

# EUROPEAN MARKET INFRASTRUCTURE REGULATION (EMIR)

## COUNTERPARTY CLASSIFICATION

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 (also known as the European Market Infrastructure Regulation or "EMIR") came into force on the 16th August 2012. EMIR resulted in the creation of classifications, which all parties have to assess and disclose their own to their counterparties. This classification is then used to determine whether certain risk mitigation techniques required under EMIR are applicable.

### Financial counterparty ("FC") or Non-Financial counterparty ("NFC")?

In order to determine your status under EMIR, you will need to consider the definitions of a financial counterparty and non-financial counterparty under EMIR.

In broad terms, a financial counterparty is an authorised or regulated bank, investment firm, insurance, reinsurance or assurance undertaking, an alternative investment fund managed by alternative investment fund managers, a UCITS or pension fund.

If you are not a financial counterparty as defined under EMIR, by default you will be an NFC if you are an undertaking established in the European Union.

### NFC or NFC+?

You will then need to determine if you are simply a NFC or, more importantly, a NFC+, by undertaking the clearing threshold assessment.

**Non-Financial Counterparty below the clearing threshold (or "NFC-")** – This will be the most likely classification if you are a non-regulated commercial entity undertaking OTC derivatives business for hedging purposes.

**Non-Financial Counterparty above the clearing threshold (or "NFC+")** – This will be the most likely classification if you are a commercial entity undertaking large volumes of OTC derivatives business for investment rather than hedging purposes.

If you are an NFC, you will be treated as being over the "clearing threshold" if, on any given day, the aggregate gross notional value of the positions in "non-hedging" OTC derivatives transactions that you and all other NFCs in your group have with all your OTC derivatives counterparties exceeds any one of the following asset-specific clearing thresholds:

- €1 billion for credit derivatives
- €1 billion for equity derivatives
- €3 billion for interest rate derivatives
- €3 billion for FX derivatives, and
- €3 billion for commodity and other derivatives

### FC or SFC?

A Small Financial Counterparty (SFC) is a Financial Counterparty whose positions calculated at group level do not exceed any of the clearing thresholds set (including hedging transactions in calculation). SFCs are no longer subject to the EMIR clearing obligations but are still subject to reporting and margin requirements.



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## EMIR CORPORATE SECTOR

The EMIR Corporate Sector gives more granularities on the type of business undertaken by the counterparty. The values available represent the taxonomy provided directly by the ESMA (European Securities and Market Authority).

Counterparties accepting that BNPP reports on behalf their counterparty data will have to give the correct value for this field and advise in case this value changes.

