



## CNMV NOTICE ON THE OBLIGATION TO EXCHANGE COLLATERAL FOR OTC DERIVATIVE CONTRACTS FROM 1<sup>st</sup> MARCH 2017

Madrid, 27 february 2017

In accordance with Article 11.3 of EMIR<sup>1</sup>, financial institutions and non-financial entities, whose activity on OTC derivatives exceeds certain thresholds, must have procedures in place to exchange variation margin, regarding bilateral contracts which are not cleared by a CCP. This requirement has been developed through a regulatory technical standard published in the Official Journal of the European Union (OJ) on December 15, 2016<sup>2</sup>, which stipulates that entities shall exchange variation margin with their counterparts as from 1 March 2017.

Some entities are in a difficult position to comply with this requirement by the 1<sup>st</sup> of March, in particular regarding the amendment of contractual agreements. These issues have been echoed by the European Supervisory Authorities<sup>3</sup> and IOSCO<sup>4</sup> in separate press releases published on 23 February 2017.

In line with those statements, the CNMV, which generally applies a risk-based approach to its supervisory tasks, will take into account the aforementioned difficulties and the specific circumstances of the entities affected when assessing the degree and timing of compliance.

In any case, the CNMV expects that entities having difficulties to comply by March 1, 2017, will take the necessary measures to comply without exception as soon as possible by implementing an effective and realistic plan. The CNMV expects that compliance will be widespread within weeks or a few months and will carry out specific supervisory actions to verify it.

<sup>1</sup> Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC Derivatives, central counterparties and trade repositories

<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32012R0648&from=EN>

<sup>2</sup> Commission Delegated Regulation (EU) completing Regulation (EU) No. 648/2012 as regards regulatory technical standards on risk reduction techniques applicable to OTC derivative contracts not compensated by a Central counterparty

<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R2251&from=EN>

<sup>3</sup> <https://esas-joint-committee.europa.eu/Publications/Statements/Statement%20-%20Variation%20margin%20exchange%20under%20the%20EMIR%20RTS%20on%20OTC%20derivatives.pdf>

<sup>4</sup> <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD556.pdf>