

Operational Capacity and Stress Testing

Background

EMIR 3¹ requires certain in-scope financial and non-financial counterparties, with exposures to non-EU clearing services that have been deemed to be of substantial systemic importance, to hold an active account at an EU CCP, and ensure that this account is operationally ready to always clear in-scope derivatives. (“**Active Account**”). This includes being able to handle large volumes at short notice.

The operational conditions of that active account requirements are further specified in regulatory technical standards (“**AAR RTS**”)². Article 3 of the AAR RTS mandates an annual stress test to demonstrate that the active account can withstand a substantial increase in clearing activity.

BofA Securities Europe SA, Merrill Lynch International and BofA Securities Inc (together, the “**BofA Clearing Firms**”) provide clearing services to clients which are in scope of the Active Account requirement and intend to make available the written statement referred to in Article 2(1)(e) of the AAR RTS. The purpose of these FAQs is to provide information to clients about the BofA Clearing Firms’ approach to stress testing of the Active Account.

BofA Clearing Firm’s Methodology for the initial Stress Test

The BofA Clearing Firms’ stress test was conducted between 12TH and 15th December 2025 for interest rate derivatives (OTC IRS) and on 18th December 2025 for short term interest rate futures (STIRs).

Approach:

- **Trade Selection** – Products included are those in scope of the Active Account requirement, as specified under Article 7(a)(6) of EMIR 3 (namely, Interest Rate derivatives denominated in EUR and PLN and EUR denominated STIRs (together, the “**AAR Products**”)).
- **Period:** to determine the total gross notional volume cleared in respect of the AAR Products was computed for the period 1 Jan 2025 to 12th December 2025.
- **BofA Clearing Firm:** The total gross notional volume cleared in the Active Account in respect of the AAR Products was summed up across the following 3 BofA entities which provide client clearing services:
 - BofA Securities Europe SA
 - Merrill Lynch International
 - BofA Securities Inc
- **Volume Scaling:** the gross notional cleared in the active account in respect of the AAR Products for was multiplied by three to simulate the required increase in gross notional value cleared.
- **Time horizon:** the stress test simulated the increase in a period which was shorter than the 1 month period specified in the AAR RTS.

Parameter Assumptions: To ensure plausibility and relevance when simulating the increase in gross notional value across the AAR Products:

- **Tenor:** Most frequently observed tenor for each of the AAR Product types was selected

¹ Regulation (EU) 2024/2987 of the European Parliament and of the Council of 27 November 2024 (EMIR 3), which amends Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 (EMIR), entered into force on 24 December 2024.

² [https://ec.europa.eu/transparency/documents-register/detail?ref=C\(2025\)7124&lang=en](https://ec.europa.eu/transparency/documents-register/detail?ref=C(2025)7124&lang=en): (adopted by the European Commission, but yet to become law at the time of publication of these FAQs).

- **Rate:** An estimated fixed rate was used to ensure realistic pricing for each AAR Product Type.

Portfolio composition: Both pay and receive positions were included to reflect typical directional exposure. The test was carried out within the BofA Clearing Firm's existing UAT environment, and across all client positions cleared in the Active Account.

The approach taken by BofA is intended to demonstrate operational capacity of the Active Account and system readiness for a three-fold increase in gross notional cleared. Note that the stress test is a technical exercise only, which does not take into account credit limits, collateral and other commercial or risk parameters, or other features relevant to particular clients. It does not involve the messaging or production replication of central counterparties (CCPs) or other participants involved in the derivatives execution and clearing ecosystem (e.g. trading venues, trade affirmation service providers).

EMIR 3.0 ACTIVE ACCOUNT – FAQ

Operational Capability and Certification

1. What is the EMIR 3 Active Account Requirement (AAR)?

The AAR requires certain counterparties to maintain an active account at an EU CCP and ensure that the account is operationally ready to clear in-scope derivatives (those specified at Article 7(a)(6) of EMIR at all times).

2. What is the stress-testing requirement?

Under Article 3 of the AAR RTS, counterparties must confirm that their active account can withstand a substantial increase in clearing activity. This is demonstrated through annual technical and functional tests of operational capacity and IT connectivity, as further specified in the AAR RTS. This is not a live clearing exercise and does not involve sending trades to CCPs.

3. Who performs the stress test

The BofA Clearing Firms have conducted the stress test and will provide a written statement as required by Article 2(1) (e) of the AAR RTS. Clients do not need to participate directly in the test.

