**EXPLANATORY MEMORANDUM TO**

**THE OVER THE COUNTER DERIVATIVES (INTRAGROUP TRANSACTIONS) REGULATIONS 2026**

**2026 No. [XXXX]**

## 1. Introduction

1.1 This Explanatory Memorandum has been prepared by HM Treasury and is laid before Parliament by Command of His Majesty.

## 2. Declaration

2.1 Rachel Blake, Economic Secretary to the Treasury confirms that this Explanatory Memorandum meets the required standard.

2.2 Tom Duggan, Deputy Director for Securities and Markets at HM Treasury confirms that this Explanatory Memorandum meets the required standard.

## 3. Contact

3.1 The Financial Market Infrastructure Unit at HM Treasury can be contacted by email at the following address with any queries regarding the instrument: fmipolicybranch@hmtreasury.gov.uk. Alternatively, the department can be contacted by telephone: 020 7270 5000.

## Part One: Explanation, and context, of the Instrument

## 4. Overview of the Instrument

***What does the legislation do?***

4.1 This instrument reforms the UK framework for intragroup over-the-counter derivative transactions under the European Market Infrastructure Regulation ("EMIR") as it forms part of UK assimilated law ("UK EMIR").[1] It replaces the UK's Temporary Intragroup Exemption Regime ("TIGER") with a permanent framework by facilitating permanent exemptions from the clearing obligation and margin requirements for intragroup transactions between UK counterparties and overseas group entities, regardless of whether the overseas jurisdiction has been declared equivalent under Article 13 of UK EMIR.

4.2 It also streamlines the process for firms to obtain and use these exemptions and includes a transitional provision to ensure that firms currently benefitting from exemptions granted under TIGER can continue to benefit from them when TIGER expires without the need to notify the Financial Conduct Authority ("FCA"), subject to certain conditions.

***Where does the legislation extend to, and apply?***

4.3 The extent of this instrument (that is, the jurisdictions which the instrument forms part of the law of) is England & Wales, Scotland and Northern Ireland.

4.4 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England & Wales, Scotland and Northern Ireland.

[1] 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 (EUR 2012/648).

## 5. Policy Context

***What is being done and why?***

5.1 A derivative is a contract between two or more parties whose value is derived from an underlying asset or set of assets (such as equities, bonds, commodities or currencies), or a benchmark (such as an interest rate or market index). They are commonly used by companies to help manage and mitigate financial risks but can also be used for other reasons such as speculation. Derivatives play a significant role in modern financial markets by facilitating risk transfer, price discovery and market efficiency.

5.2 Derivatives are most often contracted between two different parties either directly ("over-the-counter" or "OTC") or over an exchange ("exchange traded"). However, they can also take place bilaterally between two entities that are part of the same corporate group. This is known as an "intragroup" transaction. Intragroup transactions are an important risk management tool for corporate groups, allowing firms to centralise and manage risks within specific subsidiaries or at the group level. They also support more efficient compliance with regulatory requirements by allowing firms to pool and offset risks centrally.

5.3 UK EMIR contains an obligation to "clear" certain types of OTC contracts through a central counterparty — a type of market infrastructure which sits between the two sides of a trade and guarantees it will be completed even if one party defaults. It also sets various risk mitigation requirements for trades that are not cleared, including requirements to exchange financial collateral (called "margin") with their counterparty. These requirements are important to limit systemic risk in financial markets. However, given their function as a risk management tool and corporate groups' ability to centrally manage risks, some intragroup transactions can be permanently exempt from the clearing and margin requirements provided they meet specific criteria. For some transactions, one of these criteria is to notify or receive approval from the FCA.

5.4 Transactions eligible for permanent intragroup clearing and margin exemptions include transactions between two UK counterparties as well as transactions between a UK counterparty and an overseas counterparty, where the overseas jurisdiction has been declared equivalent under Article 13 of UK EMIR.

5.5 Where no equivalence determination has been made for an overseas jurisdiction, the UK's "Temporary Intragroup Exemption Regime"[2] ("TIGER") provides a route for firms to obtain temporary exemptions from clearing and margin requirements. TIGER was established as part of EU exit to allow for the continuation of such intragroup exemptions obtained before the end of the EU exit transition period and to permit counterparties to apply for new intragroup exemptions as well. TIGER was originally set to expire in December 2023 but was subsequently extended by HM Treasury until the end of 2026.[3]

5.6 The government recognises the importance intragroup exemptions have in supporting UK firms' global operations and the need to replace TIGER with a permanent, more stable framework. This instrument therefore makes the intragroup exemption

[2] Set out in Article 82 of the Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2019 (S.I. 2019/335) (https://www.legislation.gov.uk/uksi/2019/335/contents).

