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EMIR Review - Derivatives: AMF proposes changes to EMIR

The Autorité des Marchés Financiers (AMF) responded to the European Commission's consultation on the review of the European regulation on OTC derivatives, central counterparties (CCPs) and trade repositories, also known as the European Market Infrastructure Regulation (EMIR).

EMIR entered into force in August 2012, introducing new obligations such as reporting, clearing and risk mitigation for OTC derivatives, and established an oversight regime of CCPs and trade repositories. According to Article 85 of the Regulation, the European Commission shall present, by September 2015, a report on its implementation with proposals for potential changes. Against this background, the Commission launched a public consultation to identify any problems stemming from the application of the regulation and to gather suggestions for changes.

Warning about difficulties encountered by market players and regulators

The AMF responded to the consultation. In its response, the AMF brought to the Commission's attention the difficulties encountered by certain players under EMIR, particularly with regard to the authorisation procedure for CCPs and the requirements for reporting transactions to trade repositories. The AMF also highlighted the issues linked to the application of EMIR for asset management (access to clearing for management companies, overlaps in the provisions of the UCITS directive and EMIR).



Proposed changes

The AMF also proposed specific changes to EMIR:


- revise the definition of "OTC derivatives objectively measurable as reducing risks" relating to non-financial counterparties, which is used to categorise non-financial counterparties of systemic importance that are subject to the clearing obligation
- exempt non-financial counterparties from reporting intra-group transactions to trade repositories for transactions below the mandatory clearing threshold
- allow supervisory colleges for CCPs to periodically reassess the authorisation and risks of CCPs
- introduce new client-protection obligations for clearing members regarding their client relations
- simplify the implementation of the clearing obligation and avoid legal uncertainty by eliminating the frontloading requirement
- limit and rigorously supervise interoperability agreements between CCPs (or, for agreements on OTC derivatives, forbid them).

The consultation closed on 13 August 2015. A report compiling the responses will be submitted to the European Council and European Parliament in October 2015.

Read more

- Public consultation on the Regulation (EU) No 648/2012 on OTC derivatives, central counterparty and trade repositories (European Commission Website)

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