

EMIR REFIT REPORTING COUNTERPARTY DATA

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Information note

Preamble

Changes in reporting obligations under EMIR

In accordance with Article 9 of EMIR ([Regulation \(EU\) 648/2012](#)), counterparties to OTC derivative contracts and *Exchange Traded Derivatives* (ETDs) are required to report to a *trade repository* (TR) all details regarding derivative contracts they have entered into, as well as any modification or termination of the contract, no later than the business day (D+1) following the conclusion, modification or termination of the contract. Financial counterparties (FCs)¹ are responsible for reporting, on behalf of both counterparties, OTC derivatives contracts concluded with a non-financial counterparty (NFC)² that are below the clearing thresholds³ (NFC-) (see *Annex II*) and that meet certain conditions⁴ (so-called *mandatory delegation*).

In June 2022, in order to simplify the reporting processes arising from these obligations and to take account of the international standards⁵, the European Commission adopted a [set of six texts](#)⁶ to complement EMIR, two of which specifically address the reporting obligation:

- [Delegated Regulation \(EU\) 2022/1855](#) (RTS EMIR Refit Reporting) specifying the minimum information details of the data to be reported to trade repositories and the type of report to be used;
- [Implementing Regulation \(EU\) 2022/1860](#) (ITS EMIR Refit Reporting) as regards reporting standards, formats, frequency and methods and arrangements for reporting.

¹ Article 2(8) provides that a financial counterparty is a) an investment firm authorized in accordance with Directive 2014/65/EU of the European Parliament and of the Council; b) a credit institution authorized in accordance with Directive 2013/36/EU of the European Parliament and of the Council; c) an insurance or reinsurance undertaking authorized in accordance with Directive 2009/138/EC of the European Parliament and of the Council ; d) a UCITS and, where applicable, its management company authorized in accordance with Directive 2009/65/EC, unless that UCITS is established exclusively for the purpose of serving one or more employee share ownership schemes; e) an institution for occupational retirement provision (IORP) within the meaning of Article 6(1) of Directive (EU)2016/2341 of the European Parliament and of the Council ; (f) an alternative investment fund (AIF) within the meaning of Article 4(1)(a) of Directive 2011/61/EU, which is either established in the Union or managed by an alternative investment fund manager (hereinafter "AIFM") authorized or registered in accordance with that Directive, unless that AIF is established exclusively for the purpose of servicing one or more employee share ownership schemes, or the AIF is a special purpose vehicle referred to in Article 2(3)(g) of Directive 2011/61/EU and, where applicable, its AIF manager established in the EU; (g) a central securities depository authorized in accordance with Regulation (EU) No 909/2014 of the European Parliament and of the Council

² Article 2 9) states that a non-financial counterparty is "an undertaking, other than the entities referred to in points 1) and 8), established within the Union;".

³ Article 11 of [Delegated Regulation \(EU\) 149/2013](#).

⁴ As set out in Article 9.1a of [EMIR](#) in its consolidated version. See also Article 10 of [Delegated Regulation \(EU\) 149/2013](#) and EMIR Q&A question 4.

⁵ Guidelines issued by the *Committee on Payments and Market Infrastructure* (CPMI) and the International Organization of Securities Commissions (IOSCO) and standards issued by LEI ROC <https://www.leiroc.org/>

⁶ Texts published in the Official Journal of the European Union on 7 October 2022.

These texts were supplemented in October 2023 by Guidelines⁷ issued by the European Securities and Markets Authority (ESMA) with the aim of strengthening harmonization and standardization in terms of reporting.

These new reporting standards will apply to all derivatives contracts concluded on or after 29 April 2024, the *go-live* date for the application of the RTS and ITS⁸. And no later than six months after the *go-live* date, to derivatives contracts concluded before the *go-live* date and outstanding on that date.

Compared with the current situation, these texts significantly increase the number of fields to be reported, from 129 to 203 (74 new fields), especially with the addition of fields relating to the counterparties of reporting entities. These entities (known as Counterparties 1) must collect from their Counterparties 2 new data (those specified in Annex 1 of table 1 of the [EMIR Refit Reporting RTS](#) and the [EMIR Refit Reporting ITS](#)) necessary to enable them to comply with their reporting obligation, whether the entity subject to the reporting obligation has chosen to delegate its reporting ([EMIR, art.9 paragraph 1 subparagraph 3](#)) or not⁹.