4. Will BofA provide clients with a written statement mentioned in Article 2(1) (e) of the RTS?

Yes, your BofA Clearing Firm will be providing the written statement mentioned in Article 2(1) (e) confirming that we have the operational capacity to clear three-times the total gross notional cleared in the account for the previous 12 months in the relevant derivative contracts referred to in Article 7a (6).

This confirmation is provided solely in our capacity as a clearing service provider and only applies to trades that have been cleared through us. The written statement does not purport to represent your total gross notional exposure as we have visibility only over transactions cleared with us. If you clear in-scope products with other clearing service providers, you will need to obtain equivalent confirmations from your other clearing service providers.

5. Will you perform stress-testing of the operational conditions of our Eurex active account (Article 3 of the RTS) and provide documentation?

Yes, the BofA Clearing Firms have conducted the necessary stress-testing of the operational conditions to give the confirmation pursuant to Article 2(1)(e) that we can clear three-times the total gross notional cleared in the account for the previous 12 months in the relevant derivative contracts referred to in Article 7a (6). In addition, , the fact that we have actively cleared trades with this CCP serves as clear demonstration of our established connectivity to the relevant CCP. If you require further information about the IT connectivity, the stress testing methodology or about your clearing documentation, please contact your usual client services or sales representative.

6. Will the stress test affect my contractual limits or margin requirements?

No. The stress test only assesses operational and system capacity, not credit limits, collateral, or commercial terms.

7. Are there any constraints to porting positions from third country CCPs to a European CCP?

As of 10th 2026, there is no mechanism for seamless transfer of positions between CCPs. The only available method is to close positions at the outgoing CCP and re-open equivalent trades at the incoming CCP. If you wish to discuss porting positions, please contact your client services representative.

Operational Conditions and Stress Testing

8. How should firm obtain and maintain CCP certification that the account can handle a three-fold increase in activity?

This depends on the CCP being used. Eurex for example, has indicated that its certification will be made available for download via their member portal. However, the timing for publication not yet been confirmed as Eurex is waiting for the AAR RTS to be published in the Official Journal of the European Union.

9. How should firms conduct and document stress testing?

While we cannot advise firms on how to document or conduct their stress testing, we have outlined our methodology of stress testing as clearing service provider in this document above. The written statement that your BofA clearing service provider will issue is based on a template form produced by the FIA.

10. What are the expectations for frequency and methodology of stress tests?

According to Article 3 of the AAR RTS, firms shall conduct stress tests annually. The BofA Clearing Firms conducted initial stress test by 18th December 2025. and intends to perform an additional stress test in July 2026 and then annually after that.

11. What is your assessment of possible legal and operational constraints when shifting a significant part of our portfolio from third-country CCPs to a European CCP?

This will depend on the circumstances prevailing at the time of the transfer. At a high level, we consider the following to be the most pertinent considerations: ***Operational constraints include:***

- Unexpected system failovers that would not have come up during stress tests
- Vendor outages like SEFs, MTFs and trade affirmation platforms.
- CCP trade rejections
- Counterparty trade rejections
- Cyber security incidents
- Insufficient clearing limits and breaching of internal or broker-imposed limits during peak market volume.
- Financial constraints such as insufficient collateral, margin or payment capacity.

Legal constraints include:

- Completion of necessary documentation,
- EMIR account elections.

12. Is the CCP and vendor test environment like MarkitWire available for clients to do end-to-end tests for EMIR AAR validation?

Both CCPs and vendors like MarkitWire maintain UAT environments. Access to these environments is dependent on the respective CCP and vendor and while we can help facilitate the process, as clearing service provider, we act only as an intermediary. For example, we cannot grant access to MarkitWire's test environment without their involvement, as we do not own it. If you wish to discuss this further, please contact your client service representative.

13. Is it market practice for clients to perform tests to validate that they themselves can support a three-fold increase in their gross notional?

As we understand it, the main priority for a lot of market participants is to ensure they have live accounts with a European CCP. The BofA Clearing Firms have completed their stress- and will issue the Article 2(1)(e) written statement. We can only certify the activity that we clear, and it remains the counterparty's responsibility to perform their own interpretation of the AAR RTS. Some counterparties have indicated that they prefer to perform additional tests themselves as it provides additional comfort, particularly for those who clear with multiple clearing service providers.

14. Can BOFA perform and end-to-end test on a client's behalf and provide the results via test files including margin files?

