

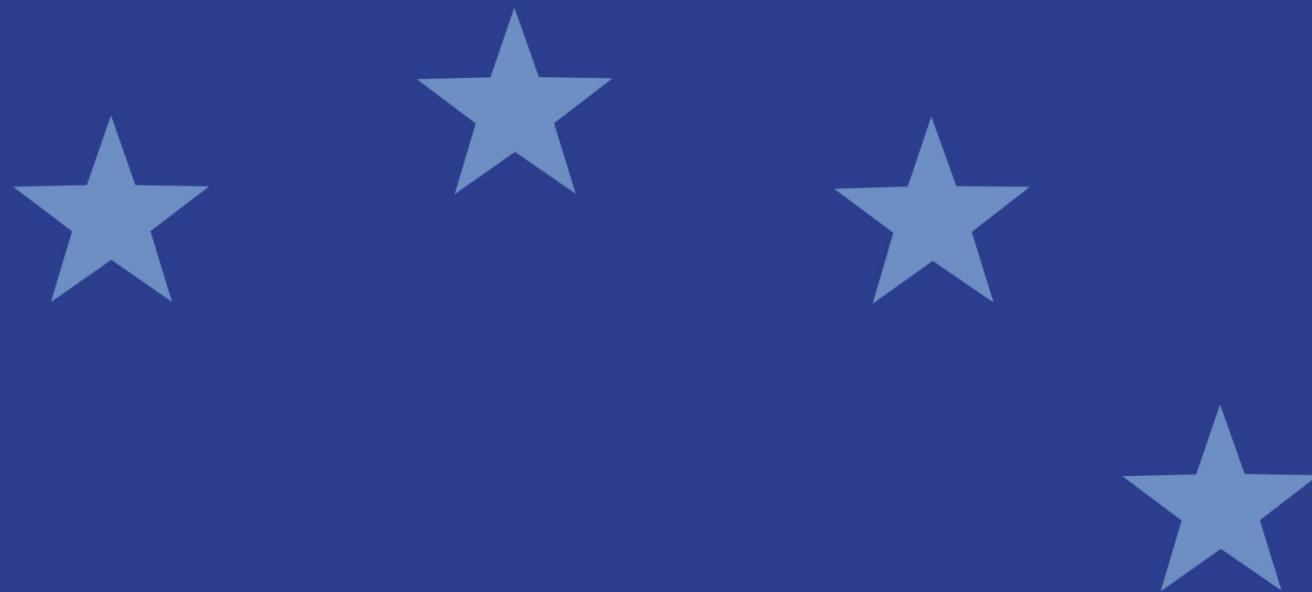


European Securities and
Markets Authority

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The clearing obligation and OTC FX derivatives

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Agenda

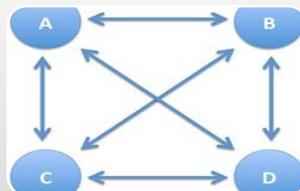
The Clearing
Obligation Process

The Clearing
Obligation with respect
to OTC FX derivatives

Next steps

What is the Clearing Obligation under EMIR ?

- ✓ The obligation to clear with a Central Counterparty (CCP) contracts belonging to a certain class of OTC Derivatives
- ✓ Classes and phase-in to be defined in Regulatory Technical Standard (RTS) drafted by ESMA



What?

- the classes to be subject to the clearing obligation
- the contracts to be frontloaded



When?

- The dates from which the obligation applies
- the phase-in per type of counterparties



How?

