

International Stock Exchange Executives Emeriti, Inc.

**Danubius Health Spa & Resort Margitsziget
Margaret Island
Budapest, Hungary**

European Market Infrastructure Regulation EMIR



Pittsburgh Summit 2009



Pittsburgh Summit 2009

- ▶ « All standardised OTC derivative contracts should be traded on exchanges or electronic platforms, where appropriate, and cleared through CCPs by end 2012 at the latest. OTC derivative contracts should be reported to TRs. Non centrally cleared contracts should be subject to highe capital requirements »

European Market Infrastructure Regulation EMIR

- ▶ New Requirements for derivatives Clearing
- ▶ Regulation (EU) No 648/2012 of the E.P. and of Council of 4 July 2012 on OTC derivatives, central counterparties (CCPs) and trade repositories (TRs)
- ▶ EMIR entered into force on 16 August 2012.
- ▶ Commission Delegated Regulations No 148/2013 to 153/2013 of 19 December 2012 supplementing EMIR were published on 23 February 2013 and entered into force on 15 March 2013.
- ▶ The implementing technical standards were published on 21 December 2012.

European Market Infrastructure Regulation EMIR

- ▶ Due to the 2007–2008 financial crisis, OTC derivatives came under close scrutiny leading to the decision taken by the G-20 summit in Pittsburgh
- ▶ EMIR is in force since 2012 and first Risk mitigation Techniques came into force on March 15 2013
- ▶ Emir restructures post trade activities for OTC derivatives => CCP and TR
- ▶ Objective: increase transparency and reduce counterparty default risks

EMIR Main Obligations

- ▶ Central Clearing for certain classes of OTC derivatives;
- ▶ Application of risk mitigation techniques for non-centrally cleared OTC derivatives;
- ▶ Reporting to TRs;
- ▶ Application of organisational, conduct of business and prudential requirements for CCPs;
- ▶ Application of requirements for TRs, including the duty to make certain data available to the public and relevant authorities.

General Requirements

Clients and products:

- ▶ Banks have to classify products as financial/non-financial counterparty or private clients
- ▶ Firms identify derivatives to be centrally cleared and those for which risk mitigation techniques apply
- ▶ Firms identify start date for reporting for types of derivative derivative
- ▶ Firms have to count outstanding contracts to meet different reconciliation requirements

General Requirements

Clearing

- ▶ Firms arrange for all derivative contracts deemed « clearing eligible » by ESMA to be centrally cleared by CCP
- ▶ EMIR sets out margin and collateral standards for trades cleared through European CCP
- ▶ Non-financial counterparties will be subject to clearing requirements if derivative positions exceed the clearing threshold set out under EMIR

General Requirements

Collateral

- ▶ EMIR protects collateral posted with CCP in the event of insolvency of a clearing member (CM)
- ▶ In term of segregation of assets for UCITS products, the segregation structure has to combine EMIR, UCITSD and local securities requirements

General Requirements

Reporting

- ▶ Firms report exchange traded and OTC traded derivative contracts to TRs
- ▶ Firms assess the data reporting requirements against their system capabilities and strategies (possibility to delegate tasks)

General Requirements

Risk management and Compliance

- ▶ Firms comply with capital and margin requirements for derivative contracts which remain outside the clearing obligation
- ▶ Firms comply with certain risk management requirements for unclear contracts (e.g. timely trade confirmation, daily marked to market or marked to model valuation, reconciliation, compression and dispute resolution)

General Requirements

Contracts and Agreements

- ▶ Contracts under national law have to be brought in line with new EU regulation in case of conflict
- ▶ Master Agreement for clearing and collateralisation to be developed
- ▶ If delegation of tasks update related service contracts

EMIR Timetable



EMIR – DODD FRANK

Main differences

- ▶ Timing
- ▶ Scope Parties
- ▶ Scope Transactions
- ▶ Affiliate Exemptions
- ▶ Cross Border Application
- ▶ Confirmations
- ▶ Portfolio Reconciliation
- ▶ Portfolio Compressions
- ▶ Client Documentation
- ▶ Record Keeping and Reporting

Sources

<http://www.esma.europa.eu/page/European-Market-Infrastructure-Regulation-EMIR>

<http://www.pwc.lu/en/investment-management/emir.jhtml>

<http://www.pwc.com/us/en/financial-services/regulatory-services/publications/dodd-frank-emir-requirements.jhtml>

<http://www.valueforfunds.lu/asp/topic-emir.asp>

<http://www.fca.org.uk/firms/markets/international-markets/emir#LatestUpdates>

http://www.bafin.de/DE/Aufsicht/BoersenMaerkte/EMIR/emir_node.html

<http://www.mondaq.com/x/229014/Commodities+Derivatives+Stock+Exchanges/EMIR+Key+Points+And+Dates+Applicable+To+Financial+Counterparties>

http://www.cliffordchance.com/publicationviews/publications/2012/10/dodd-frank_act_vemirconfirmation.html