AUTORITÉ DES MARCHÉS FINANCIERS

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Management companies: obligation to exchange margins takes effect on 1 March 2017 for non-centrally cleared derivatives

In application of the delegated regulation defining and implementing the obligation to exchange collateral for non-centrally cleared contracts, management companies that manage UCITS and AIFs – like any other financial counterparty – will be required to progressively implement this obligation, as stipulated by EMIR, the European Market Infrastructure Regulation on derivatives. The Autorité des Marchés Financiers (AMF) wishes to draw the attention of French management companies to the entry into force, on 1 March 2017, of the obligation to exchange variation margins.

Obligation to exchange margins

To protect the parties to a non-centrally cleared over-the-counter derivative contract from the potential risk of a default by the counterparty, the delegated regulation issued in application of EMIR states that the parties must bilaterally exchange initial margins and variation margins. It also specifies the methodologies to be used to calculate the margins, and the criteria that the collateral must meet with respect to eligibility and diversification.

Exchange of initial margin based on the clearing threshold

While the regulation sets a timeline for staggered implementation of initial margins from 1 February 2017, most AIFs and UCITS will not be affected by the obligation. AIFs and UCITS whose positions fall below the €8 billion threshold are exempt from the initial margin obligation. The obligation will apply to funds with positions of between €8 billion and €750 billion starting 1 September 2020.

Calculating activity with respect to the thresholds set out in the regulation
For the purposes of comparison with the thresholds, the relevant positions include – for each fund – the gross notional amounts on record on the final business day of the months of March, April and May 2016, for all non-centrally cleared over-the-counter derivative contracts.

Obligatory exchange of variation margins

Starting 1 March 2017, all UCITS and AIFs will be required to exchange variation margins. The goal of the variation margin is to protect counterparties against exposure stemming from the current market value of the OTC derivative contracts. This obligation applies to all non-centrally cleared OTC derivative contracts, with the exception of currency futures and options on equities and indices. The obligation to exchange variation margins on those instruments will be implemented in stages (by 31 December 2018 at the latest for currency derivatives, and starting in January 2020 for the others).

While the regulation does not explicitly require an exchange of variation margins with respect to current contracts created prior to 1 March 2017, management companies may nevertheless apply the practice to all current and future contracts for operational or risk management purposes.

Read more

- Delegated regulation applying EMIR, published 15 December 2016 in the Official Journal of the European Union

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