eurelectric
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Consultation Paper on the Clearing Obligation under EMIR

A Eurelectric response paper

August 2018

Eurelectric represents the interests of the electricity industry in Europe. Our work covers all major issues affecting our sector. Our members represent the electricity industry in over 30 European countries.

We cover the entire industry from electricity generation and markets to distribution networks and customer issues. We also have affiliates active on several other continents and business associates from a wide variety of sectors with a direct interest in the electricity industry.

We stand for

The vision of the European power sector is to enable and sustain:
- A vibrant competitive European economy, reliably powered by clean, carbon-neutral energy
- A smart, energy efficient and truly sustainable society for all citizens of Europe

We are committed to lead a cost-effective energy transition by:

investing in clean power generation and transition-enabling solutions, to reduce emissions and actively pursue efforts to become carbon-neutral well before mid-century, taking into account different starting points and commercial availability of key transition technologies;

transforming the energy system to make it more responsive, resilient and efficient. This includes increased use of renewable energy, digitalisation, demand side response and reinforcement of grids so they can function as platforms and enablers for customers, cities and communities;

accelerating the energy transition in other economic sectors by offering competitive electricity as a transformation tool for transport, heating and industry;

embedding sustainability in all parts of our value chain and take measures to support the transformation of existing assets towards a zero carbon society;

innovating to discover the cutting-edge business models and develop the breakthrough technologies that are indispensable to allow our industry to lead this transition.

Dépôt légal:

WG Financial Regulation & Market Integrity

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Q1: Do you consider that the proposed extension of the temporary intragroup exemption is justified? Please explain.

Commission Delegated Regulations contain a deferred date of application of the clearing obligation for intragroup transactions satisfying certain conditions and where one of the counterparties is in a third country, in the absence of the relevant equivalence decision. The deferred dates are approaching and there have not been any equivalence decisions to the consultation's date with regards to the clearing obligation. Therefore, the consultation paper looks into the reasons to extend the deferred dates of application.

Eurelectric generally thinks that intragroup transactions should not be subject to mandatory clearing as they do not pose any systemic relevance to the system. In the absence of general exemption for clearing of intragroup transactions, Eurelectric very much agree with ESMA's proposal to extend the intragroup exemption for OTC derivatives, as proposed in the consultation. ESMA's proposal is reasonable as the extension of the exemption seeks to reduce systemic risk and avoid the uncertainty related to the possible duplicative or conflicting effects on market participants that a lack of the exemption would cause in absence of an equivalence decision.

On the question appearing in the consultation paper (page 17) but not in this form [Do you identify other benefits and costs not mentioned above associated to the proposed approach? If you advocated for a different approach in the responses to the previous question, how would you it impact this section on the impact assessment? Please provide details]:

We noticed that clearing is costly and not justified since the deals are intragroup. Companies are already facing many costs due to MiFID II as well as from other regulations. Therefore, if we add the cost of clearing up the internal deals with regards to CDS and IRS, NFC+ market players would experience the regulatory costs to increase even further.

Q2 : Do you agree with the proposed approach to migrate the conditions of the two Delegated Regulations on the clearing obligation into the new technical standards developed under Article 4(6)? If not, what new information should be taken into account to decide on a different approach and different conditions?

Our understanding is that this issue only affects NFC+. Nevertheless, we can generally agree that we consider the proposed extension of the temporary intragroup exemption as justified and necessary as far as the dates are approaching and there have not been any equivalence decisions. The new Regulatory technical Standard amends the three Commission Delegated Regulations by extending the deadline for clearing the intragroup CDS and IRS con-tracts. The new date (21 December 2020) will bring simplification and will be aligned for the two kind of products (CDS and Interest-rate derivatives)

Eurelectric pursues in all its activities the application of the following sustainable development values:

Economic Development

- Growth, added-value, efficiency

Environmental Leadership

- Commitment, innovation, pro-activeness

Social Responsibility

- Transparency, ethics, accountability

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