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# TECHNICAL ADVICE ON A DELEGATED ACT ON FEES FOR THE VALIDATION OF PRO FORMA MODELS

EBA/REP/2025/19

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# Executive Summary

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On 31 July 2024 the European Banking Authority (EBA) received a formal request from the European Commission to provide technical advice<sup>1</sup> to assist the Commission in formulating a possible delegated act specifying the method for the determination of the amount of the fees, and the modalities of the payment of such fees, to be paid by financial and non-financial counterparties requiring the validation of pro forma models under the European Market Infrastructure Regulation (EMIR).

EBA consulted stakeholders and requested comments on the following aspects: the scope of the new tasks and corresponding costs expected from the new role of EBA as central validator of pro forma models; the calculation of the monthly average outstanding notional amount of non-centrally cleared OTC derivatives over the past 12 months; the fee calculation methods and the payment modalities.

Overall, respondents welcomed the establishment of a central validation function, which will ensure a uniform validation process within the Union. However, respondents also highlighted that the proposed approach to assign fees based on an exact 12-month average notional amount would be unnecessarily costly and burdensome.

The final report makes a series of recommendations to the Commission for the Delegated Act.

First, the EBA proposes that the Delegated Act allows for all costs – whether direct or indirect - relating to the activities linked to the central validation function of pro forma models to be covered. These direct and indirect costs, which relate to the validation of pro forma models, the ongoing validation of models, the development and maintenance of statistics and IT tools for the central validation function, as well as fee calculation, invoicing, and collection, will be calculated and updated each year by the EBA.

Second, to address the feedback received on the difficulties in calculating the 12-month average notional amount of non-centrally cleared OTC derivatives, the EBA proposes to rely on simpler approaches than the ones consulted upon. To this end, the EBA makes proposals on the practical details of the calculation methodology that would ensure proportionality amongst all counterparties in the determination of the annual fee. It also sets out the calculation methodology of the fees for a situation where more than one pro forma model would be validated.

Finally, the EBA makes recommendations with respect to the payment modalities and the information to be communicated to EBA for the determination of the individual fees and the invoicing process.

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<sup>1</sup> See [Calls for Advice | European Banking Authority](#) for details on the Commission request, which was received on 31. July 2024.

# Summary of the approach proposed

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The approach proposed by the EBA to collect fees is presented here in general terms. Choices presented below are then justified and further explained in the following sections. In particular, it is not described ‘how’ the fee level is determined, which is instead described later. In other words, the below summary clarifies who will be charged, and when, highlighting the need for a different approach for the first time validation of a pro forma model compared to the following years (‘steady state’), while the amount to be charged is discussed in the following sections.

Due to operational reasons, the EBA cannot collect fees too late in a given year. In particular, for the first time validation of a pro forma model in accordance with Article 11(12a), the EBA expects counterparties to apply to the EBA by 30 September of the given year. After that date indeed, it becomes operationally difficult for the EBA to collect the corresponding fees for a large number of EU counterparties.

The payment deadline would be the standard 30 days from date of issue of the invoice. In other words, the EBA expects to collect fees not later than the 31 October.

In light of this, the following approach is proposed:

- For a pro-formal model already in use before the entry into force of EMIR 3, counterparties using that pro forma model by 30 September of the year of first time validation of that pro forma model, should be subject to the fees. Fees should cover all costs incurred by EBA for the performance of its new tasks, from the EBA’s readiness date to the end of that year. Accordingly, in the first year of application, counterparties can expect to be charged towards the end of the year.
- For a new pro forma model for which counterparties request the EBA’s validation, a fixed amount of costs that sums up to EUR 500 000 per calendar year of the first EBA validation is applied. This pre-defined amount will be the basis to determine the fees charged to each one of the counterparties applying for that new pro forma model. Also in that case, the collection of fees would be performed for counterparties that are using or planning to use the new pro forma model by 30 September. Accordingly, in the first year, these counterparties (i.e. those sponsoring the new pro forma model) can expect to be charged towards the end of the year.
- The year following the one where the first validation is granted, a steady state solution is proposed. The EBA requests all counterparties to inform EBA by the 31 March of the given year (i.e. the reporting deadline) if they use a given pro forma model. They can expect to receive the corresponding invoice from June onwards.

### **Counterparties starting using a validated pro forma model after the 31 March or 30 September**

Special provisions need to be added to cater for cases where a counterparty becomes a user of a validated pro forma model subject to the requirement to exchange initial margin (and hence required to apply to EBA for the use of that model) after the key dates that the EBA uses for the fee collection, namely 30 September in the first year, and 31 March in the following years. Considering that those counterparties would typically have no or small amounts of initial margins exchanged with that pro forma model, it is proposed that:

- For the first year, counterparties that start using, after September 30, a pro forma model that has been validated by EBA, or is subject to EBA validation, should not be charged any fee for the given year.
- For the following years, counterparties that start using an already EBA validated pro forma model after the 31 March reporting deadline should not be charged any fee for the given year.

# 1. Background and rationale

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1. On 7 December 2022, the Commission published its proposal to amend Regulation (EU) No 648/2012 concerning the European Market Infrastructure Regulation (EMIR)<sup>2</sup> as regards measures to mitigate excessive exposures to third-country central counterparties and improve the efficiency of Union clearing markets. Amending Regulation (EU) 2024/2987 amending EMIR was published on 4 December 2024 (EMIR 3)<sup>3</sup> in the Official Journal and entered into application on 24 December 2024.
2. The aim of EMIR 3 is to promote a safer and more resilient clearing system, by improving the EU supervisory framework for central counterparties (CCPs), reinforcing the role of the European Securities and Markets Authority (ESMA), and drawing lessons from the market events of the past few years.
3. This Regulation also grants EBA additional tasks on models used by some counterparties as part of the risk-mitigation techniques used on their portfolios of non-centrally cleared OTC derivatives by: i) setting out a prior authorisation regime by competent authorities for Initial Margin (IM) models used by counterparties in the EU, ii) establishing a new EBA central validation function for pro forma models such as the Standard Initial Margin Model developed by the International Swaps and Derivatives Association 'ISDA SIMM', and iii) introducing supervision of IM models by competent authorities with greater focus on larger counterparties.
4. In accordance with Article 11(3) of EMIR, counterparties shall apply to the EBA for the validation of pro forma models and provide the EBA with all relevant information via a central database. For that purpose, Article 11(12a) of EMIR, provides that the EBA must set up a central validation function for the elements and general aspects of pro forma models, and changes thereto, used or to be used by a subset of financial and non-financial counterparties as part of the risk mitigation techniques used on their portfolios of non-centrally cleared OTC derivatives. Consequently, EBA will charge annual fees, per pro forma model, to financial and non-financial counterparties using the validated models.
5. Article 11(12a), sixth subparagraph EMIR specifies that a "pro forma model" means an "initial margin model established, published, and revised through market-led initiatives". Pro forma models are models used "industry-wide" and "by a large number of Union counterparties". Thus, they require central validation to ensure uniformity.

