



**PensionsEurope comments on the EBA  
consultation about its draft Regulatory Technical  
Standards (RTS) on Initial Margin Model  
Validation (IMMV) under the European Markets  
Infrastructure Regulation (EMIR)**

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**1. PensionsEurope comments on the EBA consultation about its draft Regulatory Technical Standards (RTS) on Initial Margin Model Validation (IMMV) under the European Markets Infrastructure Regulation (EMIR)**

*General remarks*

PensionsEurope welcomes the opportunity to comment on the EBA consultation about its draft Regulatory Technical Standards (RTS) on Initial Margin Model Validation (IMMV) under the European Markets Infrastructure Regulation (EMIR).

It is PensionsEurope's opinion that the suggested RTS regarding the adoption and governance of IM models will introduce new heavy and unjustified burdens on a vast number of counterparties. While we recognize the intent to provide a less burdensome adoption and governance regime for counterparties included under section 3 of the proposed RTS, we believe that the proposed requirements overshoot what's necessary in order to curb risks to the financial system arising from IM calculations.

*The importance of ISDA SIMM*

PensionsEurope believes that the proposed RTS does not adequately consider that IM is calculated and exchanged subject to the ISDA Standard Initial Margin Model (ISDA SIMM) which is de facto industry standard. We believe the RTS article 27 model documentation requirements should take this into account and that, by doing so, more proportionate rules could be set for most counterparties without introducing any IM-related risks into the financial system.

ISDA SIMM is widely accepted, and most counterparties adhere to the model. In fact, we believe that relying on ISDA SIMM is a systemic strength, as it reduces disputes over IM to an absolute minimum and as it also constitutes a fallback in the event of disputes. This, in our view, is a further reason why the IMMV rules should to a higher degree consider the role of ISDA SIMM.

*Counterparties' governance*

We believe the proposed RTS puts too much emphasis on the role of senior management in relation to IM models. As IM calculation and settlement are typically considered middle or back-office tasks, they are typically handled under the counterparties' general investment-related governance and risk management, rather than being subject to specific governance and or risk management. Pension funds and insurers are already subject to encompassing sectorial regulation which includes detailed requirements regarding governance and risk management of investments. This includes among other things internal audit and IT risk management. We believe the proposed article 28 should reflect the governance and risk management requirements already embedded in sectorial regulation.

*Service providers*

Most counterparties who would be included under section 3 of the proposed RTS make use of service providers (SPs) to gain access to IM models. The IM models made available by SPs are typically implementations of ISDA SIMM, and it is normally part of the agreement with the SP that changes and extensions to ISDA SIMM are implemented so that IM calculations are in line with that model. Consequently, governance and risk management related to model maintenance resides with the SP. We recognise that the proposed RTS allows authorities to make use of previously established

validation results when evaluating a model application from a counterparty. However, we believe the important role of SPs should be acknowledged by explicitly making it the task of SPs to ensure that the required model and model-governance documentation is available. We acknowledge that counterparties have the final responsibility for having access to an IM model. However, the number of SPs providing access to an ISDA SIMM model is large and switching to a different SP is doable.

*Thresholds under article 2, 2.*

According to article 2, 2. of the proposed RTS, national competent authorities may decide that specific counterparties with a notional value of non-cleared derivatives exceeding EUR 50 billion should be subject to section 2 requirements instead of section 3 requirements, even if the counterparties in question fall under article 2, 1. Article 2, 2. gives little guidance in relation to the reasons for deciding so, as it only refers to the “complexity and interlinkages of the counterparty OTC derivative activity”. This will, in our view, allow competent authorities to make article 2, 2. decisions with little or unclear argumentation, and it will open to very different practices across Europe. In general, we don’t believe there is a need to request section 3 compliance from counterparties above the EUR 50 billion threshold. However, should the article 2, 2. option be upheld, we suggest that more specific and objective criteria for requiring section 3 compliance should be introduced.

To conclude, PensionsEurope believes that the proposed RTS fails to

- adequately consider the importance of the ISDA SIMM
- take account of the fact that counterparties falling under section 3 of the proposal typically rely on SPs for calculations

We suggest removing the article 2, 2. option or, at least, to provide clearer and more objective criteria for requiring section 3 compliance from counterparties above the EUR 50 billion threshold.

## **About PensionsEurope**

**PensionsEurope** represents national associations of pension funds and similar institutions for workplace and other funded pensions. Some members operate purely individual pension schemes.

PensionsEurope has **25 member associations** in 18 EU Member States and 4 other European countries<sup>1</sup>.

PensionsEurope member organisations cover different types of workplace pensions for over **110 million people**. Through its Member Associations PensionsEurope represents **€ 5 trillion of assets** managed for future pension payments. In addition, many members of PensionsEurope also cover personal pensions, which are connected with an employment relation.

PensionsEurope also has **19 Corporate and Supporter Members** which are various service providers and stakeholders that work with IORPs.

PensionsEurope has established a **Central & Eastern European Countries Forum (CEEC Forum)** to discuss issues common to pension systems in that region.

PensionsEurope has established a **Multinational Advisory Group (MAG)** which delivers advice on pension issues to PensionsEurope. It provides a collective voice and information sharing for the expertise and opinions of multinationals.

## **What PensionsEurope stands for**

- A regulatory environment encouraging workplace pension membership;
- Ensure that more and more Europeans can benefit from an adequate income in retirement;
- Policies which will enable sufficient contributions and good returns.

## **Our members offer**

- Economies of scale in governance, administration and asset management;
- Risk pooling and often intergenerational risk-sharing;
- Often “not-for-profit” and some/all of the costs are borne by the employer;
- Members of workplace pension schemes often benefit from a contribution paid by the employer;
- Wide-scale coverage due to mandatory participation, sector-wide participation based on collective agreements and soft-compulsion elements such as auto-enrolment;
- Good governance and alignment of interest due to participation of the main stakeholders.

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<sup>1</sup> EU Member States: Austria, Belgium, Bulgaria, Croatia, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Luxembourg, Netherlands, Portugal, Romania, Spain, Sweden. Non-EU Member States: Iceland, Norway, Switzerland, UK.

