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DG FISMA  
European Commission

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**Subject: Follow-up to our meeting of 19 October**

Dear Ms Fabregas Fernandez,

I am writing to you as a follow-up of our meeting that took place on 19 October with yourself and Commissioner Dombrovskis staff. We would very much like to thank you for taking the time to meet with the EACT delegation and for having had a constructive dialogue on the EMIR review.

As a follow-up to the meeting, we would like to share with you a brief summary of our analysis on the impact of the different EMIR obligations to non-financial counterparties, which we hope can help you assess the burden on non-financial corporates. We have annexed to this letter data and examples collected from our members.

**Hedging exemption**

EMIR rightfully exempts non-financial companies' hedging transactions from the obligation to centrally clear or to post bilateral margin.

ESMA has challenged this exemption without quantifying the impact mandatory clearing and margining would have on the European economy. Such a drastic change of EMIR would force NFCs to mobilise billions of euros for meeting these requirements, thereby reducing funds available for investment in the real economy. Indeed, if applied to large NFC-s as presented in ESMA's report, **initial margin requirements would amount to between 100 and 200 billion euros depending on NFCs' portfolios, according to our estimations<sup>1</sup>**. The amount of variation margin is

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<sup>1</sup> ESMA reports shows (table 4) that large NFC- have a notional portfolio of EUR 3 395 397 mn. Initial margin requirements are

dependent on unforeseen market movements and therefore very difficult to estimate in advance.

There are very valid reasons why NFCs cannot move to using exchange-traded derivatives or centrally cleared OTC derivatives. Exchange-traded derivatives have standardised cash flow dates that do not match the flexibility required by the complex diversity of the real economic world. Collateralisation drastically increases liquidity risk and funding costs through the requirement to post cash collateral. **Posting cash collateral based on unknown future financial market movements will place an excessive burden on companies.** Underlying commercial cash flows can be forecast with reasonable confidence, whereas FX and interest rate volatility cannot – otherwise companies would not hedge. **The economic effect of the requirement to provide cash collateral is to convert long-term counterparty risk against immediate liquidity risk – a risk that can trigger immediate insolvency.** This kind of risk transfer and further distribution to risk takers is one of the macro-economic purposes of the existence of the financial sector. Non-financial companies are highly experienced in managing their counterparty risk with financial institutions; managing liquidity risk in collateral requirements is substantially more difficult for them.

Pushing NFCs to move to central clearing would not make the system overall safer, as risk would simply be moved from financial institutions –where this risk can be dealt with – to non-financial companies that are less equipped to deal with the liquidity risks involved. Furthermore, NFCs would have to have credit lines at banks in order to hope to face margin calls, which would add another layer of counterparty risk for banks also. In a worst case, it could create stress on the liquidity of companies or force them to stop hedging. This in turn would create volatility and business risk.

In this context it is worth noting that unlike financial institutions, NFCs do not have access to central bank liquidity and their assets are much more illiquid than financial institutions' assets, which makes facing margin calls even more risky and difficult for NFCs.

We consider that one major change that should be introduced with respect to the current clearing obligations is to limit the obligation for NFC+s to centrally clear transactions only to the asset class where the clearing threshold has been exceeded. In our view the current design is illogical and counterproductive from a broader economic perspective. NFC+s should have an obligation to centrally clear or exchange margin only their non-hedging transactions for the asset class above the clearing threshold but should benefit from the same exceptions as NFC-s for their hedging transactions. All the above considerations concerning liquidity and other risks apply to NFC+s' hedging transactions as well. Imposing variation margin on hedging transactions below the clearing thresholds will expose NFC+s to daily volatility up to the settlement date of the underlying commercial transaction and will entail higher

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between 4% and 6% depending on the asset class and physically settled FX transactions are excluded from initial margin requirements.

levels of working capital. This will divert financial resources that could otherwise be invested in the real economy.

### **Reporting requirements**

When responding to the Commission's public consultation on EMIR, we surveyed<sup>2</sup> our members on the cost of fulfilling the EMIR reporting requirements.

In terms of the costs incurred by NFCs due to EMIR requirements, the survey asked the respondents to estimate separately the initial costs of EMIR implementation and the costs of annual maintenance of EMIR compliance. For the initial implementation, roughly 70 per cent of respondents indicated the costs to be up to 50 000 euros, 20 per cent between 50 000 and 200 000 euros and 10 per cent indicated to have spent more than 200 000 euros as implementation costs.

