (b) so far as reasonably possible, advances the SICGO, under section 1B(4A) FSMA, and (c) complies with its general duty under section 1B(5)(a) FSMA to have regard to the regulatory principles in section 3B FSMA. The FCA is also required by sections 138S(2)(h) and 138K(2) FSMA to state its opinion on whether the proposed technical standards will have a significantly different impact on mutual societies as opposed to other authorised persons.
- 3.** This Annex also sets out the FCA's view of how the proposed technical standards are compatible with the duty on the FCA to discharge its general functions (which include making technical standards) in a way which promotes effective competition in the interests of consumers (section 1B(4)). This duty applies in so far as promoting competition is compatible with advancing the FCA's consumer protection and/or integrity objectives.
- 4.** In addition, this Annex explains how we have considered the recommendations made by the Treasury under s. 1JA FSMA about aspects of the economic policy of His Majesty's Government to which we should have regard in connection with our general duties.
- 5.** This Annex includes our assessment of the equality and diversity implications of these proposals.
- 6.** Under the Legislative and Regulatory Reform Act 2006 (LRRA) the FCA is subject to requirements to have regard to a number of high-level 'Principles' in the exercise of some of our regulatory functions and to have regard to a 'Regulators' Code' when determining general policies and principles and giving general guidance (but not when exercising other legislative functions like making rules). This Annex sets out how we have complied with requirements under the LRRA.
- 7.** Under 138P FSMA we are required to consult the Prudential Regulation Authority (PRA) before making technical standards. We consulted the PRA in the process of developing these proposals.

The FCA's objectives and regulatory principles: Compatibility statement

8. The proposals set out in this consultation are primarily intended to advance the FCA's operational objective of market integrity. They are also relevant to the FCA's SICGO. Additionally, we consider these proposals are compatible with the FCA's strategic objective of ensuring that the relevant markets function well. For the purposes of the FCA's strategic objective, "relevant markets" are defined by section 1F FSMA.
9. As explained in Chapter 2, we consider these proposals advance our market integrity objective and ensure the relevant markets function well because they will help create a more streamlined and proportionate Intragroup Regime. This will reduce burdens on counterparties seeking intragroup exemptions while maintaining an appropriate degree of regulatory oversight. A streamlined approach will also permit us to deploy supervisory resource in a more efficient, risk-based manner to scrutinise higher-risk exemptions in greater depth. This will enhance regulatory oversight, better protecting market integrity and ensuring the relevant markets function well.
10. We also consider that these proposals comply with the FCA's SICGO because they will help create a more proportionate Intragroup Regime. This contributes to reducing operational burdens on counterparties when applying for intragroup exemptions, which supports the UK's international competitiveness and growth.
11. In preparing the proposals set out in this consultation, the FCA has had regard to the regulatory principles set out in section 3B FSMA.

The need to use our resources in the most efficient and economic way

12. By streamlining the margin exemption process, the proposals will help us use our resources in a more efficient and economic manner by enabling a more risk-based supervisory approach focused on higher-risk cases. This aligns with our strategic priority to be a smarter regulator.

The principle that a burden or restriction should be proportionate to the benefits

13. The proposals support this principle by reducing the burden of obtaining margin exemptions and simplifying our BTS while retaining an appropriate level of regulatory oversight to deliver a more proportionate Intragroup Regime.

The need to contribute towards achieving compliance by the Secretary of State with section 1 of the Climate Change Act 2008 (UK net zero emissions target) and section 5 of the Environment Act 2021 (environmental targets)

14. While creating these proposals we have had regard to the need to contribute toward net zero emission targets. We consider that the proposals meet our regulatory obligations and climate responsibilities. We will keep this under review during the consultation period.

