

OTC derivatives, central counterparties and trade repositories (EMIR, European Market Infrastructure Regulation)

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The Commission presents a report on the international treatment of central banks and public entities managing public debt with regard to OTC derivatives transactions.

The Regulation on OTC derivatives, central counterparties and trade repositories (EMIR) imposes obligations on various actors in the derivatives markets. It implements at EU level the reforms of the OTC derivative market as agreed at the 2009 G20 summit in Pittsburgh.

According to Article 1(4) of EMIR, the Unions central banks and Union public bodies charged with or intervening in the management of public debt are exempted from EMIR and are therefore not subject to these obligations.

EMIR gives the Commission power to amend the list of exempted entities by way of a delegated act if it concludes, after assessment, that the exemption of the monetary responsibilities of those third-country central banks from the clearing and reporting obligation is necessary.

On 22 March 2013, the Commission adopted a report concluding that the legislative frameworks of Japan and the United States fulfilled the conditions for exemption from certain EMIR requirements.

This assessment includes four jurisdictions (Australia, Hong Kong, Switzerland and Canada) included in the first assessment but not recommended for an exemption at that time as well as two other jurisdictions (Mexico and Singapore), which requested an assessment.

The assessment concludes that the legislative frameworks implementing the OTC derivative reforms agreed in Pittsburgh in 2009 are now fully in place in Australia, Hong Kong, Mexico, and Switzerland, and will be so shortly in Canada and Singapore. Furthermore, in all of these jurisdictions, the legislative frameworks either do or will not apply to central banks and public debt management bodies.

The Commission therefore concludes that Article 1(4) of EMIR should be amended to exempt from certain EMIR requirements the central banks and public bodies charged with or intervening in the management of public debt from Australia, Canada, Hong Kong, Mexico, Singapore and Switzerland.

The Commission will monitor developments in these and other G20 jurisdictions. It will update the report as the reform process in these jurisdictions advances, including by removing certain third countries from the list of exempted entities should the regulatory arrangements in those third countries no longer meet the conditions for an exemption.