

ESMA Issues Public Statement on Collateralization of Bank Guarantees for Energy Derivatives

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On November 19, the ***European Securities and Markets Authority*** (ESMA) issued a public statement (Public Statement) regarding its decision not to extend the current three year grace period which permits non-financial firms to use bank guarantees that are not collateralized for their energy derivatives transactions that are cleared by European central counterparties (CCPs). As of March 15, 2016, all CCPs authorized under the European Market Infrastructure Regulation (EMIR) will be required to fully collateralize commercial bank guarantees that cover transactions in derivatives relating to electricity or natural gas.

ESMA determined not to extend the existing grace period for the following reasons:

- the elimination of an undue source of risk for CCPs arising from non-collateralized guarantees;
- the current three-year grace period was deemed to be sufficient to permit the wholesale energy market to prepare for the incoming collateral requirements;
- some European CCPs are already requiring fully collateralized bank guarantees;
- EMIR requires CCPs to only accept collateral that is highly liquid, with limited credit and market risk; and
- a further postponement would lead to discrepancies with international standards for CCPs.

ESMA noted that it expects all interested stakeholders to be in compliance with the obligation to fully collateralize commercial bank guarantees by March 15, 2016.

A copy of the Public Statement can be found [here](#).

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