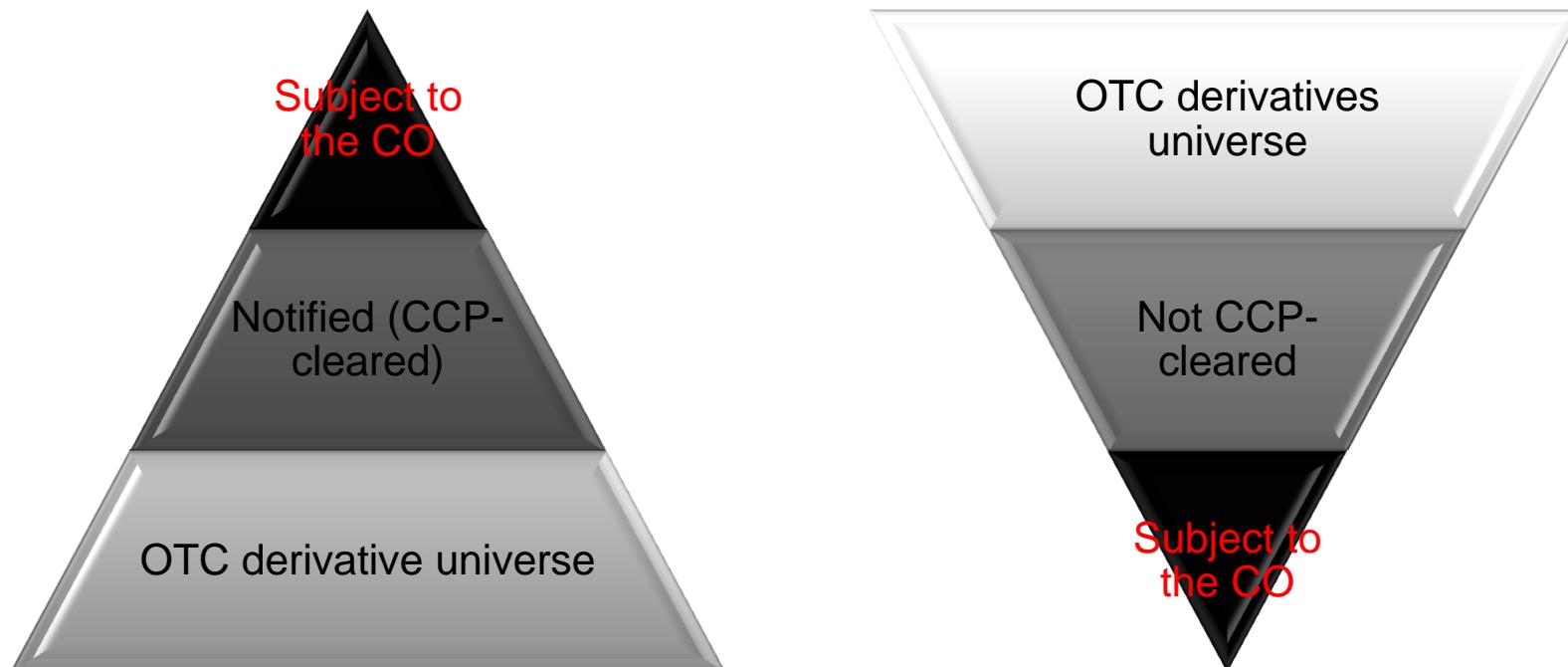
- Systemic relevance
- Liquidity
- Level of standardisation

How can the clearing obligation be established?

Two possible processes

Bottom-up – Article 5(1)