Each of the BofA Clearing Firms have conducted the stress test to enable it to issue the written statement required under Article 2(1)(e). ESMA has confirmed in its final report on the AAR RTS, stress-testing of operational conditions for active accounts does not include testing the financial resources of clearing members or clients. Consequently, the stress testing we conducted does not cover elements such as initial margin or variation margin movements. The ability to perform bespoke end-to-end testing also depends on vendor engagement and support.

15. Can you provide a sample of your report files with dummy values for IM, VM etc?

Without a relevant end-to-end test, we cannot simulate any margin figures as these tests require accurate and representative data.

Reporting & Documentation

16. Is delegated reporting for Active Account requirement something that the BofA Clearing Firms will provide or support as clearing broker?

No, counterparties cannot delegate the required reporting under the Active Account Requirement (AAR) to us as their clearing service provider. This is because counterparties may have different national competent authorities from the BofA Clearing Firms, we may not be your only clearing service provider and the BofA Clearing Firm you face for a European CCP may not fall within the scope of the obligation.

17. What data will BOFA provide that will help us with our reporting?

Your BofA Clearing Firm will provide a written statement for purposes of Article 2(1)(e). BofA's standard suite of Mercury reports provides client with full visibility into all their clearing activity with BOFA, including transactions at EU CCPs

18. Where can clients find additional information:

Please see some relevant links referencing AAR from ESMA and country specific NCAs:

- ESMA - [Article 7a Active account | European Securities and Markets Authority](#)
- France ACPR – [EMIR Refit: Update of the AMF website on notifications forms | AMF](#)
- Germany BaFin - [BaFin - OTC derivatives - EMIR](#)
- Luxembourg CSSF - [European Market Infrastructure Regulation \(EMIR\) – CSSF](#)
- Netherlands – (AFM & DNB) - [AFM and DNB provide guidance on EMIR 3](#)
- Spain CNMV - [CNMV - Entry into force of EMIR 3](#)

Important Notes:

Please note though that the information in these FAQs shared is for your assessment and discussion purposes only and is not intended to be legal advice or a binding commitment, guarantee, or offer. It reflects our understanding at the time of preparation, is indicative and current only as of that date, and is subject to change without notice. We do not undertake to update this information if circumstances change.

Nothing in this response excludes or limits any duty or liability that we owe under applicable law or regulation. Subject to that, and to the fullest extent permitted by law, we disclaim and limit any liability for any loss, claims, damages, costs, or expenses (whether direct, indirect, special, or consequential) arising from reliance on this information. We make no representation or warranty, express or implied, as to the accuracy or completeness of the information provided. Note also that this information does not constitute advice (including legal, tax, accounting, or investment advice).

As a global financial institution, we may have interests that differ from yours, for example where we act as principal or provide services to related parties. BofA utilizes rules and procedures pursuant to its Conflicts of Interest Policy to address these circumstances, and further details are available [here](#). Additional information on our clearing services can also be found at: <https://business.bofa.com/en-us/content/futures-options-otc-clearing.html>.

Please also note that this response is provided on a confidential basis for your internal use and must not be shared or distributed to any other party without our prior written consent.

Disclosures and Disclaimers:

Bank of America” and “BofA Securities” are the marketing names used by the Global Banking and Global Markets divisions of Bank of America Corporation. Lending, other commercial banking activities, and trading in certain financial instruments are performed globally by banking affiliates of Bank of America Corporation, including Bank of America, N.A., Member FDIC. Trading in securities and financial instruments, and strategic advisory, and other investment banking activities, are performed globally by investment banking affiliates of Bank of America Corporation (“Investment Banking Affiliates”), including, in the United States, BofA Securities, Inc. and Merrill Lynch Professional Clearing Corp., both of which are registered broker-dealers and Members of SIPC, and, in other jurisdictions, by locally registered entities. BofA Securities, Inc. and Merrill Lynch Professional Clearing Corp. are registered as futures commission merchants with the CFTC and are members of the NFA. Investment products offered by Investment Banking Affiliates: Are Not FDIC Insured • May Lose Value • Are Not Bank Guaranteed.