All this newly required additional information must be collected by regulated FC before the new regulatory provisions come into force on 29 April 2024.

Purpose of this information notice

This document describes how to fill in the fields relating to counterparty data. Its main purpose is educational:

- Firstly, so that registrants have a common understanding of how these fields should be filled in;
- Secondly, to ensure that the counterparties from whom information will be requested understand the reasons why this information is being requested.

Annex I of this document includes a questionnaire in Excel format that can be used to gather the necessary information from counterparties.

WARNING
for the attention of users of this document

Users of this document should note that its sole purpose is to help AMAFI members raise awareness among their clients who are counterparties to derivative contracts about the data they may be required to collect as part of their reporting obligations.

Although great care has been taken to ensure the quality of the information contained in this note, it should nevertheless be treated with caution under all circumstances, and AMAFI accepts no liability whatsoever in respect of it.

Please note that this document may be updated from time to time.

⁷ [Guidelines](#) for reporting under EMIR- 23 October 2023 - ESMA74-362-2281.

⁸ The European Union (EU) has an earlier *go-live* date than the UK, set for October 2024. Entities subject to reporting obligations in both jurisdictions will therefore have to have different reporting systems in place.

⁹ Some data were already partially required by EMIR but only concerned counterparties with which there was a delegation agreement (e.g., corporate sector).

List of abbreviations used in the document

- CCP Central counterparty (clearing house)
- Counterparty 1 Reporting entity, which makes the declarations
- Counterparty 2 Counterparty to a derivative contract for which Counterparty 1 is the reporting entity
- FC Financial counterparty
- NFC Non-financial counterparty
- NFC - Non-financial counterparty below the clearing thresholds as defined in Article 11 of the [EMIR](#) regulation, see also the [ESMA page](#) dedicated to this subject.
- NFC + Non-financial counterparty above the clearing thresholds defined in Article 11 of the EMIR regulation
- EEA European Economic Area
- EMIR Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on over-the-counter derivatives, central counterparties and trade repositories
- Reporting entity Counterparty 1
- ERR Entity Responsible for Reporting
- ESMA European Securities and Markets Authority
- ETD Exchanged Traded Derivatives
- AIF Alternative investment fund (AIF)
- ITS EMIR Refit Reporting [Implementing Regulation \(EU\) 2022/1860](#) as regards reporting standards, formats, frequency, methods and modalities
- LEI Legal Entity Identifier (www.gleif.com)
- UCITS Undertaking for Collective Investment in Transferable Securities
- OTC Over the Counter
- "Opt out Situation where the NFC - decides to opt out of the mandatory delegation situation in order to report on its own. In this case, the NFC - must formally inform the FC so that the latter is no longer responsible for its *reporting*.
- RTS Regulatory technical standards
- RTS EMIR Refit Reporting [Delegated Regulation \(EU\) 2022/1855](#) specifying the minimum information to be reported to trade repositories and the type of report to be used
- SFTR [Regulation \(EU\) 2015/2365 of 25 November 2015 on the transparency of securities financing transactions and re-use and amending Regulation \(EU\) No 648/2012](#)
- TR Trade repository
- EU European Union

SCOPE OF DECLARATION SITUATIONS COVERED

The document covers the situations set out in the table below.

	Counterparty 1	Counterparty 2
Situation 1 Both entities are responsible for reporting (No delegation)	Reporting ERR (FC or NFC+) on its behalf	Reporting ERR (FC or NFC+) on its behalf
Situation 2 One party delegates its reporting to the other (Voluntary delegation)	ERR (FC or NFC+), declaring on its behalf and Counterparty 2	Non-reporting ERR (FC or NFC+)
Situation 3 Counterparty 2 is a NFC- (Mandatory delegation) ¹⁰	ERR (FC or NFC+) reporting on its behalf and Counterparty 2	NFC -

REGULATORY INFORMATION TO BE PROVIDED BY THE COUNTERPARTY 2

✚ Entity responsible for reporting ("ERR")

The ERR is responsible for the completeness and accuracy of reporting, including in the case of delegation. It plays a crucial role in reporting significant errors and omissions to the national competent authorities, including for ETD.