As for the annual compliance costs, approximately half of the respondents stated they had costs of 10 000 euros or below, 35 per cent spent between 10 000 and 50 000 euros and 10 per cent between 50 000 and 200 000 and 5 per cent over 200 000 euros.

These costs are made up of different components, including human resources, IT, legal fees, external service providers, annual maintenance cost of Legal Entity Identifiers (it should be noted that all company subsidiaries must have their own LEIs which significantly raises the costs at group level), audit, Trade Repository fees, bank fees etc. The real costs is likely to be higher than these estimations due to the difficulties of calculating accurately human resources costs that represent a big part of EMIR-related expenditure.

More recently we gathered evidence on the impact of EMIR as part of our response<sup>3</sup> to the Commission's call for evidence on EU regulatory framework for financial services. The evidence gathered confirmed the level of expenditure that non-financial companies have had to make in order to be EMIR-compliant. The biggest companies indicated initial implementation costs of above 1.5 million euros and annual maintenance costs of above 200 000 euros. Even smaller companies delegating the reporting have to face significant costs relative to their treasury budget for EMIR compliance.

When looking at these numbers, one should remember that the treasury department that bears those costs is a small specialised function whose headcount resources are very limited: as low as one person for medium size enterprises to around 30 headcount for the largest multinational corporations. When compared with headcount resources, the cost of EMIR is therefore quite significant.

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<sup>2</sup> Survey available on the EACT website: <http://www.eact.eu/docs/EACT-Survey-Report-EMIR-Cost-Compliance-Aug15.pdf>

<sup>3</sup> Response available here: <http://www.eact.eu/docs/EACT-Response-EC-Consultation-Cumulative-Impact-Financial-Reform-31Jan16.pdf>. We have annexed (Annex II) to this letter pages 53-60 and 62-66 of our member survey which illustrate the difficulties faced by NFCs

These survey results are in line with ISDA's estimate that the current total annual cost of maintaining existing reporting architectures for European end-users is estimated to range between €2.4 and €4.6 billion.

Regarding the reporting of intra-group transactions, it is important to note that the number of internal transactions is typically significantly higher than the corresponding external transactions. This is because of two reasons: firstly, due to the way many corporates are structured, the transferring of the risk to the corresponding legal entity (that has caused the covered risk to arise) will be done in multiple transactions, for instance from the central treasury unit to a holding company and subsequently from the holding company to the correct legal entity within the group. Secondly, for accounting reasons certain transactions are internally closed at each month-end and immediately re-opened. Depending on the tenor of the external transaction this will create potentially tens of multiples internally, with a legal obligation to report each transaction.

At the level of the European economy the total compliance cost represents a significant investment by companies. However, **this investment is fundamentally ineffective as it does not contribute to greater financial stability but it drains funds from more productive investment and it could be easily avoided by moving to single-sided reporting and exempting NFCs' intragroup transactions from the reporting requirement.**

### Risk mitigation techniques

Concerning the mandatory risk mitigation techniques such as timely confirmation, portfolio reconciliation and dispute resolution, our members generally consider these to be beneficial aspects of EMIR and providing value for them as they are part of a robust internal control framework for OTC derivatives, fostering reciprocity with financial counterparts, accounting compliance and fraud risk mitigation. Therefore we do not feel that reducing these requirements for NFCs would bring any meaningful relief in terms of the overall burden of EMIR compliance.

We of course remain at your disposal for extending on our concerns at your convenience.

Yours sincerely,

A handwritten signature in black ink, consisting of a series of loops and a long, sweeping tail that extends to the right.

Jean-Marc Servat  
Chair – European Association of Corporate Treasurers

**Annex I – Examples of volume of reported transactions and cost of reporting – two large-sized (NFC-) European corporates (period from 01/2016 to 11/2016)**

**Corporate A**

Total number of transactions reported to a TR	Number of reported external transactions	Number of reported internal transactions	Percentage of internal transactions taking place between two European entities	Annual cost of reporting
<b>17,300</b>	<b>7,800</b>	<b>9,500</b>	<b>97%</b>	<b>Around 500K EUR</b>

The estimated annual cost of reporting is composed as follows:

- 100K EUR personnel expenses (1 headcount),
- 100K EUR cost for trade repository and reconciliation platform as well as
- 300K EUR for IT expenses due to changes in the treasury system triggered by changes in reporting format / validation rules as well as monitoring and maintenance of the interface

