

New EU regulations affect your company

All companies which trade in OTC derivatives are covered by the new European legislation EMIR (European Market Infrastructure Regulation). EMIR became legally binding throughout the EU on 16 August 2012, without being reinterpreted by each country. The regulation was drafted after the financial problems that came to light in 2008 and centres around strengthening supervision of the derivatives markets and increasing the market's ability to reduce and resist risks originating from derivative contracts. The rules cover trading and clearing of OTC derivatives and apply to both financial institutions and their customers.

How is your company affected?

Companies are affected in different areas: transaction reporting, confirmations, portfolio reconciliation and dispute resolution. Institutional customers and major corporate customers are also affected by requirements for reducing risk, including mandatory clearing.

Transaction reporting

All companies are individually responsible for reporting derivative transactions to a 'Trade Repository' no later than the day after the transaction date. The company is individually responsible for this, but may delegate the actual reporting. When reporting, companies must state the purpose of the transaction, whether or not it is to reduce commercial risks, and whether it is an intra-Group transaction.

The reporting is expected to begin on 12 February 2014 for all asset classes.

Portfolio reconciliation and dispute resolution

There must be a procedure in place to conduct reconciliation of outstanding derivative contracts and collateral. There must also be a process for resolving any disputes relating to derivative contracts.

Confirmations

Companies must respond quickly to confirmations, electronically if possible. The rules will be phased in over a lengthy period, but the aim is that derivatives of all asset classes should be confirmed by the following banking day at the latest (see table below).

Counterparty	OTC derivatives asset	Until 31 Aug 2013	Until 31 Aug 2014	After 31 Aug 2014
Non-financial counterparty below clearing threshold	Credit and interest rate derivatives	5 banking days	3 banking days	2 banking days
	Equity, FX, commodity and other derivatives	7 banking days	4 banking days	2 banking days
Non-financial counterparty above clearing threshold	Credit and interest rate derivatives	2 banking days up until 28 Feb 2014	1 banking day after 28 Feb 2014	
	Equity, FX, commodity and other derivatives	3 banking days	2 banking days	1 banking day
Financial counterparties	Credit and interest rate derivatives	2 banking days up until 28 Feb 2014	1 banking day after 28 Feb 2014	
	Equity, FX, commodity and other derivatives	3 banking days	2 banking days	1 banking day



Clearing of OTC derivatives

EMIR regulates mandatory clearing of certain OTC derivatives. The types of contract that are to be included have not yet been established; they are expected to be announced in early 2014. Companies deemed to belong to the nonfinancial companies group are exempted from the clearing obligation if the transactions can objectively be regarded as measures aimed at reducing commercial risks. Other transactions must be settled, taking into account the thresholds set. Starting from now, your company needs to keep track of whether your volumes are below the set thresholds. If they are above these figures, the Swedish Financial Supervisory Authority will need to be notified.

Thresholds:

Interest rate derivatives	EUR 3,000 m
Commodity derivatives	EUR 3,000 m
FX derivatives	EUR 3,000 m
Credit derivatives	EUR 1,000 m
Equity derivatives	EUR 1,000 m

Definitions

Derivative - A general term for financial instruments where the value of the derivative is linked to an underlying asset.

OTC derivative - Derivatives traded between two parties without going via a marketplace.

Clearing - Calculation of the financial instruments and cash assets which are to be delivered between sellers and buyers.

Trade Repository - The authorised company to which transaction reporting must be submitted.

Threshold amount - The amount that determines at which point clearing requirements come into effect for transactions not specifically aimed at reducing commercial risks.

Financial companies - Banks and other credit institutions, securities companies, fund management companies and mutual funds (including alternative investment funds), insurance companies and occupational pension institutions (in all cases those licensed to operate within the EU).

Non-financial companies - Company within the EU that is not included in the above definition of financial company (and that is not a central counterparty).

More information is available on the website of the Swedish Financial Supervisory Authority: www.fi.se. You can also contact your local Handelsbanken branch.

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