

PUBLIC STATEMENT

ESMA will not exempt the collateralisation of bank guarantees for energy derivatives under EMIR

The European Securities and Markets Authority (ESMA) has decided not to further extend the existing grace period of three years for the non-financial firms' use of non-collateralised bank guarantees to cover transactions in energy derivatives cleared by European central counterparties (CCPs). ESMA therefore reminds firms concerned that from 15 March 2016 CCPs authorised under the European Market Infrastructure Regulation (EMIR) will need to fully collateralise commercial bank guarantees used to cover transactions in derivatives relating to electricity or natural gas produced.

ESMA assessed the need to further extend the grace period and has considered that an extension would not be appropriate for the following reasons:

- allowing fully uncollateralised commercial bank guarantees could mean an undue source of risk for CCPs;
- the existing 3y-grace period seems sufficient for the wholesale energy market to prepare for the incoming collateral obligations;
- some European CCPs already have implemented the EMIR requirements;
- EMIR requires that a CCP only accepts highly liquid collateral with minimal credit and market risk; and
- a new postponement would maintain a discrepancy with international standards such as the CPMI-IOSCO Principles for Financial Market Infrastructures.

ESMA expects the concerned stakeholders to take the necessary steps to be ready to implement the collateral obligation regarding commercial bank guarantees by March 2016.