

Annex

EMIR Classification

The information contained in this Annex is provided for your reference only and shall not be taken as legal advice. Please seek professional advice if you need assistance with classifying yourself under EMIR.

EMIR classifies two main categories of counterparty to an OTC derivatives contract:

- i. **Financial Counterparties ("FC" or "FCs")** – includes banks, insurers, investment firms, fund managers, spread betting firms and pension schemes;¹⁸ and
- ii. **Non-Financial Counterparties ("NFC" or "NFCs")** – any counterparty that is not classified as a financial counterparty including entities not involved in financial services.¹⁹

Further, NFCs are divided into two sub-categories:

NFC+

A "NFC+" is an NFC that has outstanding derivative transactions with a notional value which exceed any of the following thresholds:

- (a) EUR 1 billion in gross notional value for OTC credit derivative contracts
- (b) EUR 1 billion in gross notional value for OTC equity derivative contracts
- (c) EUR 3 billion in gross notional value for OTC interest rate derivative contracts
- (d) EUR 3 billion in gross notional value for OTC foreign exchange derivative contracts
- (e) EUR 3 billion in gross notional value for OTC commodity derivative contracts and other OTC derivative contracts not defined under points (a) to (d)

Derivative transactions entered into for hedging or risk reduction purposes will not be counted for the calculation of the thresholds. In calculating the positions above, the NFC will need to include all non-hedging OTC derivative contracts entered into by other non-financial entities across the group, producing a single calculation and status for all NFCs within the group.

If a threshold is breached by a client in any one category, a client will become an NFC+ for all categories of derivatives. The threshold will be measured on a rolling average basis over 30 working days.

NFC-

An NFC which has not breached such thresholds will be an "NFC-".

¹⁸ As defined in EMIR, "FC" or "financial counterparty" means an investment firm authorised in accordance with Directive 2004/39/EC, a credit institution authorised in accordance with Directive 2006/48/EC, an insurance undertaking authorised in accordance with Directive 73/239/EEC, an assurance undertaking authorised in accordance with Directive 2002/83/EC, a reinsurance undertaking authorised in accordance with Directive 2005/68/EC, a UCITS and, where relevant, its management company, authorised in accordance with Directive 2009/65/EC, an institution for occupational retirement provision within the meaning of Article 6(a) of Directive 2003/41/EC and an alternative investment fund managed by AIFMs authorised or registered in accordance with Directive 2011/61/EU.

¹⁹ As defined in EMIR, "NFC" or "non-financial counterparty" means an undertaking established in the European Union other than a central counterparty ("CCP") or an FC, where CCP means a legal person that interposes itself between the counterparties to the contracts traded on one or more financial markets, becoming the buyer to every seller and the seller to every buyer.