

EMIR Enters into Force

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On August 16, 2012, the European Market Infrastructure Regulation (EMIR) came into force, 20 days after the final text was published in the Official Journal of the European Union. The Level 1 [text](#) will be supplemented with technical standards, which are due to be published later this year, and expected to come into force next year. It is the technical standards that will define who exactly will be affected by EMIR, and how.

The European Securities and Markets Association (ESMA) has also published the [responses](#) that it received from market participants to the June 2012 [consultation](#) on the draft technical standards. Responses were received from, inter alia, asset managers, banks, government regulatory and enforcement bodies, insurance and pension funds, investment services, issuers, and regulated markets, exchanges and trading systems.

These responses will be taken into account when ESMA submits its proposals on the technical standards to the European Commission (the Commission) by September 30, 2012. Following this submission, the Commission will have three months during which it must adopt the final technical standards. The technical standards will cover matters including:

- The threshold that non-financial counterparties will have to cross before their trades have to be cleared;
- The exemptions for intragroup transfers;
- The data to be reported regarding each trade; and
- Data that will have to be provided by trade repositories to the relevant authorities and regulators.

The various provisions of EMIR are due to come into force at different times. For example, the first clearing obligations are expected to be imposed from summer 2013. Derivative contracts are expected to have to be reported from July 1, 2013. By the end of December 2014, ESMA is expected to submit reports to the Commission on the functioning of EMIR.

With the final text of EMIR edging closer to completion, market participants are advised to ensure that they have the requisite systems in place, to guarantee that their trading activities are fully compliant with the requirements of EMIR.

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