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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 | Eurelectric |
| Activity | Non-financial counterparty |
| Are you representing an association? |  |
| Country/Region | Belgium |

# 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>

Commission Delegated Regulations contain a deferred date of application of the clearing obligation for intragroup transactions satisfying certain conditions and where one of the counterparties is in a third country, in the absence of the relevant equivalence decision. The deferred dates are approaching and there have not been any equivalence decisions to the consultation’s date with regards to the clearing obligation. Therefore, the consultation paper looks into the reasons to extend the deferred dates of application.

Eurelectric generally thinks that intragroup transactions should not be subject to mandatory clearing as they do not pose any systemic relevance to the system. In the absence of general exemption for clearing of intragroup transactions, Eurelectric very much agree with ESMA’s proposal to extend the intragroup exemption for OTC derivatives, as proposed in the consultation. ESMA’s proposal is reasonable as the extension of the exemption seeks to reduce systemic risk and avoid the uncertainty related to the possible duplicative or conflicting effects on market participants that a lack of the exemption would cause in absence of an equivalence decision.

**On the question appearing in the consultation paper (page 17) but not in this form [Do you identify other benefits and costs not mentioned above associated to the proposed approach? If you advocated for a different approach in the responses to the previous question, how would you it impact this section on the impact assessment? Please provide details**]: We noticed that clearing is costly and not justified since the deals are intragroup. Companies are already facing many costs due to MiFID II as well as from other regulations. Therefore, if we add the cost of clearing up the internal deals with regards to CDS and IRS, NFC+ market players would experience the regulatory costs to increase even further.

<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>

Our understanding is that this issue only affects NFC+. Nevertheless, we can generally agree that we consider the proposed extension of the temporary intragroup exemption as justified and necessary as far as the dates are approaching and there have not been any equivalence decisions. The new Regulatory technical Standard amends the three Commission Delegated Regulations by extending the deadline for clearing the intragroup CDS and IRS contracts. The new date (21 December 2020) will bring simplification and will be aligned for the two kind of products (CDS and Interest-rate derivatives)

<ESMA\_QUESTION\_TIE\_2>