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| 2 August 2018 |

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| Response form for the Consultation Paper on the Clearing Obligation under EMIR (no. 6) |
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| Date: 2 August 2018 |

Responding to this paper

ESMA invites responses to the questions set out throughout its Consultation Paper on the regulatory technical standards (RTS) on the clearing obligation that ESMA is drafting under Article 5(2) of the Regulation (EU) No 648/2012 of the European Parliament and Council on OTC derivatives, central counterparties and trade repositories (EMIR).

Responses are most helpful if they:

* respond to the question stated;
* contain a clear rationale; and
* describe any alternatives ESMA should consider.

ESMA will consider all responses received by 30 August 2018.

Instructions

In order to facilitate analysis of responses to the Consultation Paper, respondents are requested to follow the below steps when preparing and submitting their response:

* Insert your responses to the questions in the Consultation Paper in the present response form.
* Please do not remove tags of the type <ESMA\_QUESTION\_TIE\_1>. Your response to each question has to be framed by the two tags corresponding to the question.
* If you do not wish to respond to a given question, please do not delete it but simply leave the text “TYPE YOUR TEXT HERE” between the tags.
* When you have drafted your response, name your response form according to the following convention: ESMA\_TIE\_nameofrespondent\_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA\_TIE\_ABCD\_RESPONSEFORM.
* Upload the form containing your responses, in Word format, to ESMA’s website ([www.esma.europa.eu](http://www.esma.europa.eu) under the heading “Your input – Open consultations” 🡪 “Consultation on Clearing Obligation under EMIR (no. 6)”).

Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly indicate by ticking the appropriate checkbox on the website submission page if you do not wish your contribution to be publicly disclosed. A confidential response may be requested from us in accordance with ESMA’s rules on access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESMA’s Board of Appeal and the European Ombudsman.

Data protection

Information on data protection can be found at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading “Data protection”.

Who should read the Consultation Paper

All interested stakeholders are invited to respond to this consultation paper. In particular, responses are sought from financial and non-financial counterparties of OTC derivative transactions as well as central counterparties (CCPs) and clearing members.

# General information about respondent

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| Name of the company / organisation | European Association of Corporate Treasurers (EACT) |
| Activity | Issuers. |
| Are you representing an association? |  |
| Country/Region | France |

# Introduction

Please make your introductory comments below, if any:

<ESMA\_COMMENT\_TIE\_1>

TYPE YOUR TEXT HERE

<ESMA\_COMMENT\_TIE\_1>

1. : Do you consider that the proposed extension of the temporary intragroup exemption is justified? Please explain.

<ESMA\_QUESTION\_TIE\_1>

We consider that the extension of the temporary intragroup exemption is indeed needed, and we support ESMA’s proposal. It is important that non-financial counterparties (above the clearing thresholds, NFC+s) are able to continue to hedge their global risks in central treasury centres, and the current exemption supports this practice. Having an obligation to centrally clear intragroup transactions with third-country group entities would hinder the efficient functioning of NFC+s centralized treasury units, would divert financial resources that could otherwise be invested in the real economy, and is not needed from a systemic risk perspective.

Operating a centralised treasury unit and using intra-group transactions to redistribute risks within different parts of the group and is risk-reducing. It does not do not create additional counterparty exposure outside of the corporate group and does not increase interconnectedness between third parties. It is common for many multinational companies to engage in the risk-reducing best practice of operating a centralised treasury unit, which is an efficient way to organise the financial management within a company group.

We note however that ESMA’s proposal is to extend the exemption only until December 2020, which is also the end of the Brexit transition period. We would recommend that the extension is prolonged beyond the proposed two years, or a methodology is proposed for further extensions of the exemption. This would provide for legal certainty for derivative end-users post-Brexit.

<ESMA\_QUESTION\_TIE\_1>

1. : Do you agree with the proposed approach to migrate the conditions of the two Delegated Regulations on the clearing obligation into the new technical standards developed under Article 4(6)? If not, what new information should be taken into account to decide on a different approach and different conditions?

<ESMA\_QUESTION\_TIE\_2>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_TIE\_2>