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<sup>2</sup> Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories, OJ L 201, 27.7.2012, p.1. ([Link](#))

<sup>3</sup> Regulation (EU) 2024/2987 of the European Parliament and of the Council of 27 November 2024 amending Regulations (EU) No 648/2012, (EU) No 575/2013 and (EU) 2017/1131 as regards measures to mitigate excessive exposures to third-country central counterparties and improve the efficiency of Union clearing markets (OJ L, 2024/2987, 4.12.2024, ELI: <http://data.europa.eu/eli/reg/2024/2987/oj>)

6. On 31 July 2024, the Commission requested EBA's technical advice on a possible delegated act on fees to be charged to financial and non-financial counterparties requiring the validation by EBA of pro forma models, with the request to submit its response by Q2 2025.
7. Unlike other aspects of EMIR, no exemptions based on the size or trading activity level of a counterparty have been included. Article 11(12a), fifth subparagraph EMIR sets out that for counterparties using pro forma models, *"The fee shall be proportionate to the monthly average outstanding notional amount of non-centrally cleared OTC derivatives over the last 12 months of the counterparties concerned using the pro forma models validated by EBA and shall be assigned to cover all costs incurred by EBA for the performance of its tasks"*. This ensures that counterparties with larger portfolios contribute proportionately more.
8. The fees charged by the EBA should cover the full cost to the EBA of the central validation of pro forma models, including the validation of aspects such as model calibration, design, risk factors, and coverage of instruments and asset classes. They also cover any other costs stemming from that validation activity. The costs will include both direct costs and related indirect costs.
9. To provide clarity on how fees are calculated and paid, the Commission has been empowered to adopt a delegated act in accordance with Article 82 EMIR. This delegated act is expected to specify the determination of the amount of the fees and the modalities of the payment of the fees.
10. With a view to widely consulting market participants, as requested under the Commission's Call for Advice (CfA), the EBA gathered feedback from stakeholders on the various issues or options raised. This process guarantees transparency in the design of fee structure while ensuring that the fees are sufficient to fund the EBA's central validation responsibilities.
11. The present report outlines the main aspects:
  - the EBA budgeting approach (section 3.1)
  - the main EBA costs incurred by EBA for the performance of its new tasks resulting from its new role as central validator of pro-forma IM models (section 3.2)
  - the fees' calculation methods and the modalities ensuring proportionality (section 3.3)
  - the modalities of payment (section 3.4).

## 2. EBA's technical advice on fees for pro forma model validation

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### 2.1 EBA's budgeting model

12. In order to enable EBA to conduct its new tasks related to the pro forma IM models validation and oversight effectively, as well as to ensure an efficient use of EBA's budget, it is necessary that financial and non-financial counterparties using pro forma IM models cover all costs related to EBA's ongoing validation, and central validation function of pro forma IM models.
13. The EBA applies a universal budgeting approach, which means that income from fees is treated as general revenue. This is in line with the standard practice of other partially funded EU agencies, as recommended by DG Budget of the European Commission.
14. The EBA's budget is managed on the basis of an activity-based management methodology. The EBA prepares its annual budget aiming at balancing income through fees with the incurred expenditure, understanding that deficits or surpluses are to be balanced by the EU and NCA contributions.
15. In case of deficits (EBA collecting less than incurred), EBA does not recover the deficit from the supervised entities. If the deficit is recurrent or significant, EBA should analyse the reasons why this happened, drawing up lessons for the next budgeting period. For surpluses (EBA collecting more than incurred), the same reasoning should be followed so surpluses will not be paid back to the supervised entities. This mechanism is already in place at EBA for supervision activities under DORA and MiCAR.
16. Through the existing mechanisms in place (EU budgetary procedure, annual reporting, single programming document), the EBA Management Board and Board of Supervisors, of which the European Commission is a permanent observer, remain fully apprised of the fees' collection and expenditure levels.
17. The determination of fees needs to be based on the latest available information. More detailed information on the costs is specified in the following Section.

### 2.2 EBA's costs

18. According to Article 11(12a), sub-paragraph 5 of EMIR, EBA will charge an annual fee, per pro forma model, to financial and non-financial counterparties, covering all costs incurred by EBA for the performance of its tasks.



19. Due to the constraints of the EBA Financial regulation<sup>4</sup>, and in particular the rules on annuality and surplus, EBA will calculate and invoice each year's fees based on estimated costs for the year. This is similar to the approach applied under DORA and MiCAR. The costs will be based on a full cost recovery principle, which means that a reasoned proportion of overhead and other horizontal costs will be included in the fees.

20. Based on the Commission interpretation of the Financial Regulation, the EBA expects the Delegated Act to establish the following treatment for the management of the potential deficits or surpluses for the oversight fees collected from the counterparties:

- In case of deficits (the EBA collects less than incurred), the EBA does not recover the deficit from counterparties;
- In case of surpluses (the EBA collects more fees than incurred), the EBAs does not pay back the surplus to counterparties, and such surpluses would be fully given to the Commission in the year Y+1 following the annual financial accounts, like for other types of surpluses (coming from EU subsidy or NCAs contributions) in line with the principles of annuality and universality.

21. As explained in Section 3.1, EBA's budget is managed on the basis of an activity-based methodology. Financial and staff resources are allocated per activity, rather than per functional cost or per internal management hierarchy. This methodology is used both for budget planning (i.e., calculation of the estimated costs generated per activity, which is a combination of direct costs and overhead costs), and for budget costing (i.e., calculation of EBA's actual costs per activity).

- Direct costs include staff salaries and allowances, IT systems maintenance and development costs; missions and meetings costs, and other consultancy services costs.
- Overhead costs cover items such as office space, IT infrastructure, communications, and other shared services.

22. EBA expects costs to be driven by the following tasks:

- Validation of pro forma models
- Ongoing validation of pro forma
- Development and maintenance of statistics and IT tools for the central validation function
- Fee calculation, invoicing, and debt collection

23. The performance of these tasks under the new EBA central validation function implies the recruitment of a dedicated team of experts, as foreseen by EMIR 3. It also requires EBA staff

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<sup>4</sup> EBA Financial regulation dated 1 July 2019 adopted by the EBA Management Board ([EBA FR 2019](#))

support, IT infrastructure as well as the support of external consultancy services for validation tasks.