The general principle that consumers should take responsibility for their decisions

15. The proposals do not depart from the principle that consumers should take responsibility for their decisions.

The responsibilities of senior management

16. The proposals do not directly affect the responsibilities of senior management.

The desirability of recognising differences in the nature of, and objectives of, businesses carried on by different persons including mutual societies and other kinds of business organisation

17. We do not consider that our proposals create any adverse effect resulting from differences in businesses.

The desirability of publishing information relating to persons subject to requirements imposed under FSMA, or requiring them to publish information

18. We are removing the requirement specifying the details counterparties relying on intragroup margin exemptions are required to publish. However, this is to align with changes the Treasury is making to UK EMIR, and we consider the desirability of reducing burdens of counterparties outweighs the desirability of requiring them to publish this information.

The principle that we should exercise our functions as transparently as possible

19. By consulting on these proposals and explaining our rationale we are ensuring that we exercise our functions as transparently as possible.

In formulating these proposals, the FCA has had regard to the importance of taking action intended to minimise the extent to which it is possible for a business carried on (i) by an authorised person or a recognised investment exchange; or (ii) in contravention of the general prohibition, to be used for a purpose connected with financial crime (as required by s 1B(5)(b) FSMA).

20. We do not consider that these proposals will materially affect the extent to which businesses can be used for a purpose connected with financial crime.

Expected effect on mutual societies

21. The FCA does not expect the proposals in this paper to have a significantly different impact on mutual societies. The proposal will apply equally to all impacted counterparties.

Compatibility with the duty to promote effective competition in the interests of consumers

22. In preparing the proposals as set out in this consultation, we have had regard to the FCA's duty to promote effective competition in the interests of consumers.

Equality and diversity

23. We are required under the Equality Act 2010 in exercising our functions to 'have due regard' to the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by or under the Act, advance equality of opportunity between persons who share a relevant protected characteristic and those who do not, to and foster good relations between people who share a protected characteristic and those who do not.

24. As part of this, we ensure the equality and diversity implications of any new policy proposals are considered. The outcome of our consideration in relation to these matters in this case is stated in paragraphs 2.24 and 2.25 of this CP.

Legislative and Regulatory Reform Act 2006 (LRRA)

25. We have had regard to the principles in the LRRA and the Regulators' Code for the parts of the proposals that consist of general policies, principles or guidance. We are satisfied that we have given due regard to the LRRA principles and the Regulators' Code and consider that the proposed guidance is being made in a transparent and accountable way since we are publicly consulting on it. Additionally, we consider that by revoking guidance which is no longer relevant we are carrying out our regulatory activities in a proportionate, targeted and consistent manner.

Treasury remit letter

26. We have considered the content of the Treasury's November 2024 remit letter and its recommendations for us in developing the proposals in this CP.

27. We consider that the proposals address the recommendations by amending our BTS to support the Treasury's reforms streamlining the Intragroup Regime. In supporting the Treasury's reforms, our proposals will contribute to reducing burdens on counterparties, while maintaining appropriate regulatory safeguards, to further the government's objective of broad-based and resilient economic growth.

Annex 4

Abbreviations used in this paper

Abbreviation	Description
BTS	Binding Technical Standards
CBA	Cost Benefit Analysis
CP	Consultation Paper
CCP	Central Counterparty
EMIR	European Market Infrastructure Regulation
EU	European Union
FCA	Financial Conduct Authority
FSMA	Financial Services and Markets Act 2000
G20	Group of 20
LRRA	Legislative and Regulatory Reform Act 2006
OTC	Over-the-counter
PRA	Prudential Regulation Authority
Q&As	Questions and Answers
SICGO	Secondary International Competitiveness and Growth Objective
SI	Statutory Instrument
TIGER	Temporary Intragroup Exemption Regime
UK	United Kingdom

Appendix 1

Draft Handbook text

**TECHNICAL STANDARDS (EMIR INTRAGROUP TRANSACTIONS)
(AMENDMENT) INSTRUMENT 2025**

Powers exercised

A. The Financial Conduct Authority (“the FCA”) makes this instrument in the exercise of the following powers and related provisions in or under:

- (1) Articles 11(14), 11(16) and 11(17) of 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; and
- (2) the following sections of the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 137T (General supplementary powers);
 - (b) section 138P (Technical standards);
 - (c) section 138Q (Standards instruments);
 - (d) section 138S (Application of Chapters 1 and 2); and
 - (e) section 139A (Power of the FCA to give guidance).