**Corporate B**

Total number of transactions reported to a TR	Number of reported external transactions	Number of reported internal transactions	Percentage of internal transactions taking place between two European entities	Annual cost of reporting
<b><u>3,250</u></b>	<b><u>2,210</u></b>	<b><u>1,040</u></b>	<b><u>100%</u></b>	<b><u>Around 110K EUR</u></b>

The estimated annual cost of reporting is composed as follows:

- IT systems 85K EUR
- Admin/HR 15K EUR

**Annex II – extracts of EACT member survey for response to the Commission’s Call for Evidence on EU regulatory framework for financial services (pages 53-60 and 62-66 of our response)**

**Q8 What kind of difficulties has your company faced with EMIR (or Dodd Franck) implementation? Are you able to estimate the cost of implementation?**

<p>Changes and adaptations to the reporting rules are still being made after the implementation date - this is hindering corporates from evolving such processes into a steady state of operation. The timing to implement changes to reporting is not always sufficient to allow for such changes to be adopted as Trade Repositories need to have sufficient time to implement and test the new enhancements in a manner least disruptive to their corporate clients reporting the trades. In turn, corporates would then need to implement these changes, which would require further time for project management. It is felt that the end to end process of implementing a change is not always considered. Interpretation of the rules is sometimes challenging especially at implementation phase when the risk of misinterpretation is noncompliance. Clear guidelines would facilitate smooth implementation for corporates.</p>
<p>Trade Repository cost: 1000 € Implementation - 1 full-time equivalent for 1 month (about 8000 € cost)</p>
<p>Banks are not really able to make correct reports to the Register. There seems to be rather big problems with EMIR reporting and infrastructure within the bank community.</p>
<p>Limited availability of data in time (e.g. UTI) - Details of regulation have been fixed quite late - cost approx. +/- 25k EUR without HR costs</p>
<p>Main difficulty is lack of clarity in implementation details – e.g. interpretation of fields, ownership of issue resolution 50-100k GBP</p>
<p>Understand, implement and update the different templates. DTCC's website not very user friendly.</p>
<p>Huge difficulties. DTCC was initially overwhelmed and not responding to queries. Now they are "back to normal" but provide poor reports, available only a couple of weeks, that are very difficult to read and reconcile with our internal data. Delegated reporting is a blank check to our banks, and some of them were not ready in time so we had to suspend any dealing with them for several months, leading in decreased competitiveness of the deals. We had to adapt our systems to import UTI...which revealed not to be "unique"...so we had to have discussion with every of our counterparties to understand which UTI they were using... Our colleagues in the US had to develop sophisticated systems for the mere sake of reporting intragroup FX hedging transactions when one of the parties is European based (not in scope of Dodd Frank). The cost is certainly over 100,000 USD as a one-off, and likely around 10,000 USD a year for maintenance.</p>
<p>The complexity of the reporting and the size of the reporting in particular when intra group transactions are involved.</p>
<p>EMIR is a complicated regulation for corporates. For instance, we observed difficulties in the reconciliation of portfolios between trade repositories (lack of standardization).</p>