As part of the obligation to report to a trade repository, and when the contract concerns OTC derivatives or when the trading venue is not on the list of [MIC's](#) or when it is not recognized as [equivalent](#)¹¹, it is necessary to identify the ERR (field 1.3) by indicating its 20-character alphanumeric ISO 17442 legal entity identifier (LEI) as published by the [Global LEI Foundation](#) with a correct and updated status¹².

In the case of voluntary delegation (see situation 2 in the table above), the ERR remains the entity that delegated the *reporting* even if the reporting is submitted to a Trade Repository by the other counterparty

¹⁰ Mandatory delegation for OTC derivative contracts where the counterparty to the contract is a NFC below the clearing threshold (known as a "NFC-"). NFCs are solely responsible for ensuring that the information provided to the FCs responsible for their reporting is accurate.

Opt-out: the NFC- may, however, choose to opt out of the mandatory delegation situation in order to report and be legally liable for the reporting of their own TC derivative contracts. In such case, the NFC- must formally inform the FC so that the FC is no longer responsible for its reporting (ERR).

¹¹ In the case of derivatives executed on an trading venue with a MIC code listed on <http://www.iso15022.org/MIC/homepageMIC.htm> or in the case of a listed derivative executed on a recognized as equivalent in Europe, the ERR does not need to be filled in according to ESMA validation rules for Emir Refit [ESMA - EMIR Refit validation rules reconciliation tolerances and template notifications DQ issues](#)

¹² The LEI's status must be "Issued", "Pending transfer" or "Pending archival"; it cannot be "Lapsed", just like the LEI status of counterparty 1.

or the third party. However, in the case of mandatory delegation by a NFC-, and only for OTC derivatives contracts, the ERR is the FC and not the NFC-¹³. Thus, a NFC- should not be concerned by the paragraphs below except in the case of an *opt-out*¹⁰ decided by the NFC-.

A few things you need to know:

- During the life of a transaction, an NFC- may become an NFC+: ESMA has stipulated that counterparties should have an agreement in place to support any future change in NFC status that will have an impact on the responsibilities and liabilities of the parties.
- If a FC is solely responsible, including legally, for reporting on its behalf and for a NFC- which does not itself report the elements of its OTC derivative contracts ("*Opt out*"), it is necessary to indicate the LEI of the FC as the ERR (*EMIR, art.9, paragraph 1a*);
- If a management company is responsible, including legally, for the declaration on behalf of a UCITS, it is necessary to indicate the LEI of this management company as the ERR, even when the fund is located outside the EEA (*EMIR, art.9, paragraph 1b*);
- If an AIF manager is responsible, including legally, for reporting on behalf of an AIF, it is necessary to indicate the LEI of that AIF manager as the ERR, including where the AIF is located outside the EEA. (*EMIR, art.9, paragraph 1c*).
- If an authorized entity which is responsible for managing an Occupational Pension Institution ("IORP") without legal personality and acting on its behalf, is responsible, including legally, for the declaration on its behalf, it is necessary to indicate the LEI of this entity as an ERR (*EMIR, art.9 paragraph 1d*).

Nature of counterparty 2

It is necessary to indicate (field 1.11) whether Counterparty 2 is a central counterparty¹⁴, a FC or a NFC or an entity within the meaning of Article 1^{er} paragraph 5¹⁵.

The field is completed with the following letter depending on the nature of the Counterparty 2 :

F = Financial Counterparty
N = Non-Financial Counterparty
C = Central Counterparty
O = Other

¹³ For ETDs, mandatory delegation is not permitted, so the entity responsible for reporting will always remain the entity that delegated the *reporting*.

¹⁴ Article 2(1) of EMIR defines a CCP as "*means a legal person that interposes itself between counterparties to the contracts traded on one or more financial markets, becoming the buyer to any seller and the seller to every buyer*".

¹⁵ Namely, "*(a) as listed under Section 4.2 of Part 1 of Annex VI to Directive 2006/48/EC.*

(b) public sector entities, with the meaning of point (18) of Article 4 of Directive 2006/48/EC, where they are owned by central governments and have explicit guarantee provided by central governments;

c) the European Financial Stability Facility and the European Stability Mechanism".

