

MEMO# 29507

November 19, 2015

ESMA Issues Final Report on Revised Regulatory and Implementing Technical Standards on Reporting Under EMIR

[29507]

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TO: DERIVATIVES MARKETS ADVISORY COMMITTEE No. 83-15
ICI GLOBAL TRADING & MARKETS COMMITTEE No. 58-15
INTERNATIONAL MEMBERS No. 41-15
ICI GLOBAL REGULATED FUNDS COMMITTEE No. 72-15 RE: ESMA ISSUES FINAL REPORT ON REVISED REGULATORY AND IMPLEMENTING TECHNICAL STANDARDS ON REPORTING UNDER EMIR

On November 13, 2015, the European Securities and Markets Authority (“ESMA”) published an update of the Regulatory and Implementing Technical Standards (“RTS/ITS”) on data reporting requirements under Article 9 of the European Markets Infrastructure Regulation (“EMIR”). [1] The RTS include a list of reportable fields and a definition of the content of those fields. The RTS also describe: (i) how to report in the situation when one counterparty reports on behalf of the other counterparty; (ii) the reporting of trades cleared by a central counterparty; and (iii) start date for reporting valuations and information on collateral. The ITS consist of a list of reportable fields prescribing formats and standards for the content of the fields. The ITS also define the frequency of valuation updates and various modifications that can be made to the report and describe the timeframe by which all trades should be reported.

Since the implementation of EMIR reporting in 2013, [2] ESMA has issued a series of Q&As dealing with the “most urgent issues and clarifying some interpretations” of data fields of the RTS/ITS. The draft RTS/ITS incorporate several key Q&As. The draft RTS/ITS also are intended to align the reporting requirements under EMIR and the Markets in Financial Instruments Regulation (“MiFIR”) to the extent possible without significant changes to the RTS/ITS.

The Final Report is available at

http://www.esma.europa.eu/system/files/2015-esma-1645_-_final_report_emir_article_9_rts_its.pdf. In the Final Report, ESMA, among other things, has:

- Clarified that the “Reporting Counterparty ID” description (Table 1 Field 9) should be

defined as the “Unique code identifying the reporting counterparty of the contract.” This change is expected to make it clear that the reporting counterparty is a counterparty to the contract and not the entity submitting the report.

- Adopted a new field containing the country of the other counterparty, which would be the code of the country where the registered office of the counterparty is located.
- Decided to split “value of collateral field” into “initial margin posted” and “variation margin posted” and to introduce two additional fields for the “initial margin received” and the “variation margin received.” ESMA also is introducing additional fields to capture excess collateral posted or received.
- Determined to permit negative prices or values in certain fields (including value of contract, price/ rate, notional, and strike price).
- Facilitated the use of multiple reports for complex derivative products by introducing the field “Complex trade component ID.” This field, internal to the reporting firm, must be used to identify all the reports related to the same execution of a combination of financial instruments. Counterparties must agree on the number of reports submitted per complex derivative.

Next Steps

ESMA’s final draft RTS/ITS have been sent to the European Commission, which can endorse, endorse with amendments, or reject the RTS/ITS. Thereafter, the European Parliament and the Council will have a period to object.

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endnotes

[1] See Review of the Regulatory and Implementing Technical Standards on reporting under Article 9 of EMIR, ESMA/2015/1645 (November 2015) (“Final Report”). The Final Report builds upon the consultation paper issued late last year. See Review of the Regulatory and Implementing Technical Standards on reporting under Article 9 of EMIR, ESMA/2014/1352 Annex 1 (November 2014) (“Consultation Paper”), available at http://www.esma.europa.eu/system/files/esma-2014-1352_consultation_paper_on_the_review_of_emir_reporting_standards_under_article_9_0.pdf.

[2] See Commission Delegated Regulation (EU) No 148/2013 (December 2012), available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:052:0001:0010:en:PDF>.