### **2.2.1 Validation of pro forma models**

24. According to Article 11(12a) of EMIR, the EBA will set up, as a central validator, a function for the elements and general aspects of pro forma models, and changes thereto, used or to be used by counterparties. In its role, EBA will validate the elements and general aspects of those pro forma models, including their calibration, design and coverage of instruments, asset classes and risk factors.

25. The costs cover tasks relating to (i) the assessment of initial applications for validation as well as subsequent model changes, (ii) the EBA onsite missions for initial validation or subsequent reviews, as well as (iii) the processing of applications; (iv) the ongoing monitoring of validated pro forma models, including interaction with pro forma model developers and counterparties using those pro forma models, as well as (v) the collection of feedback from ESMA, EIOPA, and the competent authorities responsible for the supervision of counterparties, and finally (vi) international cooperation on this matter with third-country regulators.

### **2.2.2 Ongoing validation of pro forma models**

26. According to Article 11(12a) of EMIR, the EBA will also assist the competent authorities in their authorisation processes regarding the general aspects of the implementation of IM models. In this respect, the EBA will prepare a yearly report on the relevant aspects of its validation work, including the verification of the calibration of the models and the analysis of the issues reported.

27. The related costs will cover: (i) the assessment of issues reported by competent authorities in relation with the implementation - at counterparty level - of pro forma models and, (ii) where relevant, the development in accordance with dedicated EBA internal governance arrangements of recommendations addressed to competent authorities. This may also include costs relating to the participation of EBA staff in onsite missions of authorisation of IM models led by competent authorities.

### **2.2.3 Development and maintenance of statistics and IT tools for the validation function**

28. In order to enable EBA to effectively conduct its central validation function, it is necessary to develop and maintain dedicated statistics and IT tools to support the following – non-exhaustive – tasks:

- receiving applications<sup>5</sup> from counterparties using pro forma models, including all relevant information to calculate the annual fees, as well as notifying counterparties about their application status;
- calculating the annual fees, generating annual bills and tracking the collection of fees;
- performing analysis of elements and general aspects of pro forma models, including calibration, design and coverage of instruments, asset classes and risk factors;
- collecting and analysing data from pro forma model developers, as well as collecting and analysing feedback from ESMA, EIOPA and competent authorities on the performance of pro forma models, as implemented by counterparties.

29. Development and maintenance of these tools will require EBA staff support, IT infrastructure, and may require external IT consultancy services.

#### **2.2.4 Fee calculation, invoicing, and debt collection**

30. EBA operations and accounting staff will be required to calculate the estimated and actual costs, operate the fee calculation system, generate invoices and collect debts.

#### **2.2.5 Estimated aggregated costs**

31. Building on preliminary costs estimates and assuming that only one pro forma model will be submitted for validation in the first year, the estimated cost for a full year comes to 1.5 - 2.0 MEUR for the first full year.

32. Each year, annual costs will vary according to several parameters. Some components of the cost structure are expected to be stable while others will depend on developments affecting models. For instance, in case of counterparties requesting the validation of additional pro forma model(s), the EBA will face higher corresponding costs. The costs will also be proportionate to the frequency of changes to already validated pro forma models.

#### **2.2.6 Number of counterparties**

33. The EBA, in cooperation with ESMA and EIOPA, launched on 29 October 2024 a short survey to better identify entities falling within the scope of IM model authorisation. The aim was to get general information on those entities, as well as specific information relevant for fee calculation to inform the CfA on fees.

34. In brief, 103 counterparties responded to the survey (i.e. around one third of the expected population), including mostly credit institutions (79%) followed respectively by UCITS/AIF,

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<sup>5</sup> Until ESMA has announced the establishment of its central database in accordance with Article 17c(1) of EMIR and that this central database covers requirements included in Article 11 of EMIR, applications for validation of pro forma models, as well as corresponding information, will be submitted directly to the EBA as per alternative arrangements foreseen under Article 89(11) of EMIR.

pension funds (10%), insurance and reinsurance companies (8%) and investment firms (4%). The majority of responses came from German (19%), French (13%), Swedish (11%) and Irish entities (9%). Responding entities belonged to the categories with the smaller portfolio of uncleared OTC derivatives ('phase 5' and 'phase 6' amounting respectively to 30% and 29% of the survey sample) followed by counterparties having the largest portfolio ('phase 1' amounting to 23% of the sample). Finally, EBA noted that 85% of the responding entities were using the ISDA pro forma model.

*The EBA proposes that the Commission specifies in the Delegated Act that the EBA will charge fees to the counterparties to cover the full cost of the central validation function for pro forma models. The costs will include both direct costs and related indirect costs.*

*The Commission could specify in the Delegated Act that the costs relate to the following tasks: validation of pro forma models, ongoing validation of IM models, development and maintenance of statistics and IT tools for the central validation function Fee calculation, invoicing, and debt collection.*

*The EBA proposes that the Commission specifies in the Delegated Act that the EBA calculates and updates each year the direct and indirect relevant costs.*

## 2.3 Methods for the calculation of fees

35. Methods for the calculation of fees should reflect whether the pro-forma model was in use at the entry into force of EMIR or not. Hence, the EBA considers that the delegated act should be structured to reflect the cases identified in the executive summary, which are further detailed below.

### 2.3.1 Case 1: pro-formal model already in use before entry into force of EMIR 3

36. Under this case, the EBA considers that the delegated act should specify that the share of the total costs to be paid by the counterparty would be calculated from the share of that counterparty's 12-month average notional amount of the aggregated averages across all counterparties, multiplied by the total estimated EBA costs for that calendar year. Fees should cover all costs incurred by EBA for the performance of its new tasks, from the EBA's readiness date to the end of that year.

37. This methodology ensures adherence with the principle set out in the Article 11(12a), fifth subparagraph, according to which counterparties using pro forma models, "The fee shall be proportionate to the monthly average outstanding notional amount of non-centrally cleared OTC derivatives over the last 12 months of the counterparties concerned using the pro forma models validated by EBA".

38. To cover administrative costs, the EBA considers that a minimum payment of 200 EUR should be requested when the outcome of the fees' calculation for a counterparty is below this amount. This minimum payment amount will be reviewed annually considering inflation and other factors. Such review, would not necessarily result in a change to the amount of the fee. The formula provided below is the simplest way to achieve this objective<sup>6</sup>, although it may provide a small surplus as compared to the total estimated EBA costs (as a floor of 200 EUR is applied).