✚ Counterparty 2 Corporate sector

Counterparty 1 must also indicate the nature of the activities carried out by Counterparty 2 (field 1.12) as follows:

- If Counterparty 2 is a FC, this field contains the corresponding code defined in the FC taxonomy¹⁶ :
 - "INVF" an investment firm authorized in accordance with [Directive \(EU\) 2014/65](#) (MiFID II)
 - "CDTI" a credit institution authorized in accordance with [Directive 2013/36/EU](#) (CRD)
 - "INUN" an insurance or reinsurance undertaking authorized in accordance with [Directive 2009/138/EC](#) (Solvency II)
 - "UCIT" a UCITS and, where relevant, its management company authorized in accordance with [Directive 2009/65/EC](#) of the European Parliament and of the Council (4), unless that UCITS is set up exclusively for the purpose of serving one or more employee share purchase plans;
 - "ORPI" an institution for occupational retirement provision (IORP) as defined in point (1) of Article 6, of ¹⁷[Directive \(EU\) 2016/2341](#) (IORP)
 - "AIFD" an alternative investment fund (AIF) as defined in point (a) of Article 4 (1) of [Directive 2011/61/EU](#) of the European Council (6), which is either established in the Union or managed by an alternative investment fund manager (AIFM) authorized or registered in accordance with that Directive, unless that AIF is set up exclusively for the purpose of servicing one or more employee share purchase plans, or unless the AIF is a securitization special purpose entity as referred to in point (g) of Article 2(3) of Directive 2011/61/EU, and, where relevant, its AIFM established in the Union.
 - "CSDS" a central securities depository approved in accordance with [Regulation \(EU\) No 909/2014](#) (CSDR)

- If Counterparty 2 is a NFC, this field contains the corresponding code(s) defined in the NFC taxonomy:
 - " A " Agriculture, forestry and fishing ;
 - " B " Mining and quarrying ;
 - " C " Manufacturing ;
 - " D " Electricity, gas, steam and air conditioning supply;
 - " E " Water supply, sewerage, waste management and remediation activities;
 - " F " Construction ;
 - " G " Wholesale and retail trade; repair of motor vehicles and motorcycles ;
 - " H " Transportation and storage ;
 - " I " Accommodation and food service activities;
 - " J " Information and communication ;
 - " K " Financial and insurance activities ;

¹⁶ See Field 6 of Table 1 of the Annex to the ITS EMIR Refit Reporting.

¹⁷ Which defines an institution for occupational retirement provision as "*means an institution, irrespective of its legal form, operating on a funded basis, established separately from any sponsoring undertaking or trade for the purpose of providing retirement benefits in the context of an occupational activity on the basis of an agreement or a contract agreed :*

- a) *Individually or collectively between the employer(s) and the employee(s) or their respective representatives; or*
- b) *with self-employed persons, individually or collectively, in compliance with the law of the home and host Member States,*

and which carries out activities directly arising therefrom."

" L "	Real estate activities ;
" M "	Professional, scientific, and technical activities,
" N "	Administrative and support service activities ;
" O "	Public administration and defence ; compulsory social security ;
" P "	Education;
" Q "	Human health and social work activities ;
" R "	Arts, entertainment and recreation ;
" S "	Other service activities ;
" T "	Activities of households as employers; undifferentiated goods – and services – producing activities of households for own use;
" U "	Activities of extra-territorial organizations and bodies.

If several activities are reported, the codes are given in order of the relative importance of the corresponding activities.

The box must be left "blank" for Counterparty 2 that are central counterparties and the other types of counterparties in accordance with Article 1 paragraph 5 of EMIR¹⁵ .

Clearing threshold for Counterparty 2

For the purposes of the report and insofar as field 1.11 (Nature of Counterparty 2) has been filled in with the letter "N" or "F" (NFC or FC), Counterparty 1 must also indicate whether, on the date of conclusion of the transaction, Counterparty 2 exceeds the clearing threshold referred to in Article 4a(3) (for FC) or Article 10(3) (for NFC) of EMIR (see *Annex II*).

It indicates (field 1.13) a Boolean value as follows:

- TRUE = above the threshold
- FALSE = below the threshold

On the other hand, the box must be left blank if field 1.11 has been filled in with the letter "C" (*central counterparty*) or "O" (*other*) or has not been filled in.

Counterparty 2 declaration obligation

Irrespective of the person or entity responsible (including legally) for the reporting of Counterparty 2, it is necessary to indicate whether the latter is itself subject to the reporting obligation under EMIR.