Getting sufficient information from our banks not only what they reported to the Trade Repositories but whether they'd reported. External cost for audit and deal confirmation tool: EUR 20k p.a. Internal costs: rd. EUR 20k p.a. Costs will increase in future as we are currently planning to introduce a Group-wide inhouse FX-hedging
Fees for customization IT System and ongoing Support (Initial 15K and ongoing 10K /Year) Audit Fees (annual 15K EUR) Legal Fees 5K EUR Additional administration fees due to workflow changes (Reporting, Controls, Risk mitigations...) 15 K /Year Continuous adjustment and modification of processes, I T System due to ongoing changes (short-term) by regulators
EMIR regulation was not well defined and we faced a very short term deadlines to put in place the necessary tools to respect it; The ongoing modification of technical standards is time-consuming; We had to be ready in a very short term though the TR and national regulator were not ready at all. The intra-group transactions for corporates are highly cost and time-consuming without any regulatory advantage; Global costs of EMIR implementation is estimated at 6 FTE during a year
Very unclear and unprecise specifications of reporting content unacceptable timeline for implementing an IT-project (providing system updates) in terms of reporting and business processes Dodd-Franck-Act still unclear since nobody can give concrete and reliable guidance complicated wording in the EU-legislation (EMIR) and supporting documents ITS, RTS specifications change often and this is a clear sign of a badly developed standard not harmonized approach of auditing the EMIR-regulation EU-wide not a clear understanding, what a derivative is (mifid annex) implementation costs higher than 100.000 EUR
Significant increase in administrative works: increase in HR costs regular changes in the declaration formats : increase in IT costs. As part of a publicly traded group, statutory auditors conduct every year (for more than 15 years) a circularization of our OTC derivatives, yearly financial report indicates forex exposures and sensitivities => EMIR is double work without added value for the corporate
Yes, EMIR implementation over six core banks is time consuming: different EMIR contracts, different layout of reports. One FTE week
Reporting must be monitored daily and we need to make sure that all trades are matched in the TR. Implementation costs are hard to identify, but with consultants and IT support I would say minimum 500'000USD. In addition to that the costs of TR and the FTE costs of the daily reporting.
As the trade Registers have not been ready when the legislation entered into force, we were not able to make the necessary changes in our systems before. The lead-time was much too short. Still today there is uncertainty whether we will have to report past transactions in a certain format with specific ID numbers. Today we still have to monitor any new developments which might need further measures in our treasury systems. The cost of implementation is estimated at TEUR 200-300.
External implementation costs were around EUR 100k (esp. IT specialists). In addition running cost amount to 1 working day per week for one of my team members to Keep the system running and implement the constant changes that are required
Unclear definition of reporting requirements - ongoing mismatches with bank reportings due to unclear definitions - additional workload for implementation and ongoing surveillance - costs for IT implementation and maintenance, costs for LEI and

trade repository as well as auditor costs (>100kEUR)
Costs ca. 5000-10000 €
It's not really specific costs but effort for it is relatively high especially with regard of implementation. When documentation is in place and banks are following the process to deliver all Information to Repositories, the effort is decreasing. We are not having internal derivatives, hence everything is outsourced to banks.
Substantially increased admin in setup of derivative products with banks - Discontinuation of financial hedging for US legal entities due to Dodd-Frank complexity and inconsistency with EMIR - Requirement to change external counterparties due to Dodd-Frank. Substantially ongoing admin – Reporting of group internal transaction to trade register is absurd - Exception from clearing as corporate hedger is critical, otherwise potential increased cost of double digit million p.a.
A lot of extra work. Short notice introduction with the requirements available very late. Implementation costs were EUR 30,000 -ongoing annual costs are approx. 10,000 (excl. staff costs)
Expensive / endless / useless insufficient coordination with the US and other markets (double reporting / double documentation with banks ...) unclear definitions (even of "derivatives"...) and inconsistency even within Europe (UK...) no economic feedback from the regulator: what was this for?
No added value at all. No resource to develop / buy adequate relevant IT tools to comply with EMIR. Reliance on banks feasible but limited control of what is declared by banks
Due to EMIR/DFA implementation we had to: change our trading platform to be able to confirm our deals on due time, obtain LEI numbers, obligation to confirm our deals through Swift MT940 messages (instead of faxes / emails)
Very bureaucratic and typical German approach with more is better. Why do we need an auditor report?
There are not only costs for implementation. Additional manual work and additional costs on a continuous basis needs to be accepted. None of our customers are willing to pay for that!
The Investments in technical Support sum up to 20k euro and approximately 32 days of project work
Limitation of hedging activities due to limited human resources available to handle regulatory issues.
Initial 100t EUR cost, running 15tEUR lots of admin additional, no value
1. lack of clarity 2. regulation inflation 3. related cost are huge and cannot be calculated BUT fees related to reporting increase by 200% this year.
Implementation was horrible as the requirements have not been fully clear when the reporting obligation was put into effect. System providers were not ready to support in an efficient way. This resulted in a huge manual workload.
Cost: Trade repository + Trioptima + LEI + legal counsel = > 200 KEUR Great difficulties to onboard on DTCC.
We had a lot of HR expenses, because we had to understand the whole EMIR regulation to see how our Group and Head office are affected. It was very difficult because no one really knows what we had to implement and what we have to do. Banks could not help us in this case because they also had no idea how non-financial will be really affected. Then as the head office we also had to inform our international