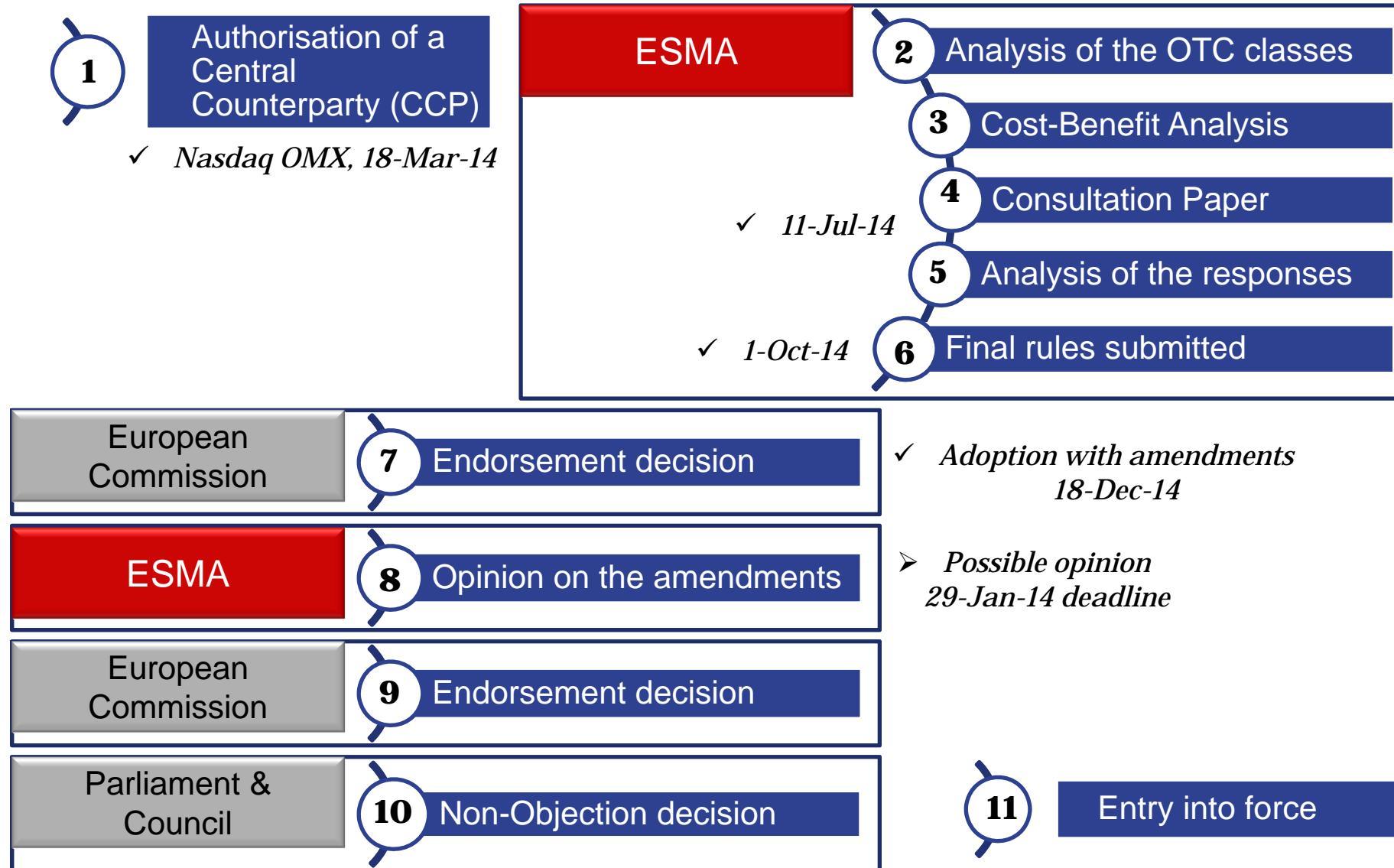
Top-Down – Article 5(3)



Overview of the CCPs clearing OTC derivatives in Europe

#	CCP Name	Country	Authorised on	OTC Interest Rate	OTC Credit	OTC Commodity	OTC Equity	OTC FX
1	Nasdaq OMX Clearing AB	SE	18-Mar-14	1			1	
2	KDPW_CCP	PL	08-Apr-14	1				
3	Eurex Clearing AG	DE	10-Apr-14	1				
4	LCH.Clearnet SA	FR	22-May-14		1			
5	European Commodity Clearing (ECC)	DE	11-Jun-14			1		
6	LCH.Clearnet Limited	UK	12-Jun-14	1		1	1	1
7	CME Clearing Europe	UK	4-Aug-14	1		1		
8	LME Clear	UK	3-Sept-14			1		
9	OMI Clear	PT	31-Oct-14			1		
10	Holland Clearing House	NL	12-Dec-14				1	
11	ICE Clear Europe	UK			1			1
Number of CCP per asset class				5	2	5	3	2

Clearing Obligation Process: Example of the IRS Classes



3 Clearing Obligation procedures launched in 2014

Interest Rate



- Consulted (11/07)
- 51 responses
- Final Report submitted (01/10)
- Intention to adopt with amendments (18/12)