The field (field 1.14) must be filled with a Boolean value :

- TRUE, if Counterparty 2 is subject to the declaration obligation
- FALSE, if Counterparty 2 is not subject to the reporting obligation

The field must be filled with the value "False" when Counterparty 2 is a natural person¹⁸ not acting in a professional capacity, a non-EU counterparty, a non-EU clearing house (CCP) or an entity referred to in Article 1 paragraph 4 of EMIR¹⁹.

The table below summarizes how to fill in this field.

Counterparty 2	Reporting obligation of the counterparty 2
EU FC/NFC/CCP	TRUE
NON EU FC/NFC/CCP	FALSE
NATURAL PERSON NOT ACTING IN BUSINESS CAPACITY	FALSE
ENTITIES IN ART. 1(4) OF EMIR (BIS, CENTRAL BANKS, etc)	FALSE
ENTITIES IN ART. 1(5) OF EMIR (MULTILATERAL DEVELOPMENT BANKS, ESM,ESF, etc)	TRUE

Source: ESMA Guidance R p.73

It is therefore necessary to determine the country of registration of the counterparty, based on the country of the parent entity and not that of the branch.

Note: Counterparty 2's obligation to report is a necessary piece of information to be included in the waterfall used to generate the unique transaction identifier (UTI)²⁰ for cross-border transactions.

Counterparty country 2

This field (field 1.10) must only be completed for individuals not acting in a professional capacity and refers to the individual's country of residence.

¹⁸ ESMA definition of a natural person - see [LEIROC statement definition](#).

¹⁹ This includes :

- The members of the ESCB and other entities of the Member States performing similar functions, and other public bodies of the Union entrusted with or involved in the management of the public debt;
- The Bank for International Settlements;
- Central banks and public bodies responsible for or involved in the management of public debt in the following countries:
 - o Japan;
 - o United States of America;
 - o Australia ;
 - o Canada ;
 - o Hong Kong ;
 - o Mexico ;
 - o Singapore ;
 - o Switzerland ;
 - o The United Kingdom of Great Britain and Northern Ireland.

Agreement by counterparties to generate the unique transaction identifier (UTI)²¹

In order to agree on the entity responsible for generating the UTI for their transactions, counterparties subject to EMIR are required to follow the UTI waterfall tree, in accordance with Article 7 of the ITS EMIR Refit Reporting²², the ESMA Guidelines²³ and the LEI ROC recommendations²⁴.

The counterparties must agree to generate and exchange the UTI before 10:00 AM UTC (Coordinated Universal Time) on the business day following the date on which the derivative contract is entered into. After this deadline, the counterparty "receiving" the UTI must contact the counterparty "generating" the UTI that did not supply it on time without generating a UTI "unilaterally".

In cases where transactions are cross-border and the counterparty is subject to its own reporting obligation outside the EU, it is the counterparty subject to the jurisdiction with the earliest *reporting* requirement that must generate the UTI. This therefore requires knowledge of the counterparty's *reporting* obligation, considering its country of jurisdiction as mentioned above for field 1.14 relating to the reporting obligation of Counterparty 2 (country of registration of the counterparty, determined from the country of the parent entity and not of the branch).



²¹ Article 7 of Commission Implementing Regulation (EU) 2022/1860 of 10 June 2022.

²² [EUR-Lex - 32022R1860 - EN - EUR-Lex \(europa.eu\)](#) and EMIR guidelines section 4.11.

²³ A common UTI enables transactions to be matched at TR level, followed by pairing statistics for counterparties in the EEA.

²⁴ [Harmonisation of the Unique Transaction Identifier - Technical Guidance \(leiroc.org\)](#).

Annex I - Questions for Counterparties 2

In order to facilitate the collection of information necessary for Counterparty 1 to meet its *reporting* obligations, and as presented in the note above, Counterparty 2 are invited to use the following Excel file ([link](#))* to provide the required information.

* To use the Excel file, you first need to save it to your desktop.

Annex II - Clearing thresholds as provided for in Delegated Regulation (EU) No 149/2013²⁵

Financial and non-financial counterparties must calculate their average derivative position by asset class over one year, based on positions at the end of each of the last twelve months. These are positions aggregated at the level of the group to which they belong. In accordance with Article 11 of the Delegated Regulation (EU) N°149/2013, the values of the clearing thresholds for the purposes of the clearing obligation are as follows:

Asset class	Thresholds in gross notional value
Credit derivatives	1 billion euros
Equity derivatives	1 billion euros
Interest rate derivatives	3 billion euros
Foreign exchange derivatives	3 billion euros
Commodity derivatives and others	4 billion euros

CAUTION: ESMA periodically reviews the clearing thresholds and may propose changes to the technical regulatory standards. It is therefore advisable to refer to ESMA's RTS on this subject.