[3] By the Pension Fund Clearing Obligation Exemption and Intragroup Transaction Transitional Clearing and Risk-Management Obligation Exemptions (Extension and Amendment) Regulations 2023 (S.I. 2023/472) (https://www.legislation.gov.uk/uksi/2023/472/made).

frameworks for margin and clearing, as currently enabled by TIGER, permanent, and streamlines the intragroup exemption process so it is simpler and faster for firms to obtain and use exemptions, whilst ensuring that the use of these exemptions remains subject to robust monitoring and appropriate action by the FCA.

5.7 This avoids creating material disruption for firms and undermining their ability to centrally manage risks once TIGER expires at the end of 2026. It also helps support firms' intragroup activity and, by extension, their global operations. This is of benefit to the wider growth and competitiveness of UK firms and to the UK's position as a global hub for financial services activity.

5.8 The FCA is also taking forward supporting changes to its technical standards and guidance, which will be brought into force at the same time as this instrument.[4]

*The Credit Valuation Adjustment*

5.9 Credit Valuation Adjustment ("CVA") is a capital requirement intended to ensure firms hold capital against the risk that the value of an OTC derivatives position could reduce because the counterparty's creditworthiness deteriorates (even if the counterparty does not default).

5.10 Article 382(4)(b) of UK CRR enables firms to exempt intragroup transactions – as defined in Article 3 of UK EMIR – from the CVA capital charge. Article 382(4)(b) of UK CRR is due to be repealed at the end of 2026[5] and this instrument does not introduce a separate CVA exemption for intragroup transactions. Instead, the PRA has finalised a new Basel 3.1 framework for exempting intragroup transactions from CVA capital requirements which will come into effect on 1 January 2027.[6] This will be the sole route through which firms can assess whether the trades are subject to, or exempt from, CVA capital requirements going forward.

5.11 Transactions that already qualify as intragroup prior to the repeal of Article 382(4)(b), and benefit from the CVA exemption in UK CRR as a result, are expected to continue to be treated as exempt at the point of transition (noting the general savings provisions in section 16 of the Interpretation Act 1978). The PRA therefore expects the CVA treatment will remain unchanged for outstanding transactions at the commencement of this new intragroup framework.

5.12 All new transactions entered into from 1 January 2027 will be able to rely on the CVA exemption under the PRA's framework provided they meet the relevant conditions. As set out in the PRA Rulebook[7], firms wishing to apply the exemption to new transactions from 1 January 2027 will have to notify the PRA by 1 October 2026. Firms intending to apply the exemption should contact their supervisor to indicate they intend to notify the PRA, and the PRA will set out further information on the approach to new transactions shortly. Transactions that are entered into before 1 January 2027 with an overseas counterparty from a non-equivalent jurisdiction under Article 13 UK EMIR will, provided the conditions under the PRA's framework are met, now come within scope of the CVA exemption.

[4] https://www.fca.org.uk/publication/consultation/cp25-30.pdf.
[5] https://www.legislation.gov.uk/uksi/2026/682/contents/made.
[6] https://www.bankofengland.co.uk/prudential-regulation/publication/2026/january/implementation-of-the-basel-3-1-final-rules-policy-statement.
[7] Rule 3.3 of the Credit Valuation Adjustment Risk Part of the PRA's Rulebook. See footnote 6.

*Upcoming reforms to Title II of UK EMIR*

5.13 As part of its wider programme of work to support the growth and competitiveness of the UK's financial services sector, HM Treasury has also set out its intent to review the remainder of UK EMIR Title II where the clearing and margin requirements for OTC derivatives sit and which this legislation amends.[8] This review will look to transfer the detailed firm-facing requirements in Title II into the regulators' rule books, where appropriate, and aims to ensure the regime remains proportionate while supporting economic growth and financial stability.

5.14 The government intends for any policy changes implemented by this SI to the UK's intragroup framework to be maintained over the course of that work, noting that some amendments to the legislation may be needed to transfer it from Title II UK EMIR to domestic statute once Title II is repealed.[9]

***What was the previous policy, how is this different?***

5.15 Previously, intragroup transactions between two UK counterparties and between a UK counterparty and an overseas counterparty located in a jurisdiction declared equivalent under Article 13 of UK EMIR could be permanently exempt from certain regulatory requirements that ordinarily apply to OTC transactions, including clearing and margin requirements, subject to certain criteria.

