European Securities and Markets Authority

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# PRESS RELEASE

## ESMA begins detailing central clearing of OTC derivatives

The European Securities and Markets Authority (ESMA) has launched a Discussion Paper to prepare the regulatory technical standards (RTS) which will implement provisions of the European Markets Infrastructure Regulation (EMIR) regarding the obligation to centrally clear OTC derivatives.

The consultation is aimed at assisting ESMA in developing its approach to determining which classes of OTC derivatives need to be centrally cleared and the phase-in periods for the counterparties concerned.

EMIR introduced provisions to improve transparency, establish common rules for central counterparties (CCPs) and for trade repositories (TRs) and to reduce the risks associated with the OTC derivatives market. It provides for the obligation to centrally clear OTC derivative contracts or to apply risk mitigation techniques such as the exchange of collateral.

Steven Maijoor, ESMA Chair, said:

> "Our consultation is a first important step in shaping the details of how central clearing of OTC derivatives will work in the European Union. Having these trades centrally cleared and ultimately making post-trade data available to investors will increase the robustness, transparency and stability of the financial system."

### Procedure to define asset classes for central clearing

The Discussion Paper on the clearing obligation outlines ESMA's approach in determining:

- the characteristics of OTC derivative classes that should be subject to the clearing obligation;
- the date(s) from which the clearing obligation takes effect, including any phase-in and the categories of counterparties to which the obligation applies; and

- the minimum remaining maturity of the OTC derivative contracts referred to under EMIR.

The paper also provides a high level analysis of the current readiness of derivative asset classes regarding the clearing obligation on the basis of some of the criteria that ESMA will take into account when defining the classes for central clearing. The following elements are set out:

- the standardisation, volume and liquidity of relevant classes of OTC derivatives;
- the availability of data related to OTC derivative markets; and
- the experience in clearing and the international regulatory framework.

EMIR covers most derivative types and applies to financial and non-financial counterparties. The clearing obligation only applies to financial counterparties and non-financial counterparties above the clearing threshold. Currently, 13 CCPs provide OTC clearing for five asset classes - interest rate derivatives, credit derivatives, equity derivatives, forex and commodity derivatives - within the European Union.

ESMA's procedure to define the classes that should be centrally cleared will only begin when a CCP is authorised under EMIR, or when ESMA has recognised CCP based outside the EU. Currently, no CCPs have yet been authorised under EMIR as the applications are still being assessed.

**Next steps**

The Discussion Paper is open for feedback until 12 September 2013. ESMA will use the feedback received to draft its technical standards on the clearing obligation, which will be presented in future public consultations.

**Notes for editors**

1. **2013/925 Discussion Paper – The Clearing Obligation under EMIR**

2. **2013/926 Template for Responses to the Discussion Paper**

3. Regulation (EU) No.648/2012 on OTC derivatives, central counterparties and trade repositories.

4. ESMA is an independent EU Authority that was established on 1 January 2011 and works closely with the other European Supervisory Authorities responsible for banking (EBA), and insurance and occupational pensions (EIOPA), and the European Systemic Risk Board (ESRB).

5. ESMA's mission is to enhance the protection of investors and promote stable and well-functioning financial markets in the European Union (EU). As an independent institution, ESMA achieves this aim by building a single rule book for EU financial markets and ensuring its consistent application across the EU. ESMA contributes to the regulation of financial services firms with a pan-European reach, either through direct supervision or through the active co-ordination of national supervisory activity.

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