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PUBLIC STATEMENT

The ESAs propose to adapt the EMIR implementation timelines for intragroup contracts with third-country group entities

The European Supervisory Authorities (ESAs) have today published a final report with draft regulatory technical standards (RTS) proposing to amend the Commission Delegated Regulation[1] on bilateral margin requirements and a final report with draft RTS proposing to amend the Commission Delegated Regulations[2] on the clearing obligation .

Intragroup transactions

The proposed amendments relate to the temporary regime for intragroup OTC derivative contracts where one counterparty is established in a third country and the other counterparty is established in the Union. This temporary regime is due to expire on 30 June 2022.

The ESAs are of the view that a review of the EMIR framework for intragroup exemptions for contracts with third countries, and its interaction with CRR, would be desirable. Taking into account the possible negative consequences if the deferred dates of application were not extended beyond 30 June 2022 as well as the scheduled upcoming reviews of EMIR which offer the possibility to address the mentioned challenges, the draft RTS are proposing to extend the temporary regime by three years.

Risk-based supervision

The ESAs are mindful that the approval process for the aforementioned RTS may take some time. Therefore, from 1 July 2022 and until the end of the approval process of these RTS, the ESAs expect competent authorities not to prioritise their supervisory actions with respect to the related requirements applicable to intragroup transactions and to generally apply their risk-based supervisory powers in their day-to-day supervision of applicable legislation in this area in a proportionate manner.

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[1] Commission Delegated Regulation (EU) 2016/2251 of 4 October 2016
[2] Commission Delegated Regulations (EU) 2015/2205, (EU) 2016/592 and (EU) 2016/1178