<p>European and non European companies what we need from them, what EMIR is and what we have to do. Then it is difficult to understand EMIR correctly because so often there are many important changes during a very short time. In Germany we have to get a certificate from our auditor that we are EMIR compliant. The problem was we had to implement an IT system before we really knew if this will be later EMIR compliant. That means we had to invest in time, HR expenses, IT and so on to hear in the worst case that we did it not EMIR compliant. The next problem was we wanted to send our EMIR reports on our own. We decided this because we get to know that many banks did not know how to report OTC trades correctly for us and some banks were too slow and could not implement the reporting in time. So that we also had to invest money to report on our own, not to break any EMIR rules. The EMIR start was really too fast for all market participants and is still confusing because the changes are too fast and no one really can explain what changes means for companies. Also it is a conflict if a spot OTC trade is to be reported or not. That is every week the same discussion with our banks. We are not able to estimate the costs because every year there are changes which cost us again.</p>
<p>Huge cost despite having low number of transactions. ca. 1/3rd man day over 12 months, cost ca. EUR 40.000, plus advisor / auditor extra fees of ca. EUR 15.000</p>
<p>Difficulties are many: understanding the regulation, implementation of appropriate IT Tools to handle the workload, communication with the trade Register. Costs are: one time implementation costs: approx. T€ 250 running costs: 1 FTE</p>
<p>Biggest problem was the ongoing changes in legislation and the implementation in terms of terms of adjusting the own IT several times, which produced costs (&gt;€80k) and blocked time of the responsible people</p>
<p>One off 100 000 Euro ongoing 30 000 Euro</p>
<p>The implementation in our TMS was complex, but not very costly</p>
<p>A lot of additional paperwork</p>
<p>No, not at this time. Regulatory framework for corporates continues to be unclear.</p>
<p>Numerous documents to sign and to complete.</p>
<p>Because of EMIR, we reduced our operations. If you have less than 5 operations to do in a group (an IRS on behalf of one your subsidiary for example) , it is too expensive (and time consuming),then you try not to make a hedge.</p>
<p>Nous avons choisi de déléguer les déclarations EMIR à nos banques. De ce fait, nous avons été contraints d'accepter leurs contrats qui sont clairement en leur faveur. La taille réduite de nos équipes ne nous permettait pas de le faire nous-même et le faible nombre d'opérations ne justifiait pas de prendre un sous-traitant dans le domaine. Du coup nous ne maîtrisons pas les déclarations et il est très difficile de les vérifier. EMIR représente clairement une grosse perte de temps.</p>
<p>Coût des LEI uniquement à ce stade. Pas de retour des banques mandatées pour produire les déclarations au référentiel Banque Centrale Réglementation probablement pas totalement respectée pour ce qui nous concerne...</p>
<p>Not possible to estimates, as tasks are shared by different departments and some of them are externalized And endless implementations, without any added value for all actors on the supply chain of such regulations</p>
<p>We ask to our banks to report directly the information to the regulator, and the service is free.</p>
<p>Administrative burden, additional costs, IT implications Costs &gt;EUR 100k</p>

Implementation of a reporting engine for more than 60,000 messages per year: one-time cost above EUR 1.5 million + recurring cost of more than EUR 200 thousand per year + 1 headcount Enforcement of different validation rules adds even more cost since - even if largely compliant - also smaller changes to the software environment require additional implementation and testing efforts. Being active under different regulatory regimes adds additional complexity due to the different approaches in different countries/regions.

EUR 3000

**Q9 Has your company changed its hedging behaviour in the recent years (due to regulatory changes or change in bank behaviour)? If yes, how?**

Not at present time
Yes, less derivatives, and only plain vanilla ones
We think about it.
No
We have introduced CSAs for half of our banking group and agreed to mandatory credit breaks (standard ISDA Language) on long dated cross currency swaps.
No change in behaviour, we continue to hedge its risk exposure to reduce P&L volatility.
Yes, we had to negotiate bespoke investment products with our banks. Those products offer less flexibility and liquidity and we also cannot automate them in our systems, but at least they allow us to have some kind of option to invest our cash at short term. We also started investing our USD in APAC, where banks are not yet hit to the same extent by regulations + investing in corporate CP in the US market, all for the same reasons.
Yes. Hedge reduction related to administrative burden.
Yes, withdraw from some product categories or from some countries. Mention several times capital constraints. The banks are not doing any more their job which is to lend.
No
Not really.
Yes. Try to reduce commercial reasonable Hedges to minimize extra cost and work related to EMIR Since any OTC Derivate (for instance 100K USD Forward contract) has to be reported
No changes in hedging principle as the financial transactions are there to help the business and commercial activity; however the costs and complexity of transactions increased;
no, while accepting higher costs
Yes, as an industrial company, our hedging are related to forex commercial exposures that need to be covered in order to avoid any forex loss But, - administrative surcharges and complexity (Mifid, EMIR, IFRS...) => no hedging on individual small exposures but the sum of these can be significant => that leads to increase the global forex exposures and the risks - hedging can be done outside the EMIR framework area => increase in the counterparty risk
No
We have stopped doing other fx than forwards. We only work with banks who are reporting on our behalf.
We implemented CSA's in all ISDA Agreements with our counterparties. We invest now much more time for the selection of the hedging partners. For bigger transactions we select a hedge manager for the allocation of the transaction volume to the different counterparties. Also for smaller transactions we make sure that we have at least two competitive prices.
Yes, put in place more internal procedure just to check and control data and