39. The fee therefore should be calculated as follows:

$$\begin{aligned} & \text{Fee for Counterparty}_n \\ &= 200 + \max\left(\text{Total EBA costs} * \frac{12\text{monthAvg Notional amount}_{\text{Counterparty}_n}}{12\text{monthAvg Notional amount}_{\text{Total}}} - 200; 0\right) \end{aligned}$$

40. In the first year, for a pro forma model that was already in use at the entry into force of EMIR, fees should be calculated with reference to a 12-month reference period ending with the month preceding the EBA's readiness to perform its tasks as central validator, as announced by the EBA pursuant to Article 89(13) of EMIR. This would allow the delegated act to adhere to Article 11(12a), fifth subparagraph EMIR where it is set out that the reference period for the calculation of fees is the monthly average outstanding notional amount over the past 12 months.

<sup>6</sup> To avoid any surpluses, the formula could be revised to take into account the number of counterparties hitting the floor. However, that would require a two-step approach, where counterparties being below the 200 EUR would need to be identified first. Such approach is however considered to be unduly complex in view of the aims pursued.

41. In light of the responses to the Discussion Paper, the EBA takes note of the difficulties for some counterparties in potentially retroactively computing the notional amount during the first year of application. Thus, the EBA suggests that where data for the months prior to the EBA's readiness date is not available or difficult to retrieve, the Delegated Act should allow counterparties to estimate the notional amount on the basis of an average encompassing less than the past 12 months.

42. The EBA considers that the delegated act should allow counterparties to use several methods to determine the 12-month average notional amount of non-centrally cleared OTC derivatives of counterparties (i.e. the '12-month average notional amount' as provided in the formula specified in paragraph 39) that the EBA will use to determine the proportional share of the total costs that a counterparty must pay each year. The EBA considers this necessary in light of the feedback received in the Discussion paper on which this response is built, whereby respondents highlighted that the term 'notional' is not always understood in the same way, in particular in the context of complex financial instruments.

**a. Main Method – “Equivalent Portfolio Notional”**

43. Under this method, counterparties should convert, for each month entering into the determination of the 12-month average notional for fee calculation purposes, the total pro forma model calculated IM amount for the relevant portfolio into an equivalent portfolio notional amount using the highest weighted percentage as defined in the standardised method of Annex IV of the Commission Delegated Regulation 2016/2251 on risk mitigation techniques for OTC derivative contracts not cleared by a CCP ('the joint ESAs RTS on uncleared OTC derivatives')<sup>7</sup>. For instance, a monthly notional amount calculated using this method for a portfolio with IM across Rates FX, Credit, Equity and Commodity would be the following:

$$Notional\_MonthX = \frac{IM(RatesFX)}{6\%} + \frac{IM(Credit)}{10\%} + \frac{IM(Equity)}{15\%} + \frac{IM(Commodity)}{15\%}$$

44. Where IM(Equity) is the total IM amount for equity using the given pro forma model, computed the last business day of Month X for which the monthly notional amount is calculated.

45. Under this method, the 12-month average notional for fee calculation purposes to be included in the formula specified in paragraph 39 would then be obtained by averaging the 12 notional amounts calculated using the above formula over the 12-month reference period. On the basis of the feedback received on the discussion paper on which this response is based, this method appears to be the simplest and most standardised way of determining the notional amount.

<sup>7</sup> [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](#)

## b. Alternative methods

46. The responses provided to the Discussion Paper also highlight that for some counterparties it may be costly to determine monthly notional amounts as provided in the previous sub-section. Accordingly, the EBA considers that the Delegated Act should foresee the possibility for counterparties to use alternative methods to derive monthly notional amounts to be averaged for the purposes of the formula specified in paragraph 39, as long as those methods result in a more conservative, while still sufficiently accurate, outcome.

47. The EBA proposes the following two alternative methods:

- Using - instead of the total IM amount computed using the given pro forma model - the total amount of IM calculated, for the purposes of the determination of the equivalent portfolio notional (calculated as outlined above). This alternative method allows counterparties not to perform the step of disentangling pro forma based margins from the rest of the portfolio for which initial margin is not based on a pro forma model. This conservative approach is expected to reduce the internal computation burden for counterparties.
- Allowing counterparties with a 12-month average notional below EUR 3000 bn to assume the monthly notional amount to be one of those provided in the bands of notional amounts specified in Article 36 of the joint ESAs RTS on uncleared OTC derivatives, as long as the institution can ensure that the actual notional amount is lower than the notional assumed. The regulatory thresholds are the following:

Regulatory Threshold	Notional amount
1	EUR 3 000 billion
2	EUR 2 250 billion
3	EUR 1 500 billion
4	EUR 750 billion
5	EUR 8 billion

- For instance, if a counterparty assumes its notional amount using a given pro forma model to be around EUR 2 500 billion the last business day of a given month, it should take EUR 3 000 billion as the notional amount for the purpose of the fees' calculation for that month. The 12-month average notional amount to be included in the formula specified in paragraph 39 would then be the 12-month average of those conservatively obtained monthly approximations.

48. Remark on counterparties that start using the model after 30 September

49. For the first year, counterparties that start using a pro forma model after September 30, should not be charged any fee for the given year.

### **2.3.2 Case 2: pro-formal model not already in use before entry into force of EMIR 3**

50. In accordance with the second paragraph of Article 12(2), “to facilitate EBA’s validation work, developers of pro forma models shall, upon EBA’s request, submit to EBA all the necessary information and documentation.” This includes, in the case of developers of new pro forma models, informing EBA as soon as possible in advance of any official application - by counterparties sponsoring that new pro forma model - for the purpose of resource planning for the validation of such new pro forma models.

51. As mentioned, such applications are expected to be received by the EBA not later than 30 September, to allow time for invoicing and fee collection.

52. Given that there is no notional amount by which to split the cost proportionally over all counterparties applying to use a new pro forma model, the EBA considers it appropriate to charge all new model applicant counterparties equally, based on a fixed fee per new pro forma model. It is proposed to set this fee at EUR 500 000 per calendar year of the first validation by the EBA (e.g. if counterparties apply by March of a given year, the EBA would charge EUR 500 000 for that year only, in light of the requirement for the EBA to provide a validation decision within 6 months; however, e.g. if counterparties apply in October of a given year, the EBA may charge EUR 500 000 for that year and EUR 500 000 for the subsequent year to account for a validation that may continue over the following year and the absence of notional amounts). This EUR 500 000 fee is equally shared among all counterparties applying to use the new model (and should therefore be additional to the fees charged to other counterparties using an already validated pro-forma model).

53. Remark on counterparties that start using the model after 30 September

54. For the first year, counterparties that start using a pro forma model after September 30, should not be charged any fee for the given year.