Credit



- Consulted (11/07)
- 35 responses
- Final report pending validation of the first RTS

NDF



- Consulted (01/10)
- 38 responses

Non-deliverable forwards proposed to be cleared

Standardisation

Liquidity

Pricing
information

Id	Type	Currency Pair	Settlement Currency	Settlement Type	Maturity
C.1.1	NDF	BRL / USD Brazilian Real / U.S. Dollar	USD	Cash settlement	3D-2Y
C.1.2	NDF	CLP / USD Chilean Peso / U.S. Dollar	USD	Cash settlement	3D-2Y
C.1.3	NDF	CNY / USD Chinese Yuan / U.S. Dollar	USD	Cash settlement	3D-2Y
C.1.4	NDF	COP / USD Colombian Peso / U.S. Dollar	USD	Cash settlement	3D-2Y
C.1.5	NDF	IDR / USD Indonesian Rupiah / U.S. Dollar	USD	Cash settlement	3D-2Y
C.1.6	NDF	INR / USD Indian Rupee / U.S. Dollar	USD	Cash settlement	3D-2Y
C.1.7	NDF	KRW / USD Korean Won / U.S. Dollar	USD	Cash settlement	3D-2Y
C.1.8	NDF	MYR / USD Malaysian Ringgit / U.S. Dollar	USD	Cash settlement	3D-2Y
C.1.9	NDF	PHP / USD Philippine Peso / U.S. Dollar	USD	Cash settlement	3D-2Y
C.1.10	NDF	RUB / USD Russian Ruble / U.S. Dollar	USD	Cash settlement	3D-2Y
C.1.11	NDF	TWD / USD Taiwan Dollar / U.S. Dollar	USD	Cash settlement	3D-2Y

How to determine the dates of application ?

Criteria relevant for the determination of the dates of application

Relevant for categories

- ✓ *Type and number of counterparties*
- ✓ *Risk management and legal and operational capacity of counterparties*
- ✓ *Time needed for counterparties to start clearing*

Relevant for phase-in periods

- ✓ *Expected volumes*
- ✓ *Whether more than one CCP already clear the class*
- ✓ *Ability of the CCP to handle the expected volume and manage the risk*

Reference: EMIR Article 5(5)

Dates of application – Phase-in

Phased-in dates of application, from the entry into force

Category 1 6 Months

Clearing Members

In at least one class subject to the clearing obligation (Class+)

Of at least one CCP authorised to clear on Class+

Category 2 12 Months

*Large** Financial counterparties not in Category 1

*Large** NFC+ that are alternative investment funds

Category 3 18 Months

*Small** Financial counterparties

*Small** NFC+ that are alternative investment funds

Category 4 3 Years

Non-financial counterparties not included in any of the above

() The difference between “Large” and “Small” is performed on the basis of a quantitative threshold: 8bn in non-cleared OTC derivatives, outstanding, at group level*