These materials have been prepared by one or more subsidiaries of Bank of America Corporation for the client or potential client to whom such materials are directly addressed and delivered (the “Company”) in connection with an actual or potential mandate or engagement and may not be used or relied upon for any purpose other than as specifically contemplated by a written agreement with us. These materials are based on information provided by or on behalf of the Company and/or other potential transaction participants, from public sources or otherwise reviewed by us. We assume no responsibility for independent investigation or verification of such information (including, without limitation, data from third party suppliers) and have relied on such information being complete and accurate in all material respects. To the extent such information includes estimates and forecasts of future financial performance prepared by or reviewed with the managements of the Company and/or other potential transaction participants or obtained from public sources, we have assumed that such estimates and forecasts have been reasonably prepared on bases reflecting the best currently available estimates and judgments of such managements (or, with respect to estimates and forecasts obtained from public sources, represent reasonable estimates). No representation or warranty, express or implied, is made as to the accuracy or completeness of such information and nothing contained herein is, or shall be relied upon as, a representation, whether as to the past, the present or the future. These materials were designed for use by specific persons familiar with the business and affairs of the Company and are being furnished and should be considered only in connection with other information, oral or written, being provided by us in connection herewith. These materials are not intended to provide the sole basis for evaluating, and should not be considered a recommendation with respect to, any transaction or other matter. These materials are for informational purposes only and do not purport to contain all of the information that may be required to evaluate any transaction or other matter. These materials do not constitute an offer or solicitation to sell or purchase any securities and are not a commitment by Bank of America Corporation or any of its affiliates to provide or arrange any financing for any transaction or to purchase any security in connection therewith. These materials are for discussion purposes only and are subject to our review and assessment from a legal, compliance, accounting policy and risk perspective, as appropriate, following our discussion with the Company. We assume no obligation to update or otherwise revise these materials. These materials have not been prepared with a view toward public disclosure under applicable securities laws or otherwise, are intended for the benefit and use of the Company, and may not be reproduced, disseminated, quoted or referred to, in whole or in part, without our prior written consent. These materials may not reflect information known to other professionals in other business areas of Bank of America Corporation and its affiliates.

Bank of America Corporation and its affiliates (collectively, the “BAC Group”) comprise a full service securities firm and commercial bank engaged in securities, commodities and derivatives trading, foreign exchange and other brokerage activities, and principal investing as well as providing investment, corporate and private banking, asset and investment management, financing and strategic advisory services and other commercial services and products to a wide range of corporations, governments and individuals, domestically and offshore, from which conflicting interests or duties, or a perception thereof, may arise. In the ordinary course of these activities, parts of the BAC Group at any time may invest on a principal basis or manage funds that invest, make or hold long or short positions, finance positions or trade or otherwise effect transactions, for their own accounts or the accounts of customers, in debt, equity or other securities or financial instruments (including derivatives, bank loans or other obligations) of the Company, potential counterparties or any other company that may be involved in a transaction. Products and services that may be referenced in the accompanying materials may be provided through one or more affiliates of Bank of America Corporation. We have adopted policies and guidelines designed to preserve the independence of our

research analysts. These policies prohibit employees from offering research coverage, a favorable research rating or a specific price target or offering to change a research rating or price target as consideration for or an inducement to obtain business or other compensation. We are required to obtain, verify and record certain information that identifies the Company, which information includes the name and address of the Company and other information that will allow us to identify the Company in accordance, as applicable, with the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) and such other laws, rules and regulations as applicable within and outside the United States.

We do not provide legal, compliance, tax or accounting advice. Accordingly, any statements contained herein as to tax matters were neither written nor intended by us to be used and cannot be used by any taxpayer for the purpose of avoiding tax penalties that may be imposed on such taxpayer. If any person uses or refers to any such tax statement in promoting, marketing or recommending a partnership or other entity, investment plan or arrangement to any taxpayer, then the statement expressed herein is being delivered to support the promotion or marketing of the transaction or matter addressed and the recipient should seek advice based on its particular circumstances from an independent tax advisor. Notwithstanding anything that may appear herein or in other materials to the contrary, the Company shall be permitted to disclose the tax treatment and tax structure of a transaction (including any materials, opinions or analyses relating to such tax treatment or tax structure, but without disclosure of identifying information or, except to the extent relating to such tax structure or tax treatment, any nonpublic commercial or financial information) on and after the earliest to occur of the date of (i) public announcement of discussions relating to such transaction, (ii) public announcement of such transaction or (iii) execution of a definitive agreement (with or without conditions) to enter into such transaction; provided, however, that if such transaction is not consummated for any reason, the provisions of this sentence shall cease to apply.

Copyright: Bank of America