### **2.3.3 Case 3: steady-state determination of fees**

55. The year following the one where the EBA declares its readiness to perform its central validation tasks in the case of a pro-forma model already in use before EMIR 3 entered into force, or the year following the validation of a new pro-forma model, a steady state solution is proposed.

56. The EBA considers that all counterparties should inform EBA by the 31 March of the given year (i.e. the reporting deadline) if they use a given pro-forma model.



57. The fee applicable to them should be calculated using the formulae and the provisions specified under case 1. However, under this case, the 12-month average notional amount should be based on a 12-month reference period ending on 31 December of the previous year.

58. Where more than one pro-forma model is validated by EBA on a steady state basis, EBA suggests that costs are first be apportioned between the models before being attributed to the counterparties using each model. The estimated EBA costs for pro forma model activities should be divided by the number of models. Then, the resulting costs shall be attributed to the counterparties using the given model according to the formula specified in paragraph 39.

59. For example:

- Total estimated annual cost = 2 MEUR
- Number of validated models = 2 models
- Cost per model = 2 MEUR / 2 models = 1 MEUR / model
- Number of counterparties using each model:
  - Model A: 300 counterparties, sharing 1 MEUR of cost
  - Model B: 50 counterparties, sharing 1 MEUR of cost

60. This approach is suggested by the fact that, in the steady stage, a large part of the EBA costs corresponding to its central validation function will be driven by the number of models, and not by the numbers of counterparties using each model. Once divided by the number of models, the costs will then be assigned to each counterparty in a proportionate manner. In addition to its simplicity, this approach fulfils the proportionality requirement set by the Regulation.

61. Remark on counterparties using a model after the 31 March reporting deadline

62. Counterparties that start using an already EBA validated pro forma model after the 31 March reporting deadline should not be charged any fee for the given year.

*The EBA proposes that the Commission specifies in the Delegated Act that:*

*- General framework ('steady state')*

*The full cost of the central validation of pro forma models for year N ( $N > 1$ ) - as determined under Section 2.2 - should be divided by the number of pro forma models that have been validated by EBA at 1<sup>st</sup> January of year N.*

*The resulting costs per pro forma model should be attributed to the counterparties using the given pro forma model according to the formula specified in paragraph 39.*

*By way of derogation from the previous paragraph, counterparties applying to EBA for any of those pro forma models after the 31 March of year N ('reporting deadline') should not be charge any fee for year N.*

*The 12-month average notional amount of non-centrally cleared OTC derivatives using a given pro forma model, as referred in the formula specified in paragraph 39, should be determined by averaging over the 12-month reference period the monthly notional amounts calculated using the main method (see in particular formula in paragraph 43) or the alternative approaches (see paragraph 46). Each monthly notional amount should be calculated – at the level of the counterparty - as of the last business day of the given month. The 12-month reference period should run from 1<sup>st</sup> January of year N-1 to 31 December of year N-1.*

*- New pro forma model*

*The fee should be set at EUR 500 000 per calendar year until the EBA has granted the first validation of that new pro forma model.*

*This fee should be equally shared among all counterparties that applied for the use of that new pro forma model.*

*- Pro-formal model already in use before the entry into force of EMIR 3*

*The full cost of the central validation of pro forma models for year  $N=1$  - as determined under Section 2.2 - should be calculated for the period starting on the EBA readiness date and finishing on 31 December of year  $N=1$ .*

*By way of derogation from the corresponding paragraph above, only counterparties applying to EBA for such pro forma model after the 30 September of year  $N=1$  should not be charged any fee for year  $N=1$ .*

*The 12-month reference period should end with the month preceding the EBA readiness date. The Delegated Act may consider reducing the length of that reference period in the context of the first year application of fees.*

## 2.4 Payment modalities

### 2.4.1 Consideration on timing of invoicing of the fees

63. The EBA intends to issue one fee invoice per counterparty per pro forma model per year.

64. Given the relatively low amount of the fees as a proportion of EBA total revenue, the EBA does not see the necessity to collect the fees in the first semester of a given year.

65. Therefore, the EBA proposes, in the Delegated Act, to establish a one-instalment payment for the collection of the annual fees from all counterparties. The invoice would be sent with a 30 days payment term each year.

### 2.4.2 Considerations on collecting the fees

#### a. Late payment interest

66. To ensure consistency with the other delegated acts on fees, any late payments shall incur the default interest laid down in Article 99 of Regulation (EU, Euratom) 2024/2509<sup>8</sup>.

#### b. Annual budget cycle

67. Due to the annual nature of the EBA budget, whereby funding for a year's expenditure must be received that same year, the EBA wishes to avoid issuing invoices later than 31 October, hence the simplifications proposed in several parts of this report for applications received after the 30 September (first year of application) or after the 31 March reporting deadline (steady state).

68. To manage potential late payments of the annual fees by counterparties, the EBA is proposing to rely, in the Delegated Act, on Regulation 2018/1046 and to apply the default interest laid down in Article 99 of this Regulation.

#### c. Communication

69. All communications between the EBA and the counterparties shall take place by electronic means.

70. Each year, by the reporting deadline, all financial and non-financial counterparties using pro forma IM models, are expected to communicate to the EBA the following elements:

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<sup>8</sup> Regulation (EU, Euratom) 2024/2509 of the European Parliament and of the Council of 23 September 2024 on the financial rules applicable to the general budget of the Union (recast) (OJ L, 2024/2509, 26.9.2024, ELI: <http://data.europa.eu/eli/reg/2024/2509/oj>)

That Regulation supplements, where needed, the EBA Financial regulation dated 1 July 2019 and adopted by the EBA Management Board based of the Commission Delegated Regulation (EU) No 1271/2013 of 30 September 2013 on the framework financial regulation for the bodies.

- The list of pro forma models IM models used over the 12-month reference period and until the 31 March reporting deadline;
- The 12-month average notional amount per pro forma model and the methods used to compute that amount, as well as the monthly notional amounts, as calculated in section 2.3;
- The relevant information regarding the financial details of the counterparty as required for the billing process.

*The EBA proposes that the Commission establishes in the Delegated Act a one-installment payment for the collection of the annual fees from all counterparties. The Delegated Act could specify that invoices should be sent with a 30-day payment term each year and recall rules to be applied for late payments.*

*In addition, the EBA proposes that the Commission specifies in the Delegated Act the information to be reported to the EBA by the 31 March reporting deadline by counterparties using pro forma models for the calculation of fees as detailed in paragraph 70.*

## 3. Accompanying documents

### 3.1 Cost-benefit analysis / impact assessment

71. This analysis presents the impact assessment (IA) of the main policy options included in the TECHNICAL ADVICE ON A POSSIBLE DELEGATED ACT ON FEES FOR THE VALIDATION OF PRO FORMA MODELS (“the Technical Advice”). The analysis provides an overview of the identified problem, the proposed options to address this problem as well as the potential impact of these options. The IA is high level and qualitative in nature.