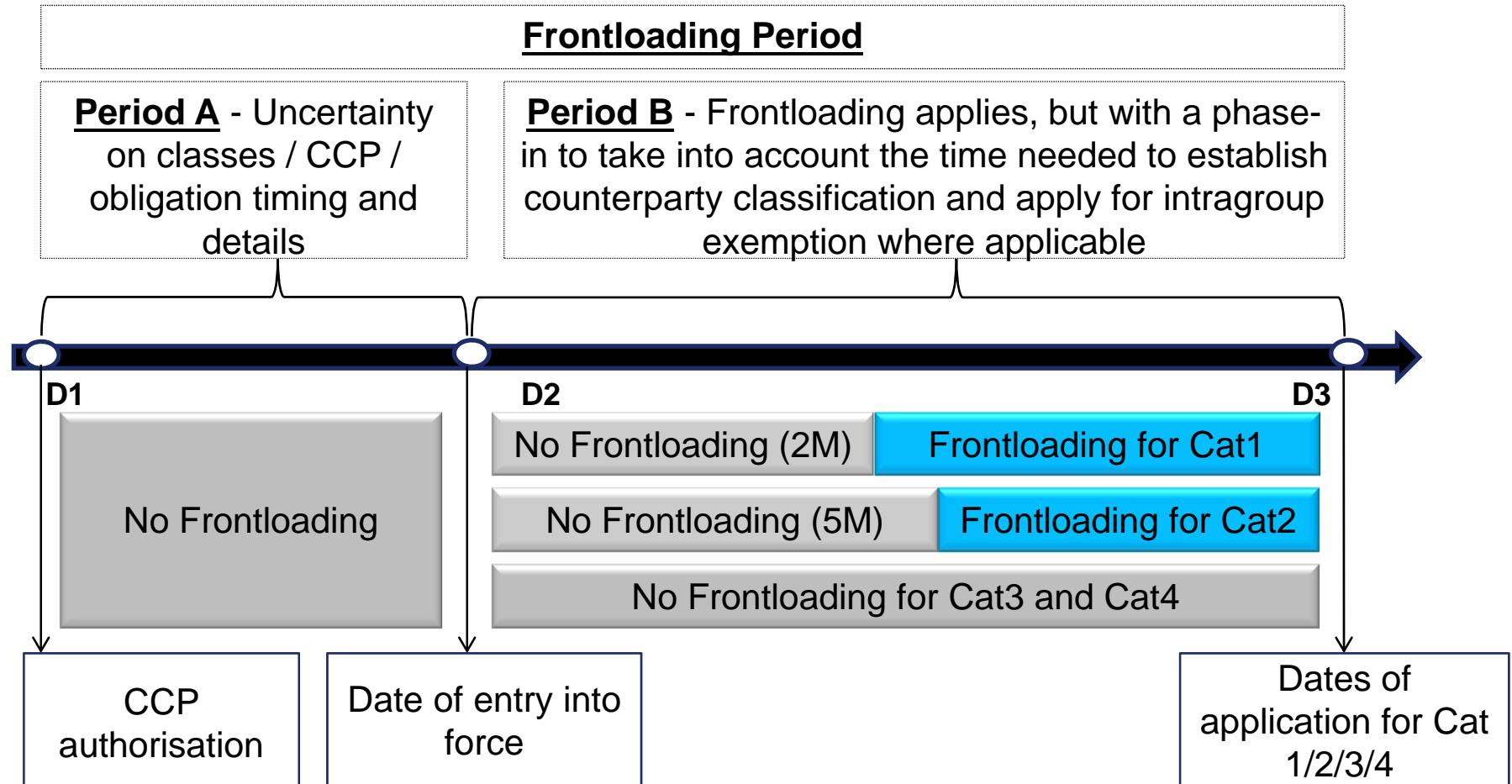
NDF consultation responses - Classes

Structure of the NDF classes	Overall supportive Use of non-modified EMTA templates
Proposed set of NDF classes	Mixed responses, with more comments on the timing of the obligation than on the specific classes (liquidity and systemic risk)
Maximum maturity	Need for international coordination not to risk market liquidity fragmentation Split answers Majority agreed it should be 1Y or less

NDF consultation responses – Categories and phase-in

	Number of authorised and recognised CCPs
Concerns on setting the obligation now	Recent offering (whether sufficient experience to handle disruption events)
	Capacity to support clearing obligation (number of clearing members and members offering client clearing)
Consistent Categories	Broad consensus for consistency in definition of categories across IRS, CDS and NDF
	Preference for a non-cumulative Category 1
Long Phase-in	If clearing obligation to go through then long phase-in to address issues and have international coordination
Frontloading	Consistent feedback with IRS & CDS consultations
	Minimum remaining maturity of 6M

Frontloading



- ✓ **NFC+ not subject to frontloading (as per Level 1)**
- ✓ **Category 3 not subject to frontloading (as per draft RTS on clearing obligation)**

Next steps

Finalisation of the pending RTS	Rates and Credit NDF decision
Third-country CCPs	Clearing obligation process triggered by recognition of TC-CCPs 10 CCPs in the “equivalent” countries (Japan, Hong-Kong, Singapore, Australia) incl. some clearing OTC
Other classes	Extension of clearing offerings EMIR Recital on settlement risk



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Thank you

