

EMIR: Latest news

September 2013



Cross-border application of EMIR

The European Commission has **extended the deadline** for European Securities and Markets Authority (ESMA) to deliver draft technical standards on the cross-border application of EMIR to 15 November 2013. The original delivery deadline was 25 September 2013. The extension has been granted in order to give ESMA more time to fully analyse and take account of the responses received to its public consultation which closed on 16 September. The technical standards on the cross-border application of EMIR will clarify the conditions where EMIR's provisions regarding central clearing or risk mitigation techniques would apply to OTC derivatives by two non-EU counterparties which have a direct, substantial and foreseeable effect in the EU.

Reporting start date moves to 2014

On 13 September 2013, the European Securities and Markets Authority (ESMA) **announced** that its decisions on the registration of the first Trade Repositories should not be expected before 7 November 2013. As the reporting obligation for counterparties will only enter into force 90 days as from the date of the registration of the first Trade Repositories, it is expected that no reporting will have to take place before February 2014.

Margin requirements for non-centrally cleared derivatives

On 2 September 2013, the Basel Committee on Banking Supervision (BCBS) and the International Organization of Securities Commissions (IOSCO) published **their final framework for margin requirements for non-centrally cleared derivatives**. It sets out international minimum standards for margin requirements for non-centrally cleared derivative trades. The framework envisages a gradual phase-in period for margining requirements to provide market participants with sufficient time to adjust to the requirements. The requirement to collect and post initial margin on non-centrally cleared trades should be phased in over a four-year period starting at 1 December 2015 and with full application by the end of 2019. The requirement to exchange variation margin should become effective on 1 December 2015. .

It is expected that the EMIR rules in relation to the margining for non-centrally cleared derivatives will be largely based on the BCBS-IOSCO framework and will have a similar application timeline.

EMIR timeline – other start dates

Portfolio Compression, Portfolio Reconciliation and Dispute Resolution

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

The implementation of these obligations will require, amongst other, amendments to the agreements with counterparties (see **our previous newsletter** for more information in this regard).

Central Clearing and Bilateral Collateralization requirements

Obligations with respect to central clearing will take effect **at the earliest in Q2 2014**, with a 3 year phase in period for non-financial firms.

Relevant ESMA publications

On 5 August 2013, the European Securities and Markets Authority (ESMA) published **an updated version of its Questions and Answers on the implementation of EMIR**. The updated Q&A provide additional clarifications in relation to topics such as the calculation of the clearing threshold, timely confirmation, intragroup transactions, hedging, risk mitigation techniques, the application of EMIR to entities not established in the EU, the determination of the status of entities not established in the EU, portfolio reconciliation, dispute resolution and trade reporting.

Relevant links

- European Commission: http://ec.europa.eu/internal_market/financial-markets/derivatives/
- ESMA: <http://www.esma.europa.eu/page/European-Market-Infrastructure-Regulation-EMIR>
- ISDA: <http://www2.isda.org/emir/>
- Deloitte Financial Services website: http://www.deloitte.com/view/en_BE/be/industries/financial-services/index.htm

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