

# EUROPEAN MARKET INFRASTRUCTURE REGULATION (EMIR)

## RISK MITIGATION

This document provides information for clients established in the European Economic Area (EEA) that execute OTC derivative products with BNP Paribas Fortis

### SUMMARY OF OBLIGATIONS AND DEADLINES:

EMIR introduced a number of risk mitigation obligations with respect to non-cleared OTC derivatives contracts. These obligations have been phased in since 2013 (as set out below) and bilateral margining has also been added since 2017.

The following risk mitigation obligations came into force gradually since 15 March 2013:

- The obligation on all financial and non-financial counterparties to obtain timely confirmation of new OTC derivatives transactions. There are no exceptions to this requirement for EU established financial and non-financial counterparties within the scope of EMIR.
- The obligation that all financial counterparties and non-financial counterparties (exceeding the clearing threshold) perform daily mark-to-market valuations for their non-cleared OTC derivatives transactions.
- Portfolio reconciliation, dispute resolution and portfolio compression

### RECONCILING PORTFOLIOS AND RESOLVING DISPUTES

#### What are our obligations?

- The basic requirements are that:
  - » Counterparties must agree processes, either directly with each other or through a qualified third party (such as TriOptima), for portfolio reconciliation (PR) of non-cleared (collateralised or non-collateralised) OTC derivatives; and
  - » Counterparties must also agree on monitoring and dispute resolution (DR) in a timely manner, with a specific escalation process for those disputes that are not resolved within five business days. BNP Paribas Fortis will have to report to its Competent Authority any disputes that are outstanding for more than 15 business days where the amount in dispute is over 15 Million EUR.
- These obligations are imposed directly on all EU established financial counterparties (FC), non-financial counterparties (NFC) and non-financial counterparties which exceed the clearing threshold (NFC+) and who enter into OTC derivative contracts which are not cleared.
- Since 15 September 2013, PR and DR processes should be agreed between counterparties before trading.

The frequency with which PR needs to be undertaken depends upon the classification of the counterparty as an FC/NFC+ or an NFC and the number of trades outstanding between the relevant counterparties:

Type of counterparty	Portfolio size	Frequency
Financial or NFC+	Portfolio $\geq$ 500 swaps	Daily
	50 swaps > portfolio > 500 swaps	Weekly
	Portfolio $\leq$ 50 swaps	Quarterly
NFC	Portfolio > 100 swaps	Quarterly
	Portfolio $\leq$ 100 swaps	Yearly



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## What is portfolio reconciliation?

A portfolio reconciliation process enables two counterparties to undertake a comprehensive review of a portfolio of transactions with a view to identifying any discrepancies of material trade terms.

## What reconciliation options are available?

BNP Paribas Fortis is proposing three options to facilitate compliance with the portfolio reconciliation obligation:

- **One-way delivery (or circularisation):**
  - » BNP Paribas Fortis provides portfolio data to its counterparty
    - » BNP Paribas Fortis' counterparty reviews the portfolio data and identifies discrepancies. In order to facilitate the process BNP Paribas Fortis proposes a "negative affirmation" approach (i.e. that the portfolio data is deemed accepted unless discrepancies are identified in a pre-defined timeframe)
  - » Both BNP Paribas Fortis and its counterparty resolve portfolios breaks in a timely fashion.
- **TriOptima adherent reconciliation:**
  - » Each Party provides portfolio data to TriOptima
  - » TriOptima performs a reconciliation of such portfolio data
  - » Each party reviews the portfolio data in accordance with the relevant notice dates or the applicable frequency as set out above
  - » Portfolio breaks to be resolved in a timely fashion
- **Bilaterally agreed process:**
  - » Each Party provides portfolio data to the other Party in accordance with the notice procedures agreed bilaterally
  - » Either Party performs a reconciliation of such portfolio data (as agreed bilaterally in the documentation between them)
  - » Portfolio breaks to be resolved in a timely fashion.

## What documentation will need to be put in place between BNP Paribas Fortis and its counterparties in relation to portfolio reconciliation and dispute resolution?

The necessary arrangements for portfolio reconciliation between BNP Paribas Fortis and you as a counterparty are laid down in the bilateral Master Agreement ISDA or EMA, or by both parties adhering to the ISDA protocol.