information on financial suppliers and customers put in place more reporting on cash management, deposit..... now dedicated only to bankers, have extraordinary meeting only for my bankers to explain treasury cash balance and deposit on a quarterly basis
We try to reduce the number of internal derivatives
Proceed with plain vanilla products - reduce number of deals where possible
No intercompany deals. Just external deals where EMIR reporting is done by the bank.
Reduction of hedging and more risk taking, i.e. no hedging of US subsidiaries
No, not yet but we are considering to reduce FX-hedging to avoid reporting obligations in smaller subsidiaries.
Not yet. would have to change in case of compulsory collateral (would kill the hedging through derivatives in our industry)
No. However, increased cost and generally more limited appetite made certain hedging strategies uneconomical, or lead to reduced effective competition between banks
We have reduced our hedging activities dramatically. Our current decisions are more driven by the question: Can we meet the EMIR requirements? Instead of the question: Will the hedging reduce our risks? This is fatal.
We have needed to stop using TOM-NEXT foreign exchange transactions as they are unduly considered derivative instruments than by certain of our banks that request e.g. ISDA documentation and require EMIR reporting.
Not yet but consider reducing hedge and increasing volatility
Doing less hedges despite economic needs.
No IRS with US banks anymore
Yes, we use a web based platform to deal, observe counterparty limits and close contracts only "best"
Yes. We get away from a decentralized Treasury hedging to a centralized hedging over the Head office. That means all EMIR relevant companies make their hedging internal at the head office so that the head office is able to Report the trades for them. Because it will cost much more to implement a new IT System for reporting trades for all single companies. Also whow that we are EMIR compliant we made the changes.
No change yet, however cost increased significantly
Not yet
Yes to the degree that derivatives should match underlying financial transactions to a high degree so as to obtain HGB / IFRS compliant hedge accounting.
No except with RUB
Yes, see above. If I want to make a hedge for one of my subsidiary, I have 2 solutions : 1. try to have the authorisation to do this operation directly by the subsidiary as counterpart, ask for a LEI and declare my operation (or ask to my bank to make the declaration). But the bank would like to have a guarantee done by the holding in favour of the subsidiary. 2. to be able to declare hedge done by the holding on behalf the subsidiary (too expensive and time consuming)
Le nombre de partenaires bancaires avec qui les dérivés sont traités a diminué à cause d'EMIR. Il est plus simple de travailler avec un faible nombre de contreparties, ce qui augmente finalement le risque de contrepartie pour notre groupe.
Due to regulations excesses focus only on plain vanilla hedges.
Yes, more carefully review banking group, extra considerations when non EU banks

No changes in volumes or hedging instruments. However: 1. Enforcement of structural measures like natural hedging. 2. Active management of hedging lines provided by banks. 3. Massive changes in operational hedging processes and system workflow
Lower amount and volume of transactions
EMIR : A regulation thought to tackle the banking sector. Finally generates incomes for banks and fees and difficulty to hedge for NFC.
Back loading trades are a big problem for us. Our Banks are not able to give us the back loading UTI or do not want to create them because they not comply with the way to create them. So that we are waiting till the last possible time to report them. That is a problem. We also read in Treasury News that there can be a big EMIR Change in the next month, that non financials has also to clear OTC derivatives at any size of the companies. That will make our FX Hedging to reduce risk very expansive and we can get in trouble, because it will be much more better for us to not hedge risk positions. We do not understand why internal fx hedges had to be counted to the Clearing thresholds. And at the moment we have to count them twice. We would prefer not to count internal trades to the clearing threshold and would like to challenge if internal trades have to be reported.