²⁵ As updated by Delegated Regulation (EU) 2022/2310.

Annex III - Determining the entity responsible for reporting (ERR) in the case of AIF

N°	Jurisdiction AIFM	Jurisdiction AIF	"Authorised" or "Registered" (1)	AIF categorisation under EU EMIR (2)	Reporting Obligation under EU EMIR	Field 1.10 Entity Responsible for the Reporting (ERR)	Comments	E&O Calculation of significant Issues
1	EU	EU	Yes	FC (3)	Yes	EU AIFM (4)	-	ERR
2	EU	Non-EU	Yes	FC (3)	Yes (5)	EU AIFM (4)	-	ERR
3	Non-EU	EU	Yes	FC (3)	Yes	Non-EU AIFM	cf. article 9 (1) (c) of EU EMIR + paragraph 40 of the ESMA guidelines: " With regards to funds and in particular when an AIFM is managing AIFs domiciled in the Union and AIFs domiciled in third countries, fund manager should establish whether the fund qualifies as a FC under EMIR Article 2 (8). In case the AIF qualifies as a FC, the AIFM that is authorized or registered under AIFMD should ensure that the derivative details are reported ".	ERR
4	Non-EU	EU	No	FC (3)	Yes	Non-EU AIFM		ERR
5	Non-EU	EU	To be confirmed in the case of reverse solicitation	NFC (8) (reverse solicitation)	Yes	Non-EU AIFM		ERR
6	Non-EU	Non-EU	Yes	FC (3)	Yes (6)	Non-EU AIFM	Note: This is different within SFTR, where the ERR is the fund located in the EU as per ESMA guidelines	ERR
7	Non-EU	Non-EU	No	Third-Country Entity (9)	No	NA	-	-
8	Non-EU	Non-EU	To be confirmed in the case of reverse solicitation	Reverse solicitation (7) -> Third Country Entity (9)	No	NA	-	-

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- (1) "Authorized" or "Registered" means in accordance with directive (EU) 2011/61 (the "AIFM Directive")
- (2) AIFs set up exclusively for the purpose of serving one or more employee share purchase plans and AIFs which are securitisation special purpose entities (as referred to in point (g) of Article 2(3) of Directive 2011/61/EU), are not covered in this table.
- (3) Article 2.8 (f) of EU EMIR
- (4) Article 9 (1) (c) of EU EMIR
- (5) Paragraph 33 of ESMA [guidelines of 14 December 2022](#) "If a fund manager in the EU has funds domiciled outside of the EU, the reporting obligation applies to counterparties in general and more particularly to FC, regardless of the country of authorized of the FC. Based on the definition of an FC, derivative contracts entered into by AIFs established in a third country and where the AIFM is Authorized or registered in the Union are subject to the reporting obligations".
- (6) Q&A on EMIR implementation - General Question 4 (page 14) "The definition of a financial counterparty is understood as covering: [...] Non-EU AIFs managed by authorized non-EU AIFMs (subject to extension of the passport).
- (7) Reverse solicitation means without a passport (i.e. private placement mode pursuant to article 42 AIFMD)
- (8) Q&A on EMIR implementation - General Question 4 (page 14) "EU AIFs marketed in the Union without a passport by non-EU AIFMs (both below and above the thresholds of Article 3(2) of the AIFMD) under Article 42 of the AIFMD should be considered as non-financial counterparties because they are undertakings established in the Union and they are not managed by authorized or registered AIFM".
- (9) Q&A on EMIR implementation - General Question 4 (page 14) : "Non-EU AIFs marketed in the Union by non-EU AIFMs (both below and above the thresholds of Article 3(2) of the AIFMD) under Article 42 of the AIFMD should be considered as third country entities because they are neither undertakings established in the Union nor are they managed by authorized or registered AIFMs". Conclusion also consistent with the fact that the AIF is neither a FC nor a NFC in application of articles 2.8 (f) and 2.9 of EU EMIR.

