

Paris, 15 March 2013

The AMF highlights the entry into force of certain provisions of the “EMIR” regulation with effect from 15 March 2013

European Commission delegated regulations 148/2013 to 153/2013 supplementing the European “EMIR” regulation 648/2012 on over-the-counter derivatives, central counterparties and trade repositories were published in the Official Journal of the European Union on 23 February 2013. They enter into force on 15 March 2013.

The AMF draws the attention of investment firms, credit institutions, insurance firms, portfolio management companies and non-financial firms to the fact that these directly implemented regulations are timetabled for implementation on a phased basis. Only three of the requirements laid down in EMIR are due to be implemented with effect from 15 March.

These requirements are as follows:

- For all counterparties, the terms of over-the-counter derivative contracts must be confirmed within the timescales laid down in ESMA’s technical standards.
- For non-financial counterparties, the AMF and ESMA (European Securities and Markets Authority) must be notified whenever positions entered into in over-the-counter derivative contracts exceed one of the clearing thresholds defined for each asset class. The specific methods for calculating positions and clearing thresholds are laid down in the delegated regulations. Only those positions that do not reduce the risk arising from commercial activity or treasury financing activity must be included in the calculation, which should be applied at aggregate level to the group to which the counterparty belongs.
- Financial and non-financial counterparties whose positions exceed one of the clearing thresholds must mark current contracts to market on a daily basis or, where market conditions prevent marking-to-market, mark those contracts to model.

A timetable of upcoming key dates is as follows:

Requirement	Effective date
Portfolio reconciliation ¹ Portfolio compression ² Dispute resolution	15 September 2013

¹ **Reconciliation:** parties and their counterparties must reconcile their portfolios in such a way as to identify any discrepancies in the material terms of all their trades (contract value, maturity, payment and settlement dates, etc.).

² **Compression:** this process is applied to the portfolios of multiple parties to identify cross positions that offset each other and replace them with a smaller number of contracts while maintaining the same residual exposure.

Central clearing	This requirement (products, terms and timetable) will be specified in technical standards drawn up under the terms of a product eligibility procedure managed by ESMA. The first standards should be submitted to the European Commission in October 2013 at the earliest, potentially together with implementation timescales. This requirement assumes that clearing houses have been authorised in accordance with EMIR.
Margin exchanges for non-centrally-cleared contracts	The final report by the Basel Committee and the International Organization of Securities Commissions (IOSCO) defining common international requirements is due to be published by the end of 2013. The European Commission will then give a new mandate to the European supervisory authorities to draw up the corresponding technical requirements.
Reporting to trade repositories of transactions involving derivatives (whether over-the-counter or listed)	- With effect from 23 September 2013 for interest rate and credit derivatives - With effect from 1 January 2014 for other categories of derivatives provided that a trade repository has been registered with ESMA within the required timescales.

A form to be used to notify the AMF when a non-financial counterparty has exceeded a clearing threshold will be available from the AMF's website in the near future.

Questions in connection with EMIR should be e-mailed to the following dedicated AMF address: emir@amf-france.org.

For more information, the following are available from the AMF's website:

- AMF training morning on EMIR/presentation to professionals (15 February 2013): http://www.amf-france.org/documents/general/10730_1.pdf
- Financial Regulation Newsletter – EMIR special edition (February 2013): http://www.amf-france.org/documents/general/10731_1.pdf
- The AMF draws attention to publication of the European “EMIR” regulation (news release dated 7 August 2012): http://www.amf-france.org/documents/general/10550_1.pdf

Reference texts and documents:

- EMIR: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:201:0001:0059:EN:PDF>
- Delegated regulations published in the OJEU on 23 February 2013: <http://eur-lex.europa.eu/JOHtml.do?uri=OJ:L:2013:052:SOM:EN:HTML>
- Implementing regulations concerning trade repositories and central counterparties published in the OJEU on 21 December 2012: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:352:0020:0029:EN:PDF>
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:352:0030:0031:EN:PDF>
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:352:0032:0039:EN:PDF>
- The Q&A document prepared by the European Commission: http://ec.europa.eu/internal_market/financial-markets/docs/derivatives/emir-faqs_en.pdf
- The guide for non-financial counterparties prepared by ESMA: http://www.esma.europa.eu/system/files/emir_for_non_financials.pdf