#### A. Problem identification and background

72. On 24 December 2024, Amending Regulation (EU) 2024/2987 amending EMIR (‘EMIR 3’) entered into application. The aim of EMIR 3 is to promote a safer and more resilient clearing system, by improving the EU supervisory framework for central counterparties (CCPs), reinforcing the role of the European Securities and Markets Authority (ESMA), and drawing lessons from the market events of the past few years.

73. In its Article 11(3) – which deals with risk-mitigation techniques for OTC derivative contracts not cleared by a CCP – EMIR 3 requires financial counterparties and non-financial counterparties to “apply for authorisation from their competent authorities before using, or adopting a change to, a model for initial margin calculation” and where the model “is based on a pro forma model, the counterparty shall apply to EBA for the validation of that model”. This task assigned to the EBA is a new task and the EBA will naturally support additional costs in order to perform this new duty. To finance these additional costs, Article 11(12a) fifth subparagraph 5 of EMIR mentions that “EBA shall charge an annual fee, per pro forma model, to financial counterparties and non-financial counterparties (...) The fee shall be proportionate to the monthly average outstanding notional amount of non-centrally cleared OTC derivatives over the last 12 months of the counterparties concerned using the pro forma models validated by EBA and shall be assigned to cover all costs incurred by EBA for the performance of its tasks” i.e. its new central validation tasks.

74. Article 11(12a) of EMIR states that the method for determining the amount and the modalities of payment of the above-mentioned fees will be set out by a delegated act adopted by the Commission. On 31 July 2024, the Commission requested EBA’s technical advice on this possible delegated act.

#### B. Technical Advice objectives

75. The Technical Advice objective aims at assisting the Commission in formulating a possible delegated act specifying the method for the determination of the amount of the fees, and the

modalities of the payment of such fees, to be paid by financial and non-financial counterparties requiring the validation of pro forma models under EMIR 3.

### **C. Options considered, assessment of the options and preferred options**

76. Section C. presents the main policy options discussed and the decisions made by the EBA during the development of the Technical Advice. Advantages and disadvantages, as well as potential costs and benefits from the qualitative perspective of the policy options and the preferred options resulting from this analysis, are provided. The only relevant policy options discussed were related to the method for sharing the annual costs incurred by EBA ('the fees') amongst the counterparties using a pro forma model and more precisely the basis of this sharing which is required to be proportionate to the 12-month average notional amount of non-centrally cleared OTC derivatives. These options are discussed in point C.2 below, while the estimation of the annual costs incurred by EBA for its new tasks is discussed in point C.1.

#### **C.1 - Estimation of annual costs incurred by EBA**

77. The estimated annual cost, stated in the Technical Advice, of EUR 1.5 to 2.0 million for the EBA is not the result of discretionary choices made in the Technical Advice, but rather stems directly from the new legal obligations introduced by EMIR 3. These obligations require the EBA to establish and operate a central validation function for pro forma initial margin models used by financial and non-financial counterparties across the EU. The scope of this mandate is extensive and includes the validation of model calibration, design and coverage of instruments, asset classes and risk factors and this implies, de facto, a certain number of tasks listed in the Technical Advice (e.g. processing of applications, on-site reviews, and ongoing monitoring...). The EBA must also develop and maintain statistical and IT tools to, amongst other things, manage reception of applications and calculate fees. All the above-mentioned tasks trigger costs such as the setting up of a dedicated team of experts, the maintenance of an IT infrastructure, the recourse to external consultancy support. Eventually, given all the above, the estimated costs of EUR 1.5 to 2.0 million per year – which is mostly driven by staff salaries and allowances - does not appear disproportionately too low or too high and, also, even if the annual fees of EUR 1.5 to 2.0 million were to be initially overestimated, the financial impact on counterparties would remain limited and proportionate to their use of the validated model, with larger counterparties contributing more, reflecting their greater use of validated models. Additionally, the EBA will track the real costs incurred each year and, where needed, adjust the fees accordingly in subsequent years. This ensures that the fee structure remains fair, proportionate, and aligned with the principle of full cost recovery. This approach ensures that the EBA is adequately resourced to fulfill its new task.

#### **C.2 - Distribution, amongst counterparties, of the amount of fees to be paid to EBA – notional amount**

78. In relation to the shares of the EBA's costs that each counterparty using a pro forma model will have to pay, Article 11(12a) fifth subparagraph of EMIR specifies that "The fee shall be

proportionate to the monthly average outstanding notional amount of non-centrally cleared OTC derivatives over the last 12 months of the counterparties concerned using the pro forma models validated by EBA”. In the light of the responses to the discussion paper, the EBA took note of concerns raised about the use of ‘notional amount’ and thus the EBA considered two options:

**Option 1a:** Maintaining, in the Technical Advice, the request to use the strict term of outstanding notional amount of non-centrally cleared OTC derivatives.

**Option 1b:** Defending, in the Technical Advice, that the delegated act allows counterparties to use several simpler methods to determine the notional amount of non-centrally cleared OTC derivatives.

79. Requiring counterparties to use the outstanding notional amount of non-centrally cleared OTC derivatives is more directly aligned with the EMIR 3 mandate. It adheres strictly to the legal requirement that states that fees should be proportionate to the 12-month average notional amount. However, this approach presents significant drawbacks. It imposes a heavy operational burden on counterparties, particularly in the first year of implementation. According to ISDA, the cost of determining the monthly average outstanding notional amount might be multiple times the fee itself and this is especially challenging for smaller counterparties. Moreover, the complexity of defining and thus calculating monthly notional amounts for diverse and complex financial products introduces risks of inconsistency and errors, potentially undermining the goal of proportionality. In contrast, allowing counterparties to choose among simpler methods to determine notional amounts should reduce those risks, while offering a more pragmatic and cost-effective solution. This option includes the “Equivalent Portfolio Notional” method and also conservative band-based approximations, which significantly reduce implementation costs. It also enhances inclusivity by enabling smaller and less-resourced firms to comply without undue burden, while still maintaining a reasonable link between fees and market activity.

80. On the basis of the above, **option 1b has been chosen as the preferred option** and the Technical Advice defends that the delegated act allows counterparties to use several simpler methods to determine the notional amount of non-centrally cleared OTC derivatives.

