

PRESS RELEASE

ESMA proposes rules on derivatives, central counterparties and trade repositories

The European Securities and Markets Authority (ESMA) has launched a consultation on its technical standards under the *Regulation on OTC derivatives, central counterparties and trade repositories (EMIR)*¹, which is aimed at improving the functioning of OTC derivatives markets in the European Union (EU). EMIR aims to achieve this by reducing risks via the use of central clearing and risk mitigation techniques, increasing transparency via trade repositories (TR) and ensuring sound and resilient central counterparties (CCPs).

The implementation of EMIR is a key element in the EU's programme to meet the G20 commitments of strengthening the global financial regulatory system and ensuring sounder and more resilient markets.

Steven Maijoor, ESMA Chair, said:

“OTC derivatives impact both financial markets and the real economy but have not been subject to regulatory requirements. This absence has resulted in negative consequences for financial markets, investors and the real economy.

“The draft technical standards developed by ESMA set out the measures for the implementation of the regulatory framework established under EMIR. These measures will ensure that EMIR's objectives of reducing risks arising from OTC derivatives, improving transparency and ensuring sound and resilient central counterparties will be applied in practice.

“These proposals will contribute to enhancing the protection of investors and promote stable and well-functioning financial markets in the EU, and allow the EU to play its role in strengthening the global financial regulatory system.”

The Consultation Paper contains draft Regulatory Technical Standards (RTS) and draft Implementing Technical Standards (ITS) which set out the specific details of how EMIR's requirements are to be

¹ <http://www.esma.europa.eu/content/Draft-Technical-Standards-Regulation-OTC-Derivatives-CCPs-and-Trade-Repositories-o>



implemented. The requirements set out in the draft technical standards will ensure:

Reduction of counterparty risks by:

- Defining the framework for the application of the clearing obligation;
- Specifying the risk mitigation techniques for OTC derivatives not centrally cleared;
- Laying down the requirements for the application of exemptions to non-financial counterparties and intragroup transactions.

Safe and resilient CCPs by:

- A comprehensive set of organisational, conduct of business and prudential requirements for CCPs.

Increased transparency by:

- Specifying the details of derivatives transactions that need to be reported to trade repositories;
- Defining the trade repositories' data to be made available to relevant authorities;
- Setting the information to be provided to ESMA for the authorisation and supervision of trade repositories.

ESMA's Consultation Paper is based on the EMIR texts as adopted by the European Parliament on 29 March 2012 and by the Council on 11 April 2012.

The consultation closes on 5 August 2012 and the final draft standards are intended to be submitted to the EU Commission for endorsement by 30 September 2012.

ESMA will hold a public hearing on 12 July 2012 in Paris and registration is open to all interested participants.



Notes for editors

Draft Technical Standards for the Regulation of OTC Derivatives, CCPs and Trade Repositories:
<http://www.esma.europa.eu/content/Draft-Technical-Standards-Regulation-OTC-Derivatives-CCPs-and-Trade-Repositories-o>.

1. A public hearing will be held on 12 July at a venue in Paris to be confirmed. Please register your interest in attending here <http://www.esma.europa.eu/hearing/Open-hearing-EMIR>
2. ESMA previously published a Discussion Paper on *Draft Technical Standards for the Regulation on OTC Derivatives, CCPs and Trade Repositories ESMA/2012/95*: <http://www.esma.europa.eu/content/Draft-Technical-Standards-Regulation-OTC-Derivatives-CCPs-and-Trade-Repositories> on 16 February 2012.
3. A derivative is a contract between two parties linked to the future value or status of the underlying to which it refers to (e.g. the development of interest rates or of a currency value, or the possible bankruptcy of a debtor). An over-the-counter (OTC) derivative is a derivative not traded on an exchange but instead privately negotiated between two counterparties. The use of derivatives has grown exponentially over the last decades, with OTC transactions being the main contributor to this growth.
4. ESMA is an independent EU Authority that was established on 1 January 2011 and works closely with the other European Supervisory Authorities responsible for banking (EBA) and insurance and occupational pensions (EIOPA).
5. ESMA's mission is to enhance the protection of investors and promote stable and well-functioning financial markets in the European Union (EU). As an independent institution, ESMA achieves this aim by building a single rule book for EU financial markets and ensuring its consistent application across the EU. ESMA contributes to the regulation of financial services firms with a pan-European reach, either through direct supervision or through the active co-ordination of national supervisory activity.

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