

January 27, 2020

Ropes & Gray's Derivatives & Commodities Group looks ahead to what is in the pipeline in Europe for 2020

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Attorneys
Anna Lawry

- The reporting regime under the **Securities Financing Transactions Regulation** for securities financing transactions, such as repurchase and securities lending transactions, comes into force. Most funds will have to comply from 11 October 2020. Similar to EMIR, a report needs to be filed by T+1. If the make-up of the collateral is not known by the reporting deadline, a separate collateral update has to be filed by the value or settlement date + 1. The reporting requirements include daily updates of collateral data and, in the case of securities lending transactions, the market value of the security lent or borrowed. The level of reuse of securities collateral and reinvestment of cash collateral must also be reported (and any changes updated daily), posing particular challenges for asset managers.
- The settlement discipline regime in the **Central Securities Depositories Regulation** is scheduled to come into force in September 2020. The new regime applies to securities transactions intended to settle through an EU central securities depository (CSD) and will affect both direct and indirect participants in the CSD. Cash penalties for settlement fails will be imposed, along with a mandatory buy-in process (or, if the buy-in is not successful, cash compensation).
- The remaining changes to the reporting regime in the **European Market Infrastructure Regulation** (EMIR) as a result of the "EMIR Refit" come into effect on 18 June 2020. Financial counterparties will become responsible for reporting OTC derivatives on behalf of their counterparties who are non-financial counterparties below the clearing threshold. Managers of funds will become responsible for reporting their funds' OTC derivatives. Also as part of the EMIR Refit, the final report on the alignment of the derivatives trading obligation in the Markets in Financial Instruments Regulation (MiFIR) with the clearing obligation in EMIR is expected to be published by the European Securities and Markets Authority (ESMA) soon. Industry groups are also expected to begin discussions with EU regulators on the treatment of single equity options and index options under the EMIR margin rules. An extension of the previous derogation for these products has been proposed, but only for one further year.
- Triologue negotiations among the European Parliament, the Council and the Commission are expected to begin straight away, to agree on a framework for the **Recovery and Resolution of Central Counterparties** (CCPs). A broad set of resolution tools is proposed that will be provided to regulatory authorities so that they can handle situations involving CCP failures. These include creation of a bridge CCP, sale of the CCP or parts of its business, write-down of instruments of ownership, and loss allocation and position rebalancing, potentially involving cash-calls on clearing members and initial margin or variation margin gains "haircutting".