PUBLICATIONS

Proposed Changes to Europe's Derivatives Regulatory Structure: EMIR & MIFID II

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The recent financial crisis and the failures of Bear Stearns in March 2008 and AIG and Lehman Brothers in September 2008 have focused regulators' interest on over-the-counter (OTC) derivatives. Particular attention has been given to the deficiencies in OTC derivatives markets regarding the way in which counterparty credit risk is managed and the lack of transparency which the European Commission believes may lead to a lack of liquidity and, potentially, limit regulators' ability to monitor risks in those markets.

During the G20 summit in Pittsburgh in September 2009, it was agreed by the G20 nations that OTC derivatives transactions should be cleared through central counterparties (CCPs) by the end of 2012 and that such transactions should be reported to trade repositories. Following this commitment, the Commission proposed in September 2010 a Regulation on Derivatives Transactions, Central Counterparties and Trade Repositories (also known as the European Market Infrastructure Directive (EMIR or the Regulation)), together with parallel legislative proposals to revise MiFID (the revisions are known as MiFID II) which followed in December 2010. Together, EMIR and MiFID II form a core part of the overall strategy of the Commission to harmonise financial regulation and is set substantially to change EU market practices within the backdrop of other global initiatives such as the Dodd-Frank Wall Street Reform and Consumer Protection Act in the U.S.

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