**Q 11 Are there any other comments you would like to make concerning financial regulation since 2009 (EU legislation and its national implementations) and its consequences for non-financial companies? Do you have any observations regarding areas of financial regulation not identified in above questions?**

EMIR should not include the reporting of intra-group deals EMIR should not be applied to non-financial corporates or at least, to deals less than 10 Mio € equivalent.
Financial regulation has to be made for financial institutions / Banks. The financial crisis was a "product" of the speculative banking industry, not the fault of other industries. So the Banks have to pay for it with financial regulation, not companies from other industries.
According to my information the way how to handle hedging transactions is different within the EU, i.e. UK-based companies are not obliged to report hedging transactions. If that's the case, this would need to be streamlined.
Lack of clarity in implementation details, ownership for issue resolution, consequences of non-compliance are the major issues. It takes a lot of time to network with banks and peers to conclude on the interpretation of certain reports, fields etc. Reporting/matching purely hedging transactions, particularly their inter-company leg

of transactions appears to be redundant as these are not increasing the systemic risk.
Too heavy reporting. The corporates are not responsible for the crisis. Too much capital burden on the banks which want to pass the additional cost to the clients without reducing their margin. Is it normal that a bank is looking for a 15% return on equity?
Internal process are taking place but required more time in terms of maturity, specifically with less resources than banks for instance.
Please let us companies concentrate on our business without asking for reports which no one really needs. The amounts are "peanuts" (in this case this word really fits!).
Too complicated and too complex and not thought through completely. Intercompany deals should not be reported at all. What is the benefit for ESMA to know the exact time ( by second , not by Minute) of a OTC Deal Not rolled-out consequently: in Germany Audits applicable, rest of Europe no. The big market Players (Financial institutions) that are doing trading ( speculation) are not stopped by manipulating the financial markets. No more stability was created only except for Audit companies. At the end of the day: no added value
Corporates are not systemic, though the regulation requires the same level of accuracy and requirements for us as for banks; we have to absorb high costs to respond to regulation although we are having financial activity supporting commercial activities only and not per se. Large international corporates have to face different regional regulations (DFA in the US, EMIR in EU, others in Australia, Canada etc) that sometime are contradictory;
EMIR makes hedging more expensive fx-derivatives are used to reduce risks in corporates and are not risk increasing financial regulation as right now cannot achieve its targets financial regulation will not prevent further crashes more bureaucrazy and increased costs to fulfill standards, but has no effect to the financial markets and rather supports lawyers and consultants Overall: Financial regulation cannot achieve its defined targets while creating immense costs
In export outside UE, decline in competitiveness of EU companies against those who are not concerned by this regulation accumulation : increase in overheads costs for the corporate, reluctance of UE banks to support the business of the corporate in emerging countries where the monitoring of the regulation obligations are considered too heavy...)
We are really concerned and we are facing more and more regulatory requests from banks,
We now need much more resources to manage the administrative relationships with banks as well as for the monitoring of international regulatory developments in general. In the case of FATCA the level of understanding on the banks' side and the competence of our direct contact people have been poor! In other cases the documentation provided by the banks in our opinion was not fully in compliance to the requirement of the FATCA legislation
Regulations for more transparency are a good process small and mid-size companies haven't human and means internal resources and competence a part of bank obligation are supported by in fact by companies. Bankers don't assume their obligations: information collection process, control information.... bankers don't hesitate to stop the relationship and the business