5.16 Where no equivalence determination had been made for an overseas jurisdiction, TIGER provided a route for firms to obtain temporary exemptions from clearing and margin requirements.

5.17 This instrument changes the position by reforming the intragroup regime in UK EMIR so that the availability of permanent intragroup exemptions from clearing and margin requirements no longer depends on TIGER or equivalence decisions under Article 13 of UK EMIR. It does this by altering the requirements for an intragroup transaction in Article 3 of UK EMIR, such that it no longer links to equivalence decisions under Article 13. This means that, if transactions meet the remaining criteria in Article 3, they will be considered intragroup transactions regardless of whether the intragroup counterparty is located in a jurisdiction which has been declared equivalent under Article 13 of UK EMIR or not.

5.18 The instrument also streamlines the intragroup exemption process by amending Articles 4 and 11 of UK EMIR. For intragroup transactions between two UK counterparties, firms will no longer need to notify the FCA that they intend to use the clearing exemption, aligning with the current regime for margin exemptions. For intragroup transactions between UK and non-UK group entities under the new framework, firms will need to notify the FCA of their intention to use these exemptions and for the FCA not to object within a 30-day period.[10] This replaces the current position under TIGER where the FCA must approve such an exemption before a firm can make use of it, within a 3-month period.

5.19 Finally, the instrument includes transitional provision to ensure that firms benefitting from intragroup exemptions granted under TIGER before these regulations come into

[8] https://assets.publishing.service.gov.uk/media/6874f98b93d52d8659e46564/Updating_the_UK_s_regulatory_framework_for_central_counterparties_final.pdf. Paragraphs 1.11 to 1.15.

[9] The Financial Services & Markets Act 2023 (https://www.legislation.gov.uk/ukpga/2023/29/enacted) revokes UK EMIR subject to commencement by HM Treasury.

[10] The 30-day period runs from the point at which the FCA has received a complete notification as defined in the relevant technical standards.

force continue to benefit from these exemptions once that regime expires without the need to notify the FCA, subject to certain conditions.

## 6. Legislative and Legal Context

***How has the law changed?***

6.1 EMIR, as legislated for by the EU in 2012, set out requirements for OTC derivatives transactions, including certain transactions to be cleared through central counterparties and for margin to be posted in relation to bilateral transactions. It also made provision for intragroup transactions to be exempted from the clearing obligation and margin requirements subject to certain conditions being met. These exemptions could also apply to transactions between an EU counterparty and an overseas counterparty if the overseas counterparty was located in a jurisdiction that had been declared equivalent under Article 13 of EMIR.

6.2 However, in order to allow time for Article 13 equivalence decisions to be made after the introduction of EMIR, the EU deferred the application of the clearing obligation and bilateral margining between pairs of intragroup counterparties established in a member state and in non-equivalent third countries. This deferral remained in place at EU exit.

6.3 As part of the EU exit process, EMIR became a part of UK assimilated law.[11] Part 5 of the Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2019[12] (S.I. 2019/335) (the "2019 Regulations") also created TIGER to maintain the effect of the previous EU derogation. TIGER allowed for the continuation of intragroup exemptions obtained before the end of the EU exit transition period and also permitted counterparties to apply for new intragroup exemptions where no equivalence determination had been made.

6.4 TIGER was originally set to expire in December 2023 but was subsequently extended by HM Treasury until the end of 2026 in the Pension Fund Clearing Obligation Exemption and Intragroup Transaction Transitional Clearing and Risk-Management Obligation Exemptions (Extension and Amendment) Regulations 2023.[13]

6.5 This SI uses powers conferred in sections 3 and 84(2) of the Financial Services and Markets Act 2023[14] ("FSMA 2023") to amend provisions setting out the intragroup exemptions from the clearing and risk management obligations in UK EMIR and to replace TIGER.

6.6 Regulation 3 of the SI alters the requirements for an intragroup transaction in Article 3 of UK EMIR so that it no longer links to equivalence decisions under Article 13 of UK EMIR. This means if transactions meet the remaining criteria in Article 3, they will be considered intragroup transactions regardless of whether the intragroup counterparty is located in a jurisdiction which has been declared equivalent under Article 13 of UK EMIR or not.

