

## EMIR: Latest news

July 2013



### Publication NBB/FSMA

On 22 July 2013, the NBB and FSMA published a communication to inform entities on the obligations related to the EMIR regulation that came into force as from 15 March 2013 (**Dutch – French**). The communication summarizes the different obligations that apply to financial counterparties and to non-financial counterparties as well as their start date. The text explains that EMIR regulation and technical standards have direct effect but that it comes to the Belgian legislator to refer to the national competent supervisory authorities (NBB or FSMA) for the obligations as well as to set out the sanctions that will apply in the event of a breach. Irrespective of this, non-financial counterparties who would exceed a clearing threshold, are expected to notify the FSMA. (**Dutch - French**).

### EMIR timeline – next start dates

#### Portfolio Compression, Portfolio Reconciliation and Dispute Resolution

Portfolio Compression, Portfolio Reconciliation and Dispute resolution requirements become applicable as of **15 September 2013**.

The implementation of these obligations will require, amongst other, amendments to the agreements with counterparties (see for more information also below Relevant ISDA Publications).

#### Reporting deadline

The reporting obligation will enter into force 90 days as from the date of the registration of the first Trade Repositories.

As of today, no Trade Repository has been registered but a number of companies (e.g. Regis-TR, DTCC) have applied for registration with ESMA. The adoption of registration decisions is not expected before 24 September 2013.

Therefore, the reporting obligation is expected to come into force in **January 2014** at the earliest.

#### Central Clearing and Bilateral Collateralization requirements

Obligations with respect to central clearing take effect as from Q2 2014, with a 3 year phase in period for non-financial firms.

As from January 2015, firms have to start exchanging variation margins. The obligation to exchange initial margins starts from 2015 and phased in to 2019.

### Relevant ISDA publications

On 19 July 2013, ISDA opened the **ISDA 2013 EMIR Portfolio Reconciliation, Dispute Resolution and Disclosure Protocol**. The Protocol is designed to allow swap market participants to simultaneously amend the terms of an agreement covered by the Protocol to reflect certain portfolio reconciliation and dispute resolution obligations imposed by EMIR as well as to include a disclosure waiver to help ensure parties can meet the various reporting and record keeping requirements under EMIR without breaching confidentiality restrictions.

On 14 March ISDA published its **EMIR Timely Confirmation Amendment Agreement Form** and **EMIR Timely Confirmation Amendment Explanatory Memorandum**.

On 8 March 2013, ISDA opened its **ISDA 2013 EMIR NFC Representation Protocol**. The protocol enables parties to amend the terms of their ISDA Master Agreements to reflect certain know your counterparty requirements, and the consequences of transacting on the basis of an incorrect classification, imposed by EMIR.

### Relevant ESMA publications

- 6 June 2013: **Questions and Answers - Implementation of the Regulation (EU) No 648/2012 on OTC derivatives, central counterparties and trade repositories.**

### Relevant webpages

- European Commission: [http://ec.europa.eu/internal\\_market/financial-markets/derivatives/](http://ec.europa.eu/internal_market/financial-markets/derivatives/)
- ESMA: <http://www.esma.europa.eu/page/European-Market-Infrastructure-Regulation-EMIR>
- IOSCO: <http://www.iosco.org/news/>
- ISDA: <http://www2.isda.org/emir/>

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