FOCUS

EMIR

Updated in January 2021

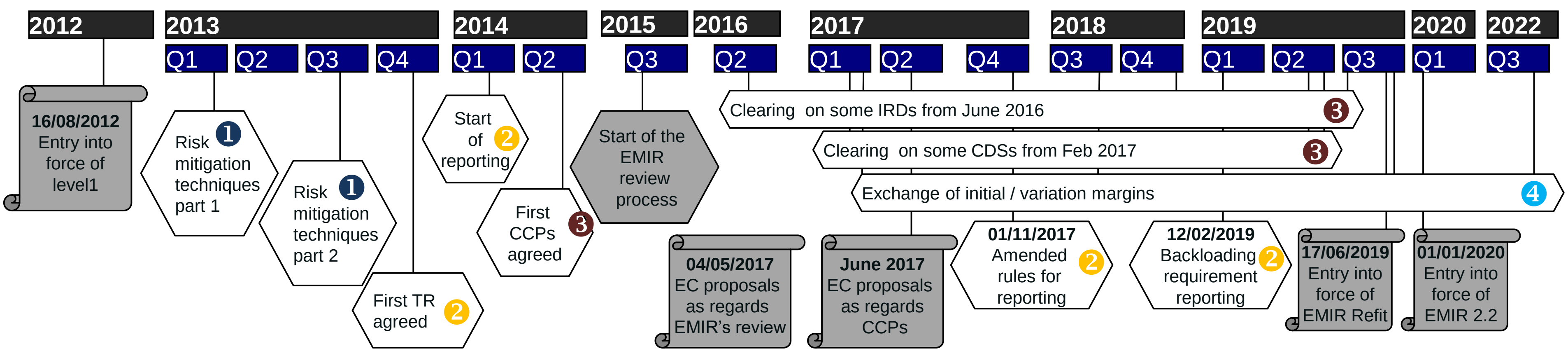
SOCIETE GENERALE
Securities Services

EMIR

IMPLEMENTATION OF THE 2009 G20 RECOMMENDATIONS FOR OTC DERIVATIVES

REGULATORY EVOLUTION	FOCAL POINTS
1 **Risk mitigation techniques required for non cleared contracts (operational risk)**: different tools have to be put in place such as timely confirmation, portfolio reconciliation**,** management of disputes …	One of the main impacts of these requirement is related to the shortening of the delay to process these operational tasks now mandatory
2 **Mandatory reporting**: applies to all parties to derivatives contracts (listed or OTC); contracts to be bilaterally declared to a Trade Repository. The reporting could technically be outsourced (the party remains responsible)	The reporting has to be made by each party of the contract whereas in the US it is a one side model. Moreover it includes also listed derivatives leading such contracts to be reported twice (due to EMIR and due to MIFIR)
3 **Mandatory clearing**: applies to non listed derivatives that are admitted by at least one CCP and are considered as sufficiently standardised by ESMA (as of today some IRD and CDS)	Parties to the contracts are divided in 4 categories (clearing members, large Financial Counterparties, small Financial Counterparties, Non Financial Counterparties above the threshold - also called NFC+). Funds are considered as FC. Some counterparties may face difficulties when building a clearing set-up.
4 **Bilateral exchange of initial and variation margins (IM and VM) for non cleared contracts**: IM are required for counterparties that are above a certain threshold whereas VM are always to be exchanged; there is a phase in implementation for IM (following international recommendations) and a two step for VM. At the end only contracts were both parties are entities with an AANA* (on a group level, except for funds) below a threshold of 8 billions Euros will be exempted from IM exchanges.	It was expected for the 01/09/2016 (international recommendations) and finally started in the EU in February 2017. Some critical points : Inconsistencies with the US regulation (FX forwards, equity options, ..), segregation requirements for IM, timeline for the provision of variation margins, intragroup transactions, counterparties in specific third countries

*AANA – aggregate average notional amount. This is calculated across its group and recorded on the last business day of the months March, April, and May of the relevant year (including all uncleared OTC derivatives of the group and all intra-group noncentrally cleared OTC derivative contracts of the group, taken into account only once).



EMIR

IMPLEMENTATION OF THE 2009 G20 RECOMMENDATIONS FOR OTC DERIVATIVES

Updated on the 4th of January 2021

- Cleared contracts
- Non cleared contracts
- Central Counterparties (CCPs)
- Reporting

Cleared	Clearing members	FC above the threshold	~~FC below the threshold~~	~~NFC+~~
IRS wave1	21/06/2016	21/12/2016	~~21/06/2019~~	~~21/12/2018~~
CDS	09/02/2017	09/08/2017	~~21/06/2019~~	~~09/05/2019~~
IRS wave 2	09/02/2017	09/07/2017	~~21/06/2019~~	~~09/07/2019~~

Non Cleared	2 parties above 3000 billions €	2 parties above 2250 billions €	2 parties above 1500 billions €	2 parties above 750 billions €	2 parties above 50 billions €	2 parties above 8 billions €	At least 1 party below 8 billions €
Initial Margin (IM)	06/02/2017	01/09/2017	01/09/2018	01/09/2019	01/09/2020	01/09/2021	No IM
Variation Margin (VM)	06/02/2017	01/03/2017	01/03/2017	01/03/2017	01/03/2017	01/03/2017	01/03/2017
VM (FX forwards) (*)	03/01/2018	03/01/2018	03/01/2018	03/01/2018	03/01/2018	03/01/2018	03/01/2018

(*) mandatory only for contracts between institutions (see point below)

STATEMENT

Non cleared contracts
Due to the Covid-19 a new international timeline has been proposed by the Basel Committee and IOSCO: phase 5 and phase 6 are postponed by one year (01/09/2021 and 01/09/2022) and adopted by the EC on the 23rd of December 2020

FOR YOUR CONSIDERATION

❑ **Non cleared contracts**: The EC has adopted the ESAs draft RTS:

- Alignment to the new recommendations of the Basel Committee / IOSCO as regards the implementation phase for initial margins (post-covid 19 new calendar)
- Physically settled FX forwards and Swaps: variation margins not required where one of the counterparties is not an institution
- Equities options and index options: the exemption is now extended until the 4th of January 2024
- The intragroup contracts exemption is now until the 30th of June 2022
- Brexit: ESAs propose a legislative mechanism that will allow new contracts (the relocated ones) to benefit from the same exemptions as the original contracts

❑ **Cleared contracts**: The EC has adopted the ESMA draft RTS:

- The temporary clearing exemption for intra-group transactions is extended to the 30th of June 2022
- Brexit: new contracts (the relocated ones) may benefit from the same exemptions as the original contracts

❑ **EMIR 2.2 (on the supervision of EU & non-EU CCPs)**: entered into force on the 1st of January 2020 with requirements for non-EU CCPs to apply mainly in 2021

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To know more please refer to: FicheEMIR-ToKnowMore