

Mr Werner Langen
Member of the European Parliament
European Parliament
Rue Wiertz 60
B-1047 Brussels
BELGIUM

26 November 2018

Dear Member of the European Parliament,

The European Market Infrastructure Regulation (EMIR)

I write to you regarding current discussions of the proposed amendments ("EMIR Refit") to the European Market Infrastructure Regulation (EMIR).

BusinessEurope strongly supports upholding the existing exemptions for non-financial counterparties (NFCs) which use 'over-the-counter' (OTC) derivatives in conjunction with risk mitigation of underlying real economic risks. The retention of the hedging exemption is crucial for the real economy and end-users should not be discouraged from entering into OTC derivative transactions for hedging purposes.

We welcome and support that the European Commission, Parliament and Council have each proposed to move to an *asset-by-asset class assessment* for the clearing obligation.

Forcing companies to post margins for their hedging activities would act as a deterrent by introducing an additional layer of liquidity risk for corporates, as NFCs would often have to hold bank credit lines in order to be able to meet daily margin calls (whereas the underlying commercial risk being hedged is typically longer term and unlikely to produce offsetting *daily* cash movements).

Requiring NFCs to raise such liquidity could significantly increase costs, weaken their balance sheets and possibly deteriorate their rating, whilst the liquidity posted will not be available for much needed investments, slowing down the recovery of the EU economy.

It should follow, when clearing will be on an asset-by-asset class basis, that bilateral margining will apply to NFCs on the same basis as for the clearing obligation, i.e. only for the particular asset class(es) affected.



Whilst welcoming the trilogue proposal to ring-fence transactions to the affected asset class when the clearing thresholds are crossed, the cost savings would be limited if all other (non-affected) asset classes would still require bilateral collateralisation. The scheduled reliefs to make the clearing obligation more proportionate should therefore explicitly include the bilateral collateral exchanges too.

We therefore strongly support the Parliament's proposal that Article 11(3) EMIR (bilateral margining) should be amended in line with the proposed amendment to Article 10 (1) b (clearing obligation).

We hope that you share our view and remain at your disposal should you wish to discuss this further.

Yours sincerely,

Markus J. Beyrer