## **D. Conclusion**

81. The Technical Advice is expected to assist the Commission in formulating a possible delegated act specifying the method for the determination of the amount of the fees, and the modalities of the payment of such fees, to be paid by financial and non-financial counterparties requiring the validation of pro forma models under EMIR 3. The estimation of costs for EBA – which are not triggered by the Technical Advice options chosen but by the underlying requirements set out in EMIR 3 – does not appear disproportionately too low or too high and, moreover, the EBA will track the real costs and adapt, if needed, the following years’ fees accordingly. The Technical Advice takes into account that a direct computation of the 12-month average notional amount of non-centrally cleared OTC derivatives for the computation of the shares of fees to be paid by



counterparties, as stated in EMIR 3, would trigger disproportionate burden for the counterparties and proposes a coherent alternative. Overall, the impact assessment on the Technical Advice suggests that the expected benefits are higher than the expected costs incurred.

## 3.2 Feedback on the public consultation

82.The EBA publicly consulted on the draft proposal contained in this paper.

83.The consultation period lasted for one month and ended on 7 April 2025. Two responses were received, of which two were published on the EBA website.

84.The International Swaps and Derivatives Association (ISDA), which developed and maintained the ISDA SIMM methodology submitted a coordinated response from its members. ISDA-SIMM users are expected to apply for EBA validation, when EBA is ready to perform its new tasks. Hence, they will be required to provide EBA with the necessary information and to pay fees related to this pro forma model.

85.A credit institution subject to EMIR requirements also provided its feedback to the Discussion Paper’s questions.

86.This section presents a summary of the key points and other comments arising from the consultation, the analysis and discussion triggered by these comments and the actions taken to address them if deemed necessary.

### Summary of key issues and the EBA’s response

87.Overall, respondents welcomed the establishment of a central validation function, which will ensure a uniform validation process within the Union.

88.However, ISDA, the developer of SIMM pro forma model, highlighted that the proposed approach to assign validation fees based on an exact Euro notional amount would be unnecessarily costly and burdensome, with costs exceeding multiple times the fees for smaller counterparties. The potential costs of computing ANAPF were also raised by the responding credit institution which provided cost estimates.

89.Against this background, ISDA proposed alternative methodologies to calculate notional amounts for fees. It suggested that EBA could use the data already reported by counterparties to the trade repositories. EBA discarded this option as EMIR requires counterparties to provide EBA with the information on the outstanding notional amount.

90.Building on the feedback from consultation, the EBA proposes, in order to address the concerns relating to the difficulties and costs of calculating ANAPF, to specify in the Delegate Act that counterparties should calculate the 12-month average notional amount for the purposes of fees using an “Equivalent Portfolio Notional” to determine monthly notional amounts of non-centrally cleared OTC derivatives.

91.Should counterparties have difficulties in computing such Equivalent Portfolio Notional, the EBA suggests allowing counterparties to either:

- Use the total amount of IM for the determination of the equivalent portfolio notional, or;
- Allowing the counterparties to assume the notional amount to be one of those provided in the bands of notional amount, defined in Article 36 of the joint ESAs RTS on uncleared OTC derivatives, as long as the institution can ensure that the actual notional amount is lower than the notional assumed.

92. EBA takes note of the difficulties for the counterparties in retroactively computing the notional amount in the first year of application and suggests that the Delegated Act considers reducing the length of the reference period in the context of the first year application of fees.

93. On the rest of the questions included in the Discussion Paper, EBA notes that respondents did not raise significant concerns.

## Summary of responses to the consultation and the EBA's analysis

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
<b>General comments</b>			
ISDA highlights that the proposed approach to assign fees based on an exact Euro notional amount is unnecessarily difficult, costly and burdensome. In the case of smaller counterparties, the cost of determining the monthly average outstanding notional amount over the past 12 months of non-centrally cleared OTC derivatives, for which initial margin is calculated using IM model(s) based on a given pro forma model (ANAPF) might be multiple times the fee itself.		EBA takes note of the comments on the difficulties and costs of calculating ANAPF.	EBA proposes an alternative approach to calculating the fees.
ISDA appreciates that the EBA is confined by certain parameters specified in EMIR as regards the proposed fee structure, including the use of an average aggregate notional amount (AANA) based on twelve-months' worth of data. However, it highlights that an approach based on the IM amount calculated using the pro forma model would be much more suitable, since these amounts are proportionate, available and form part of the data requested in the initial application.		<p>EBA confirms that EMIR Article 11(12a) fifth subparagraph requires EBA to charge "an annual fee proportionate to the monthly average outstanding notional amount of non-centrally cleared OTC derivatives over the last 12 months of the counterparties concerned using the pro forma model validated by EBA".</p> <p>EBA takes note of the comments on taking as a reference point the notional amounts.</p>	EBA proposes an alternative approach to calculating the fees.

<p>ISDA argues that the EBA should leverage the notional amounts and other data already reported by or on behalf of EU Counterparties to EU Trade Repositories (TRs) under Article 9 of EMIR. Requiring additional new data to be created and reported is duplicative and burdensome. Other alternatives are discussed below as part of ISDA response to Q3.</p>	<p>EBA takes note of the ISDA proposal on the calculation of the notional amounts using the data reported to EU trade repositories.</p> <p>EBA notes that EMIR Article 11(3) fourth subparagraph requires that “the counterparty shall provide EBA with the information on the outstanding notional amount referred to in paragraph 12a of this Article”. Hence, counterparties using pro forma models remain liable for providing the information on outstanding notional amounts for the purpose of fee calculation.</p> <p>EBA proposes an alternative approach to calculating the fees.</p>
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### Responses to questions in Discussion Paper EBA/DP/2025/01

<p><b>Question 1.</b></p> <p>Do you have any comments on the scope of the new tasks expected from the new role of EBA as central validator of pro forma models?</p>	<p>ISDA recognises the intended value and efficiency of conducting a central validation of a pro forma model, such as ISDA SIMM, and has no further comments at this juncture.</p> <p>The other respondent highlights that it should be made clear which advantages result from the role of the EBA, e.g. no own validation of the model necessary, recognition of the central validation by internal and external auditors,</p> <p>None.</p>
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especially auditors of the Bundesbank, ECB and EBA.

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**Question 2.**

Could you confirm that 3 months is appropriate to compute ANAPF for the purposes of submitting the information for fee calculation by the reporting deadline?

ISDA considers that the computation of ANAPF as proposed by the Discussion paper is not necessary nor feasible.

ISDA stresses that, if the significant obstacles to calculate the ANAPF as proposed were overcome, and an aggregate notional amount was capable of being computed in an automated fashion following the conclusion of each month-end, then the proposed 3 months between the Reference Date and the Reporting Date would be sufficient to aggregate and submit the data. ISDA points to the reliance on automation and the need to aggregate data from multiple sources.

