

EACH Statement

Brussels,
20th February 2019

EACH welcomes political agreement EMIR REFIT but highlights risks of circumvention of clearing obligation

EACH welcomes the political agreement reached by the European Parliament and EU Member States on the targeted reform of the European Market Infrastructure Regulation (EMIR REFIT). Despite the pushes by some industry participants for regulatory rollback, we believe the agreed texts preserves the core elements of a Regulation which has been key in implementing the G20 reforms into EU law, therefore improving the risk-management of OTC derivatives markets and financial stability as a whole.

EACH welcomes in particular:

- the **clarification that national insolvency laws do not limit the CCP's ability to port assets and positions** in case of CM default.
- the **decision that trades resulting from portfolio compression should remain subject to the clearing obligation** until further assessment by ESMA and the European Commission;
- the **clarification that the reporting responsibility should remain in the hands of those who hold the trade information** until a holistic review of the reporting regime for derivatives (ETD and OTC) is conducted;
- the request for **ESMA to consider whether the list of financial instruments available for CCP investment policy should be extended** and potentially include money market funds; and

EACH however **questions whether the exemption for UCITSs/AIFs from group level calculation** of the clearing threshold does not weaken the G20 reforms and enforce an unlevelled playing field with other financial market participants.

EACH therefore calls on National Competent Authorities (NCAs) and ESMA **to ensure that the definition and calculation of the clearing threshold does not lead to a systematic underestimation of the positions** of the fund manager or lead to a circumvention of the clearing obligations.

We look forward to contributing to the EMIR REFIT Level 2 work of EU authorities with the objective of ensuring safer and more efficient EU capital markets.

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Notes to the editors

About EACH

The European Association of CCP Clearing Houses (EACH) represents the interests of CCPs in Europe since 1992. EACH currently has 19 members from 15 different European countries. Its Membership is open to European and non-European CCPs. EACH is registered in the European Union Transparency Register with number 36897011311-96.

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