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### EMIR - European Market Infrastructure Regulation: Level II Regulations

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The Regulation (EU) No 648/2012 of the European Parliament and the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (the so-called European Market Infrastructure Regulation; "EMIR") entered into force on 16 August 2012.

EMIR determines clearing and bilateral risk-management requirements for over-the-counter ("OTC") derivative contracts as well as reporting requirements for all derivative contracts.

These requirements will apply to financial counterparties (investment firms, credit institutions, insurance/reinsurance undertakings, UCITS, AIFs and pension funds) as well as to non-financial counterparties. EMIR defines non-financial counterparties as undertakings other than financial counterparties. As a consequence, in particular, all corporates that are not financial counterparties will generally be qualified as non-financial counterparties.

On 19 December 2012, the European Commission adopted the following nine regulations regarding regulatory and implementing technical standards prepared by the European Securities and Markets Authority (ESMA) as level II measures (the "Level II Regulations"):

#### ■ Regulatory technical standards:

- Regulatory technical standards on capital requirements for central counterparties;
- Regulatory technical standards on requirements for central counterparties;
- Regulatory technical standards on indirect clearing arrangements, the clearing obligation, the public register, access to a trading venue, non-financial counterparties, risk mitigation techniques for OTC derivatives contracts not cleared by a CCP;
- Regulatory technical standards on the minimum details of the data to be reported to trade repositories;
- Regulatory technical standards specifying the details of the application for registration as a trade repository;
- Regulatory technical standards specifying the data to be published and made available by trade repositories and operational standards for aggregating, comparing and accessing the data;

#### ■ Implementing technical standards:

- Implementing technical standards with regard to the format of the records to be maintained by central counterparties;
- Implementing technical standards with regard to the format and frequency of trade reports to trade repositories;
- Implementing technical standards with regard to the format of applications of trade repositories.

These nine Level II Regulations will complement the provisions foreseen by EMIR.

The implementing technical standards of the Level II Regulations were published on 21 December 2012 in the Official Journal of the European Union and will enter into force on 10 January 2013.

Pursuant to the Regulation (EU) No 1247/2012 laying down implementing technical standards with regard to the format and frequency of trade reports to trade repositories (mentioned above under point 2 of the implementing technical standards), the reporting obligation for credit derivative and interest rate derivative contracts will commence on 1 July 2013 and for all other derivative contracts on 1 January 2014.

We would be pleased to provide you with a more detailed analysis of the new requirements in order to help you assess the potential impact thereof on your organisation.

The Level II Regulations may be accessed [here](#).

Please contact us should you require any further information.

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