B. The rule-making powers listed above are specified for the purpose of section 138Q(2) of the Act.

Pre-conditions to making

C. The FCA has consulted the Bank of England and the Prudential Regulation Authority as appropriate in accordance with section 138P of the Act.

D. The requirement for Treasury approval under section 138R of the Act has been met.

Modifications

E. The technical standards listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2).

(1)	(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	Annex A
Commission Delegated Regulation (EU) No 149/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on indirect clearing arrangements, the clearing obligation, the public register, access to a trading	Annex B

venue, non-financial counterparties, and risk mitigation techniques for OTC derivatives contracts not cleared by a CCP	
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Revocation of Level 3 Material guidance

F. The following sections in the Level 3 Material guidance titled “Questions and Answers Implementation of the Regulation (EU) No 648/2012 on OTC derivatives, central counterparties and trade repositories (EMIR)” are revoked:

- (1) OTC Question 6(a);
- (2) OTC Question 6(b);
- (3) OTC Question 6(c);
- (4) OTC Question 6(f);
- (5) OTC Question 6(g);
- (6) OTC Answer 5(a);
- (7) OTC Answer 5(b);
- (8) OTC Answer 5(c);
- (9) OTC Answer 5(f); and
- (10) OTC Answer 5(g).

Commencement

G. This instrument comes into force on *[date]*.

Citation

H. This instrument may be cited as the Technical Standards (EMIR Intragroup Transactions) (Amendment) Instrument 2025.

By order of the Board

[date]

In this Annex, underlining indicates new text and striking through indicates deleted text.

Annex A

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

...

CHAPTER III INTRAGROUP DERIVATIVE CONTRACTS

Section 1 Procedures for counterparties and the Financial Conduct Authority when applying exemptions for intragroup derivative contracts

Article 32

Procedures for counterparties and the Financial Conduct Authority

- (1) ~~The application or A~~ notification from a counterparty to the Financial Conduct Authority pursuant to ~~paragraphs~~ ~~paragraph~~ 8 to 9 of Article 11 of Regulation (EU) No 648/2012 shall must be deemed to have been received in writing and is only complete when the Financial Conduct Authority receives all of the following information:
 - (a) ~~all the information necessary to assess whether the conditions specified in paragraphs 8 or 9, respectively, of Article 11 of Regulation (EU) No 648/2012 have been fulfilled; the names of the legal counterparties to the transactions and their identifiers in accordance with Article 4 of the EMIR Technical Standards on the Standards, Formats, Frequency and Methods and Arrangements for Reporting 2023;~~
 - (b) ~~the information and documents referred to in Article 18(2) of Commission Delegated Regulation (EU) No 149/2013. details of the corporate relationship between the counterparties;~~
 - (c) details of the supporting contractual relationships between the parties;
 - (d) such further information as the Financial Conduct Authority requests, provided that any such request is made in writing within the 30-calendar day period commencing on the day after receipt by the Financial Conduct Authority of the notification.
- (2) Where the Financial Conduct Authority determines that further information is required in order to assess whether the conditions referred to in paragraph 1(a) are fulfilled, it shall submit a written request for information to the counterparty. The information which the Financial Conduct Authority may request under paragraph 1(d) may include, but is not limited to, copies of documented risk management

procedures, historical transaction information, copies of the relevant contracts between the parties, a legal opinion and/or any relevant transaction details.

