

Luxembourg - EMIR - CSSF and CAA communicate on EMIR reporting

24 July 2018

In brief

The Regulation (EU) 648/2012 dealing with over-the-counter (“OTC”) derivatives, central counterparties (“CCPs”) and trade repositories (“TRs”) applies since 16 August 2012 (“EMIR”, available [here](#)).

Pursuant to Article 9(1) of EMIR, counterparties and CCPs shall ensure that the details of any derivative contract they have concluded and of any modification or termination of the contract are reported to a TR, no later than the working day following the conclusion, modification or termination of the contract.

Since 1 November 2017, the following 2 Commission delegated regulations have applied (altogether the “Delegated Regulations”):

- Commission delegated regulation (EU) 2017/104 supplementing EMIR with regard to regulatory technical standards on the minimum details of the data to be reported to TRs (the “RTS 2017/104”, available [here](#)); and
- Commission delegated regulation (EU) 2017/105 laying down implementing technical standards on the format and frequency of trade reports to TRs according to EMIR (the “ITS 2017/105”, available [here](#)).

On 1 March 2018, the ESMA updated its validation rules for the reports submitted under the Delegated Regulations (the “Validation Rules”, available [here](#)).

At Luxembourg level, Article 1(2) of the law of 15 March 2016 on OTC derivatives, CCPs and TRs (available [here](#)) designates the CSSF and the Commissariat aux Assurances (“CAA”) as the competent authorities to ensure that the financial counterparties subject to their supervision comply with the provisions of Title II of EMIR.

In detail

On 13 July 2018, based mostly on the Delegated Regulations and the Validation Rules, the CSSF issued the press release 18/23 concerning EMIR reporting (the “Press Release 18/23”).

In this context, the CSSF reminds market participants, falling under the scope of EMIR, of the following aspects:

- Trade rejections (e.g., a rejection does not postpone any duties with regards to timely reporting of derivative transactions);
- Double-sided transaction reconciliations (the CSSF stresses here the importance of reporting a common Unique Trade Identifier (“UTI”) for each transaction by both counterparties); and
- Content of the reporting (e.g., inconsistent information in fields with regards to publicly available identifiers of instruments, benchmarks, stakeholders shall be an indicator for insufficient and inadequate processes and potential non-compliance with regards to EMIR reporting duties).

On 10 July 2018, the CAA issued a similar communication in relation to EMIR reporting (the “CAA Note”).

The Press Release 18/23 is available [here](#).

The CAA Note is available [here](#) (only in French).

What's next?

The CSSF indicates that it will increase its focus on the review of reported transactions to TRs.

The CAA expects all undertakings falling in scope of EMIR to identify themselves with the CAA before 31 July 2018, and to indicate which obligations apply to them based on current derivatives being held or envisaged to be held in the near future. The CAA also requests to be provided with the name and details of contacts persons responsible for EMIR matters including on reporting obligations.

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Anthony Dault

Director

+352 49 48 48 2380

a.dault@lu.pwc.com

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