

## Regulatory News Alert

### Regulatory Technical Standards (RTS) on risk mitigation techniques for non-centrally cleared transactions

19 October 2016

On 4 October 2016, the European Commission has endorsed the Commission Delegated Regulation (CDR) with regards to the Regulatory Technical Standards (RTS) for risk mitigation techniques for OTC derivative contracts not cleared by a central counterparty.

This CDR covers the following areas:

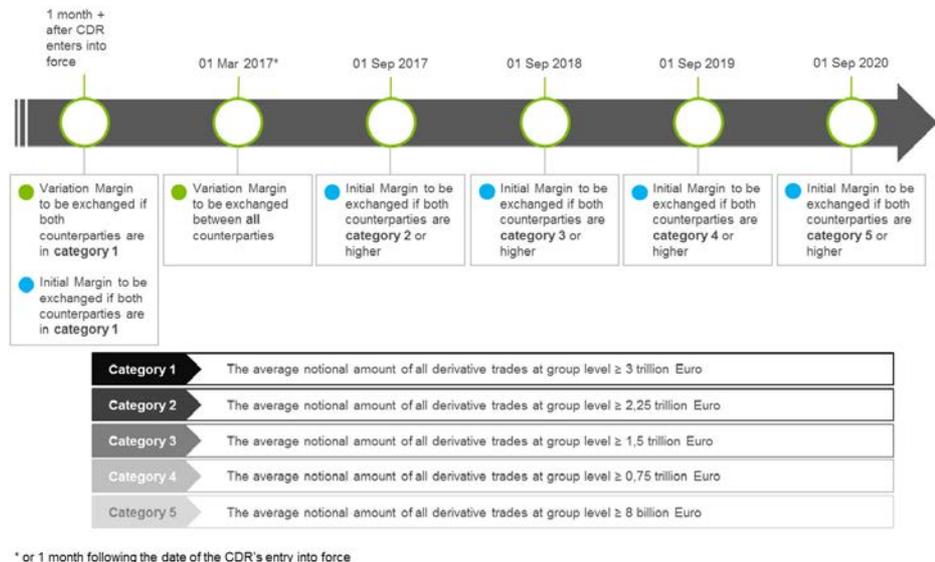
- risk management procedures, including the levels and type of collateral and segregation arrangements;
- the procedures for the counterparties and the relevant competent authorities to be followed when applying exemptions for intragroup OTC derivative contracts;
- applicable criteria on what should be considered as a practical or legal impediment to the prompt transfer of funds and repayment of liabilities arising from OTC derivative contracts between the counterparties belonging to the same group.

We would like to draw your attention to the main developments as confirmed in the CDR:

1. Confirmation of **the regulatory amount of initial and variation margins** to be posted and collected, together with the methodologies by which that minimum amount should be calculated. Initial margin covers the potential future exposure, and counterparties can choose between or combine a standard pre-defined approach based on the notional value of the contracts and an internal modelling approach, where the initial margin is determined based on the modelling of the exposures. Variation margin reflects the daily marking-to-market or marking-to-model of outstanding contracts
2. Outlining **the eligibility criteria for collateral**. The list of eligible collateral criteria and requirements covers a broad set of asset classes as well as units or shares in UCITS.
3. Introducing **concentration limits for initial margin**.
4. Providing for the **option of applying an operational minimum transfer amount** of up to €500,000 when exchanging collateral.
5. Establishing **operational procedures** that ensure proper documentation between counterparties (agreement minimum terms) and internally at the counterparty (risk management procedures).

## 6. Clarifying the intragroup exemptions application under EMIR.

Once approved by the EU Council and the EU Parliament, the CDR will be applied in a proportional manner. The requirements for the initial margin will initially apply only to the largest counterparties, to finally be at full applicability from 1 September 2020 to counterparties with notional amounts of non-centrally cleared derivatives in excess of €8 billion.



With the aforementioned CDR adopting the important RTS on risk mitigating techniques, the regulatory package brings in a number of important clarifications, which counterparties must carefully integrate in their implementation plan.

### How can Deloitte help you?

Every step of the way

#### 1. Strategy definition and implementation

Design and calibrate a strategy for collateral management with practical implementation throughout the organization.

#### 2. Regulatory and Agreement Health-check

Assessment of the internal setup toward regulatory requirements as well as documentation/agreement scan for compliance with each requirement of the CDR, identifying any gaps and advising on remediation actions.

#### 3. Transaction reporting

Deloitte is a primary provider of fully integrated services for transaction reporting.

#### 4. Model calibration and validation

Design, calibrate, validate, and document models created for the determination of credit quality, initial margin to be posted and collateral value (haircuts). Thanks to our developed advisory practice, Deloitte can assist you in assessing various remediation scenarios and integrate the new requirements in the most efficient way.

# Your contacts

**Laurent Collet**

*Partner | Strategy, Regulatory & Corporate Finance*

Tel: +352 45145 2112

[lacollet@deloitte.lu](mailto:lacollet@deloitte.lu)

**Simon Ramos**

*Partner | Regulatory Strategy Leader*

Tel: +352 45145 2702

[siramos@deloitte.lu](mailto:siramos@deloitte.lu)

**Martin Flaunet**

*Partner | Banking & Securities Leader*

Tel: +352 45145 2334

[mflaunet@deloitte.lu](mailto:mflaunet@deloitte.lu)

**Benjamin Lam**

*Partner | Investment Funds and Hedge Funds Leader*

Tel: +352 45145 2429

[jyiplanyan@deloitte.lu](mailto:jyiplanyan@deloitte.lu)

**Xavier Zaegel**

*Partner | Capital Markets/Financial Risk Leader*

Tel: +352 45145 2748

[xzaegel@deloitte.lu](mailto:xzaegel@deloitte.lu)

**Sandrine Leclercq**

*Director | Regulatory Strategy*

Tel: +352 45145 3004

[saleclercq@deloitte.lu](mailto:saleclercq@deloitte.lu)

Deloitte Luxembourg

560, rue de Neudorf

L-2220 Luxembourg

Tel: +352 451 451

Fax: +352 451 452 401

[www.deloitte.lu](http://www.deloitte.lu)

Deloitte is a multidisciplinary service organisation which is subject to certain regulatory and professional restrictions on the types of services we can provide to our clients, particularly where an audit relationship exists, as independence issues and other conflicts of interest may arise. Any services we commit to deliver to you will comply fully with applicable restrictions.

Due to the constant changes and amendments to Luxembourg legislation, Deloitte cannot assume any liability for the content of this leaflet. It shall only serve as general information and shall not replace the need to consult your Deloitte advisor.

**About Deloitte Touche Tohmatsu Limited:**

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee, and its network of member firms, each of which is a legally separate and independent entity. Please see [www.deloitte.com/lu/about](http://www.deloitte.com/lu/about) for a detailed description of the legal structure of Deloitte Touche Tohmatsu Limited and its member firms.

Deloitte provides audit, tax, consulting and financial advisory services to public and private clients spanning multiple industries. With a globally connected network of member firms in more than 150 countries, Deloitte brings world-class capabilities and deep local expertise to help clients succeed wherever they operate. Deloitte has in the region of 200,000 professionals, all committed to becoming the standard of excellence.

© 2016 Deloitte General Services

Designed and produced by MarCom at Deloitte Luxembourg