- (4) ~~Where the Financial Conduct Authority reaches a positive decision under paragraph 8 of Article 11 of Regulation (EU) No 648/2012, it shall communicate that positive decision to the counterparty in writing, specifying at least the following:~~
 - (a) whether the exemption is a full exemption or a partial exemption;
 - (b) in the case of a partial exemption, a clear identification of the limitations of the exemption. [deleted]
- (5) ~~Where the Financial Conduct Authority reaches a negative decision under paragraph 8 of Article 11 of Regulation (EU) No 648/2012 or objects to a notification the use of an exemption under paragraph 9 8 of Article 11 of that Regulation (EU) No 648/2012, it shall communicate that negative decision or objection to must notify the counterparty in writing, specifying at least the following:~~
 - (a) the conditions of paragraphs ~~paragraph 8 or 9, respectively~~ of Article 11 of Regulation (EU) No 648/2012 that are not fulfilled;
 - (b) a summary of the reasons for considering that such conditions are not fulfilled.
- (7) ~~The competent authorities shall notify the non-financial counterparties of the objection referred to in paragraph 5 within 3 months of receipt of the notification. [deleted]~~
- (8) ~~A decision by the Financial Conduct Authority under Article 11(8) of Regulation (EU) No 648/2012 shall be communicated to the counterparty established in the United Kingdom within 3 months of receipt of all the information referred to in paragraph 4. [deleted]~~
- (10) Counterparties that have submitted a notification or received a positive decision according to paragraphs ~~paragraph 8 or 9, respectively~~ of Article 11 of Regulation (EU) No 648/2012 shall or that are using an exemption must immediately notify the Financial Conduct Authority of any change that may affect the fulfilment of the conditions set out in ~~those paragraphs, as applicable~~ ~~paragraph 8 of Article 11 of Regulation (EU) No 648/2012~~. The Financial Conduct Authority may object to the application for the exemption or withdraw its positive decision ~~use of an exemption~~ following any change in circumstances that could affect the fulfilment of those conditions.
- (11) Where a negative decision or an objection is communicated by the Financial Conduct Authority, the relevant counterparty may not use the exemption and may only submit another application or notification where there has been a material change in the circumstances that formed the basis of the Financial Conduct Authority's decision or objection.

Section 2 Applicable criteria for applying exemptions for intragroup derivative contracts

Article 33

Applicable criteria on the legal impediment to the prompt transfer of own funds and repayment of liabilities

A legal impediment to the prompt transfer of own funds or repayment of liabilities between the counterparties as referred to in paragraphs 5 and 8 to 10 of Article 11 of Regulation (EU) No 648/2012 shall be deemed to exist where there are actual or foreseen restrictions of a legal nature including any of the following:

...

Article 34

Applicable criteria on the practical impediments to the prompt transfer of own funds and repayment of liabilities

A practical impediment to the prompt transfer of own funds or repayment of liabilities between the counterparties as referred to in paragraphs 5 and 8 to 9 of Article 11 of Regulation (EU) No 648/2012 shall be deemed to exist where there are restrictions of a practical nature, including any of the following:

...

The following Articles are deleted in their entirety. The deleted text is not shown but the Articles are marked [deleted] as shown below.

Annex B

**Commission Delegated Regulation (EU) No 149/2013 of 19 December 2012
supplementing Regulation (EU) No 648/2012 of the European Parliament and of the
Council with regard to regulatory technical standards on indirect clearing
arrangements, the clearing obligation, the public register, access to a trading venue,
non-financial counterparties, and risk mitigation techniques for OTC derivatives
contracts not cleared by a CCP**

...

CHAPTER VIII RISK-MITIGATION TECHNIQUES FOR OTC DERIVATIVE CONTRACTS NOT CLEARED BY A CCP

...

Article 18 (Article 11(14)(c) of Regulation (EU) No 648/2012)

Details of the intragroup transaction notification to the competent authority [deleted]

...

Article 20 (Article 11(14)(d) of Regulation (EU) No 648/2012)

Information on the intragroup exemption to be publicly disclosed [deleted]

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