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21 June 2016: start date for the Central Clearing obligation

The obligation to centrally clear certain contracts, which is the key obligation under this regulation, will be implemented gradually starting on 21 June 2016. Central clearing has to be carried out in a clearing house authorised under the EMIR framework. Focus on the first derivatives covered and the timeline for the various players.

In order to secure OTC derivative swaps, the EMIR regulation sets out the obligation for all financial counterparties to a derivative contract to centrally clear a range of derivatives deemed sufficiently liquid and standardised by European Securities and Markets Authority (ESMA). Regarding non-financial counterparties, only those whose trading in derivatives other than for hedging purposes is significant are concerned. The counterparty risk will thus be handled via clearing houses authorized in accordance with EMIR, the number of which currently stands at 16 in the Union.

The first derivatives contracts covered

Interest rate derivatives

The initial delegated regulation was published in the Official Journal of the European Union on 1 December 2015. It sets out the obligation to centrally clear the following interest-rate derivatives denominated in euros, pound sterling, Japanese yen and the US dollar:

- fixed-to-float swaps;

- basis swaps;
- Forward Rate Agreements (FRA);
- overnight-indexed swaps.

These contracts will also have to meet certain conditions, notably regarding their residual maturity and their benchmark indices. These conditions are specified in the delegated regulation.

On 10 November 2015, ESMA also published proposed technical standards aimed at making it mandatory to centrally clear certain interest-rate derivatives denominated in Polish, Norwegian and Swedish currencies, as they are considered systemically important at both the local and European level.

Credit derivatives

On 19 April 2016 was published in the Official Journal of the European Union a second delegated regulation that requires mandatory central counterparty clearing of certain index credit default swaps (CDS):

- Untranched iTraxx Main Index CDS (EUR, 5 year);
- Untranched iTraxx Crossover Index CDS (EUR, 5 year).

Like the clearing obligation on interest derivatives, the obligation on index CDS will be phased in over three years to give extra time for smaller market participants to comply.

Implementation timeline for the central clearing obligation

Counterparty category	Interest rate derivatives In G4 currencies		Credit derivatives	
	Application date	Frontloading ¹	Application date	Frontloading
Category 1 – Clearing members	21 June 2016	For contracts traded as from 21 February 2016	9 February 2017	For contracts traded as from 9 October 2016
Category 2 – Financial counterparties and AIF with positions in excess of EUR8bn ²	21 December 2016	For contracts traded as from 21 May 2016	9 August 2017	For contracts traded as from 9 October 2016
Category 3 – Financial counterparties and AIF with positions of less than EUR 8bn	21 June 2017	No	9 February 2018	No
Category 4 – Non-financial counterparties with positions in excess of the mandatory clearing threshold	21 December 2018	No	9 May 2019	No

¹ Application of the central clearing obligation for contracts traded before the application date.

² The EUR 8 billion threshold refers to the average gross nominal amount of non-centrally cleared derivatives, calculated at the end of the three months following publication of the RTS in the Official Journal of the EU. For funds, this calculation is made at the fund level.

Other derivatives

Other derivatives have to be the object of a delegated regulation before they become subject to the central clearing obligation. At this stage, ESMA is not looking to make equity or currency derivatives subject to the central counterparty clearing obligation. Nevertheless, trading of these derivatives is subject to other obligations destined to secure transactions, notably the exchange of collateral between counterparties.

ESMA: centralising information

A register kept up to date by ESMA will allow market participants to unambiguously identify the contracts that are subject to a clearing obligation. The ESMA website will also have a list of EMIR-authorized clearing houses.

Read more

Delegated regulation 2015/2205 of 6 August 2015 on the central clearing obligation for interest rate derivative contracts denominated in euros, pound

↳ sterling, Japanese yen and US dollars

Delegated regulation 2016/592 of 1 March 2016 on the central clearing obligation

↳ for index credit default swaps

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