6.7 Regulations 4 and 5 of the SI make amendments to Articles 4 and 11 of UK EMIR respectively. These amendments streamline the intragroup exemption process for

[11] As noted in footnote 9, the Financial Services & Markets Act 2023 (https://www.legislation.gov.uk/ukpga/2023/29/enacted) also revokes UK EMIR subject to commencement by HM Treasury.
[12] See footnote 2.
[13] See footnote 3.
[14] https://www.legislation.gov.uk/ukpga/2023/29/enacted.

clearing and margin to make it simpler and faster for firms to obtain and use exemptions. This includes removing the notification requirement for clearing exemptions between pairs of UK counterparties where those transactions meet the conditions specified in Article 3, as well as removing the previous application-based regime for exemptions with counterparties established overseas and replacing it with a new notification process.

6.8 Regulation 5 also amends one of the conditions for when an intragroup transaction can be exempt from margin requirements so that firms can rely on the exemption unless there is a "material" practical or legal impediment to the prompt transfer of own funds or repayment of liabilities. This amendment therefore provides that counterparties may only be denied exemptions in circumstances where there are material impediments for the purposes of the condition, such as legal or contractual provisions preventing the transfer of funds between group entities. This also aligns the condition with the corresponding condition in the PRA's CVA exemption framework.[15]

6.9 Regulation 7 provides transitional provision for intragroup exemptions previously provided under TIGER so that firms can continue to benefit from these exemptions once this regime expires. The transitional provision does not change which exemptions are available but ensures continuity for firms currently relying on existing exemptions.

6.10 The instrument also makes a small number of technical and clarificatory amendments to improve the operation and readability of the provisions.

***Why was this approach taken to change the law?***

6.11 The power to make transitional amendments to assimilated law in section 3 FSMA 2023 has been used as the changes precede upcoming reforms that HM Treasury intends to make to its regulatory regime for OTC derivatives as set out in Title II of UK EMIR. HM Treasury considers these powers appropriate to use as the changes are desirable to facilitate the international competitiveness of the economy of the United Kingdom and its growth in the medium to long term.

## 7. Consultation

***Summary of consultation outcome and methodology***

7.1 HM Treasury published this instrument in draft for technical comment on 5 November 2025.[16] Industry responses were limited in number, with most firms inputting via trade associations. Responses were supportive of the overarching objectives of the legislation and the reduction of regulatory burdens but requested that the notification requirement to the FCA be removed entirely to lighten the regulatory burden even further. This change was not taken on in order to ensure that the FCA maintained appropriate regulatory oversight of market activity. Feedback was otherwise focused on drafting points to ensure the legislation would operate as intended and deliver the desired policy effect.

7.2 HM Treasury has consulted the Financial Conduct Authority and Prudential Regulation Authority on this instrument.

[15] Rule 3.2(3) of the PRA's rulebook. See footnote 6.

[16] https://www.gov.uk/government/publications/updating-the-uks-exemption-framework-for-intragroup-over-the-counter-derivatives/policy-note-updating-the-uks-exemption-framework-for-intragroup-over-the-counter-derivatives.

## 8. Applicable Guidance

8.1 HM Treasury does not propose to provide any guidance in relation to this instrument.

## Part Two: Impact and the Better Regulation Framework

## 9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because the impact of this SI is small (the cost to businesses is < £10m per year). A de minimis Impact Assessment has been published alongside the Explanatory Memorandum on the legislation.gov.uk website.

***Impact on businesses, charities and voluntary bodies***

9.2 There is no, or no significant, impact on charities or voluntary bodies.

9.3 The direct costs to business are limited to one-off familiarisation costs of approximately £99,000, with minor ongoing cost savings expected thereafter as a result of the streamlined notification process.

9.4 The legislation does not apply directly to activities that are undertaken by small or micro businesses. The amendments made by this instrument are therefore not expected to have an impact on small businesses, and no action is needed to mitigate the impact on them.

9.5 There is no, or no significant, impact on the public sector.

## 10. Monitoring and review

***What is the approach to monitoring and reviewing this legislation?***

10.1 The approach to monitoring this legislation is for HM Treasury to keep this under ongoing review as part of its work updating the UK's regulatory framework for derivatives.

10.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, the Economic Secretary to the Treasury (Rachel Blake) has made the following statement:

"It is not proportionate to include a review clause in this instrument because the estimated annual net direct cost to business is less than £10 million and the legislation does not apply directly to activities that are undertaken by small or micro businesses."

## Part Three: Statements and Matters of Particular Interest to Parliament

### 11. Matters of special interest to Parliament

11.1 None.

### 12. European Convention on Human Rights

12.1 The Economic Secretary has made the following statement regarding Human Rights: "In my view the provisions of the Over the Counter Derivatives (Intragroup Transactions) Regulations 2026 are compatible with the Convention rights."

### 13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").