ISDA highlights that SIMM users are concerned that counterparties should act now to retroactively gather the data for the proposed ANAPF from January 2025 in case the EBA announces its model validation function is ready in 2026.

EBA takes note of the difficulties to compute ANAPF and on the need to develop automated process to meet the 3 months reporting deadlines.

EBA proposes an alternative approach to calculating the fees and recommends flexibility for the first year.

EBA takes note of the difficulties for SIMM users to retroactively compute ANAPF and suggests that the Delegated Act considers reducing the length of the reference period in the context of the first year application of fees.

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**Question 3.**

Do you have any comment with respect to the calculation of ANAPF? Please highlight any expected issue linked with the estimation of ANAPF (including accuracy of such estimation)

ISDA highlights that two main challenges to AANA calculation. The first is determination of the appropriate amount to use for the “notional” and the second is the need to source and aggregate the notional data from multiple, separate resources.

ISDA made three proposals:

1. Requesting EBA to independently determine month-end notionals for uncleared transactions using data reported to EMIR Trade repositories.
2. Offering the possibility to the applying counterparties to choose between two approaches:
  - a. Deriving their ANAPF amount from the calculated pro forma IM amount (Equivalent Portfolio Notional), or;
  - b. Using a representation of ANAPF against a banded level.

For these two options ISDA provides details on the calculation modalities.

EBA takes note of the proposals made to determine the monthly notional amounts for fee calculation.

With respect to the first proposal, as indicated above, EMIR Article 11(3) fourth subparagraph requires that “the counterparty shall provide EBA with the information on the outstanding notional amount”. Thus, counterparties using pro forma models remain liable for providing the information on outstanding notional amounts for fee calculation.

With a view to alleviating issues stemming from a direct ANAPF calculation, EBA suggests implementing the proposed Equivalent Portfolio Notional approach, as well as simpler approaches, in particular relying on the regulatory buckets used for the EMIR phase in.

EBA proposes an alternative approach to calculating the fees.

The other respondent estimates that the calculation of the ANAPF will certainly require one-off costs of EUR 10 thousand per bank for a technically supported reporting solution + EUR 5 thousand per year for its maintenance.

EBA takes note of the cost's estimates implied by the proposal to base fees on a direct computation of ANAPF.

#### Question 4.

Do you have any comments/relevant input to the proposed calculation methods for the fees? Please elaborate. Please elaborate, in particular if you raised issues linked with the estimation of ANAPF as part of Question 3, on how the calculation methods for the fee could be adjusted to address those issues (e.g. bucketing of counterparties according to ANAPF levels).

ISDA explains that the proposed Method 1 for attributing a variable fee based on the legal entity's proportion of ANAPF would be feasible and appropriate only if the EBA calculates the ANAPF using TR data. ISDA does not find sufficient value in Method 2 to warrant the separate attribution of a fixed fee to cover invoicing costs.

ISDA points that if the ANAPF component of the fee computation is sourced from the applicant then the fee should be determined based on banding, as was done with the original IM Phase-In schedule which bucketed groups at up to €750 billion and a minimum of €42 billion increments. This would allow for proportional application of fees whilst mitigating the challenges raised in response to Q3 to produce a precise figure.

The center point of each band could be used for the ANAPF input to the pro forma fee

EBA takes note of the proposed use of the AANA buckets used for the initial margin phase in.

EBA takes notes of the proposal to divide the total costs by the number of participating users of the model. However, this approach is discarded as it does not fulfil the EMIR proportionality requirement.

EBA proposes an alternative approach to calculating the fees.



calculation. SIMM users would like to have the option to self-declare for a particular band rather than attempt to produce a precise figure.

The other respondent provides estimates of costs for the different tasks implied by the ANAPF calculation as well as the invoicing duties for counterparties and supervisors. The costs should therefore be distributed according to the key: individual costs are the total costs divided by the number of participating banks.

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**Question 5.**

Do you have any comments on the proposed timing of invoicing? Please elaborate.

ISDA has no concerns at this juncture with the EBA's proposal to issue invoice by each June 30th each year with payment due within 30 days.

The other respondent states that a simple model would make invoicing significantly faster and more efficient.

EBA proposed further simplifications for applications received after the 30 September (first year of application) or after the 31 March reporting deadline (steady state).

EBA proposes exempting from fees counterparties applying after 30 September (first year of application) or after 31 March reporting deadline (steady state).

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**Question 6.**

Do you have any comments on the proposed list of

ISDA considers unnecessary and duplicative for counterparties to communicate the ANAPF and the end-months amounts of non-centrally cleared derivatives used to compute the

<p>information to be communicated to EBA for the calculation of fees? Do you have any comments on the proposed timeline to submit this list of information to EBA (i.e. by the reporting deadline each year)? Please elaborate.</p>	<p>ANAPF. These figures should be determined by the EBA using TR data.</p> <p>An applying entity should only need to communicate the pro forma model used during the reference period and the financial details required for the billing process.</p> <p>ISDA also notes that it will be complex and onerous for managed funds to gather and aggregate ANAPF amounts for electronic communication to the EBA. As a mitigant, managed funds should be allowed to submit the disaggregated ANAPF figures provided by their asset managers</p>	<p>As highlighted above, counterparties using pro forma models are liable for providing the information for fee calculation purposes. Counterparties, including managed funds, will be required to provide this information to EBA. Having said that, EBA proposes a revised methodology that is expected to reduce operational costs for the fees' calculation.</p>	<p>EBA updated the proposed list of information reflecting the revised approach proposed for calculating the fees.</p>
<p>The other respondent proposes a simple per capita distribution per model. It argues that it would make the overall process significantly faster, as only preliminary information on the model used would have to be provided.</p>	<p>The other respondent proposes a simple per capita distribution per model. It argues that it would make the overall process significantly faster, as only preliminary information on the model used would have to be provided.</p>	<p>As explained above, EMIR Article 11(12a) fifth subparagraph requires EBA to charge an annual fee that is proportionate (to ANAPF).</p>	

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**Question 7.**

ISDA explains that the EBA's role as central validator is intended to enable an efficient and

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Do you have any other comment on the proposals made in this discussion paper?	less burdensome approach to authorization and validation of pro forma models.	EBA takes note of the comments received.	None.
	ISDA argues that by extracting the relevant TR data, the EBA could apply a consistent, proportionate approach to determining ANAPF that could be automated centrally using the proposed Method 1 formula for any pro forma model.		
	The other respondent reiterates its proposed model to simplify the approach. It would include the obligation to notify the supervisory authority of a new model other than the ISDA SIMM model currently used by all banks at the beginning of the year, the fees would also be calculable in advance, as the EBA would already budget its unit in advance and the total budget amounts could simply be divided by the number of participating banks.		

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