<p>It is critical that the amount of data to be reported is reviewed and reduced to a minimum (e.g. it is questionable if intercompany hedges need to be reported to a trade repository) - Although there are complex circumstances (i.e. Hedging) a more sorrow analysis before implementation of new directives would be appreciated - any initiatives for new and changing directives shall be communicated well in advance and implementation requirements shall note that IT providers (e.g. SAP) have to implement such news in their systems and to roll out. - Publicity shall be informed about the further compilation and analysis of the data to be able to assess the authorities' needs</p>
<p>Major problems occurred before and during financial crisis have been created by financial industry. Almost nothing has come from corporate companies. Latters have to follow regulations now without any outcome. Future crisis will not be avoided by that. It is more or less actionism only, doing things for the sake of doing things.</p>
<p>Ongoing changes in regulation have required increased staffing of 5%, increase cost of reducing financial risk and higher ongoing admin burden without any visibility of positive impact, i.e. EMIR. Corporates are forced to maintain less liquidity due to increase cost of credit lines and less credit appetite, higher cost of maintaining cash balances.</p>
<p>After Mifid, fragmentation of markets is a mess: issuers do not have the overview of their own stock market any longer We are surprised that while regulating the OTC derivatives, corporates still do not have the right to "monitor" their own CDS. Credit of the company can become an "underlying" to derivatives strategies (and therefore affect the actual financing price of the company in the real economy) without having authorized it</p>
<p>Since 2000, regulators have added tons of regulations (Bale 1/2/3, Solvency, EMIR, Dodd). Main results are: - more and more reporting - more and more bureaucracy No efficiency as I did not prevent any major crisis (Lehman, then Euro, then commodities...)</p>
<p>We see due to anti-money laundering laws highly bureaucratic and time consuming set-ups of relationships with banks and insurance companies. Due to anti-terror regulations many banks do not longer acceptance payments from OFAC countries even if all official approvals can be provided.</p>
<p>The EMIR regulation has put some burden on Non-Financial Companies. On the other hand I doubt that EMIR will prevent from a new financial crisis. The financial products which caused the financial crisis in 2007-2009 are still without regulation.</p>
<p>The Regulation is not clear in many Points and many question left unanswered. I would be surprised if ESMA would get more than 20% match on EMIR reporting. Therefore I have the feeling the regulation concentrates on the wrong aspects to manage any financial risk.</p>
<p>The recent financial regulation: - increased complexity - causes problems due to lack of harmonization (e.g. between the EU and US) - increased involvement of legal services in any contracts with banks - bond market has become less liquid with banks acting as brokers only - banks may be able to invest in resources for regulatory issues, which not possible for small non-financial companies</p>
<p>The financial regulation should impact the financial industry to a certain extent only so that the real economy is not affected. Moreover, regulatory requirements, especially on derivatives, should not impact corporates pursuing economic hedging.</p>

NFC got a 3 year exemption for clearing. Why not the same for collateralization?
We are facing problems with escrow accounts because of anti-Money laundering. But in Real Estate it is very common. 90 % of our Banks will not open escrow accounts anymore.
Paper paper paper
It is often not clear which international companies really Need a LEI for trading with the head office. There are many things which are not perfectly done or which are not finish yet. But it will be discussed about new strikter regulations at EMIR before all the other problems with the actual Regulation are fixed. We also have the Problem that we cannot see if our reporting and the bank reporting get a match. And we do not get an answer if there is a mismatch and why. We also cannot see the whole Report of our counterparty. So we are not able to correct reports or understand if all reports are correct. That is a Problem because we are reporting to A and our Bank to B. There is no Chance that A and B communicate at the Moment with each other and we get a information if there is everything correct. For non-financial companies EMIR is too complex, cost a massive time, had a lot of investing costs and the Banks forward their implementation costs to the customers. I can only see disadvantages for non-financial companies.
Regulatory related cost grew from ca. 10% of our Treasury department to ca. 25%. Audit firms see regulatory framework as good opportunity to increase pressure for additional mandates.
MiFID II is about to further regulate the usage of financial derivatives and to require additional reporting on derivative transactions. - Many financial institutions retreated from the commodity derivative markets, which in turn suffer from lower liquidity.
KYC is a monster and banks use this to flood corporates with questionnaires that contain way more questions about the operational business. Corporates feel interrogated. FATCA is something we cannot understand. Why do companies outside the US have to fill in US tax forms?
Fatca has exposed us to a lot of additional paperwork
Any additional regulations on financial institutions always have impact on their c, i.e. also all non-financial companies. I dare say that the degree by which the density of regulations of the financial sector increases is the same degree as it concerns non-financial companies, albeit indirectly.
EU should be a better counter power compared with the US
My wish: not to declare hedging operations with my banks or with my subsidiaries. Now when you want to open a banking account, it is very time consuming (Fatca, CRS...)
Désengagement des banques en terme de responsabilité Contraintes de déclaration dans tous les sens pour la moindre opération Dernière en date : auto-déclaration de domiciliation fiscale pour toute ouverture de compte, y compris pour des sociétés déjà en relation depuis des années !!! Un total désintérêt de la répercussion de ces contraintes sur les entreprises...
Too many regulations => big holes on key aspects for Corporates and Nations
The regulations are for a purpose but sometimes feel to try to fit for all while companies/banks etc can be quite different in nature and risk
Mandatory clearing/collateralization remains the major concern for an industrial firm since it would artificially create liquidity risk if MtM swings were too high (think of



Metallgesellschaft in the mid 90's). This is particularly important since in contrast to banks, industrial firms do not have refinancing options through the central banks.