



Updated in April 2019

REGULATORY EVOLUTION

- 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 ...
- 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)
- 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)
- 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 (until 2020) and a two step for VM. In 2020 only contracts where 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.

*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).

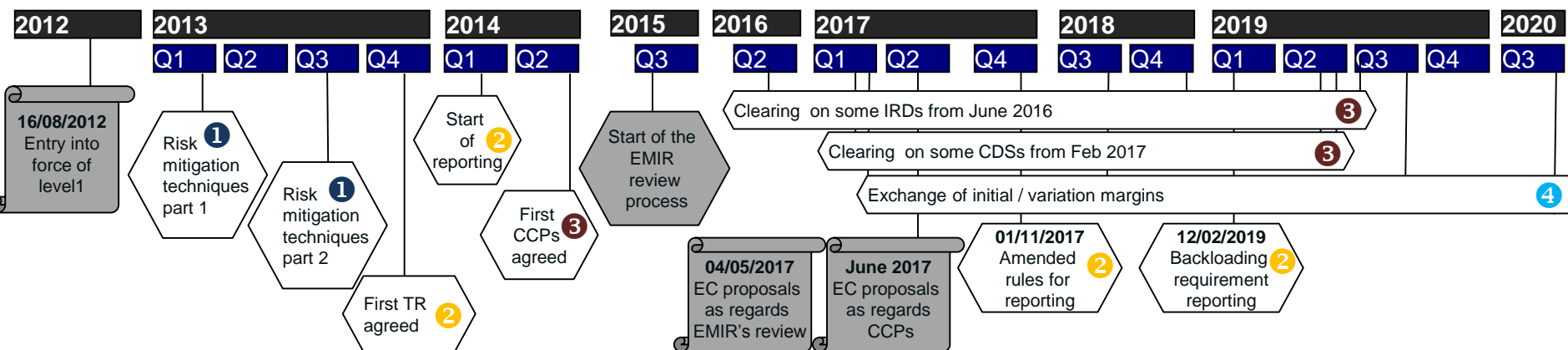
FOCAL POINTS

One of the main impacts of these requirement is related to the shortening of the delay to process these operational tasks now mandatory

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)

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.

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



Updated on 2nd of April 2019

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

STATEMENT

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 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	No IM
Variation Margin (VM)	06/02/2017	01/03/2017	01/03/2017	01/03/2017	01/03/2017	01/03/2017
VM (FX forwards) ⁽¹⁾	03/01/2018	03/01/2018	03/01/2018	03/01/2018	03/01/2018	03/01/2018

⁽¹⁾ at least for contracts between institutions (see point below)

Clearing
New dates for Categ 3

Non cleared
Entry into application:
06/02/2017

Reporting
Amended version of the technical standards (01/11/2017)

FOR YOUR CONSIDERATION

- FX forwards** : the amended text (limiting the VM requirement) has not been adopted yet
- SSPE (Securitization Special Purpose Entity)** to be exempted under certain conditions from clearing and from bilateral exchange of margins : ESAs proposed to update EMIR level 1 and 2 (12.12.2018) – still to be adopted by the EC,
- EMIR and EMIR Refit** : After its statement (October 2018) with regards to the clearing obligation for NFC+ as well as for certain intragroup contracts, ESMA has issued another statement (31.01.2019) requesting competent authorities to not focus their supervisory actions on clearing and trading obligations for small financial counterparties (as of June) and on the backloading requirement for reporting entities (as of the 12/02/2019) since both will be amended by EMIR Refit
- EMIR proposal for a more robust supervision of CCPs** – A final agreement was reached in trilogue

Contact SGSS/IMP/SIR: Sylvie Bonduelle



sylvie.bonduelle@sgss.socgen.com

To know more please refer to:
FicheEMIR-ToKnowMore

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