

SUMMARY OF THE EUROPEAN MARKET INFRASTRUCTURE REGULATION (“EMIR”) AND COUNTERPARTY CATEGORIES UNDER EMIR

What is EMIR?

The European Market Infrastructure Regulation (“EMIR”), amongst other things, regulates the way in which “over-the-counter” derivatives (“OTC derivatives”) are traded and also how information regarding all derivative contracts is publicly reported and recorded. In particular, EMIR imposes regulatory requirements in relation to confirming derivative trades, clearing certain OTC derivatives, mitigating risks relating to non-cleared OTC derivatives and reporting information about derivative trades to central trade repositories. EMIR also requires counterparties to notify European regulators if they become a Non-Financial Counterparty Plus (as defined below).

Does it matter if you are established outside the European Union (“EU”)?

Although EMIR is an EU regulation, it may be relevant to you because its requirements could apply either because you are established in the EU and/or because the counterparty to your OTC derivative is an EU Goldman Sachs entity (such as Goldman Sachs International).

As such, even if you are established outside of the EU, you may fall within scope of EMIR. Therefore, you should assess whether you would fall within any of the counterparty categories for EMIR described below as if you were based in the EU and complete the application form accordingly.

Financial Counterparties

You will be a **Financial Counterparty** if:

a. you are established in the EU and one of the following:

- an investment firm authorised in accordance with EU Directive 2014/65/EU;
- a credit institution authorised in accordance with EU Directive 2013/36/EU;
- an insurance undertaking or reinsurance undertaking authorised in accordance with EU Directive 2009/138/EC;
- a UCITS and, where relevant, its management company, authorised in accordance with EU Directive 2009/65/EC (unless that UCITS is set up exclusively for the purpose of serving one or more employee share purchase plans);
- an institution for occupational retirement provision within the meaning of Article 6(1) of EU Directive 2016/2341; or
- an alternative investment fund (“AIF”), as defined in Article 4(1)(a) of EU Directive 2011/61/EU (“AIFMD”), which is either (i) established in the EU or (ii) managed by an alternative investment fund manager (“AIFM”) authorised or registered in accordance with AIFMD, unless that AIF is set up exclusively for the purpose of serving one or more employee share purchase plans, or unless that AIF is a securitisation special purpose entity as referred to in Article 2(3)(g) of AIFMD, and, where relevant, its AIFM is established in the EU;
- a central securities depository authorised in accordance with EU Regulation 909/2014, or

b. you are established outside of the EU but would fall within any of the above categories of firms/undertakings if you were based in the EU.

Small Financial Counterparties

You will be a **Small Financial Counterparty** (also known as a “**Financial Counterparty Minus**” or “**FC-**”) if (i) you are a Financial Counterparty as described above and (ii) you have determined that the aggregate month-end average position in OTC derivative contracts for the previous 12 months (taking into account all cleared and uncleared OTC derivative positions entered into by you and other entities in your group, including any positions that are for hedging purposes) is below all of the following thresholds per OTC derivative asset class:

- EUR 1 billion in outstanding gross notional value for OTC credit derivative contracts;
- EUR 1 billion in outstanding gross notional value for OTC equity derivative contracts;
- EUR 3 billion in outstanding gross notional value for OTC interest rate derivative contracts;
- EUR 3 billion in outstanding gross notional value for OTC foreign exchange derivative contracts; or
- EUR 3 billion in outstanding gross notional value for OTC commodity derivative contracts and any other OTC derivative contracts not described above.

Please note that if you are a Financial Counterparty and you do not undertake this calculation, you cannot be treated as a Small Financial Counterparty and you will continue to be categorised as a Financial Counterparty.

Currently, the key consequence of being a Small Financial Counterparty is that you will not be subject to the mandatory clearing obligation under EMIR, requiring you to centrally clear certain OTC derivative contracts that fall under that obligation. Otherwise, you will still be treated as a Financial Counterparty for other EMIR-related obligations (such as margin and other risk mitigation requirements).

Non-Financial Counterparty Plus

You will be a **Non-Financial Counterparty Plus** if (i) you are not a Financial Counterparty and (ii) you have determined that the aggregate month-end average position in OTC derivative contracts for the previous 12 months (taking into account all cleared and uncleared OTC derivative positions entered into by you and other non-financial entities in your group, but excluding any positions that are for hedging purposes) exceeds any one of the following thresholds per OTC derivative asset class:

- EUR 1 billion in outstanding gross notional value for OTC credit derivative contracts;
- EUR 1 billion in outstanding gross notional value for OTC equity derivative contracts;
- EUR 3 billion in outstanding gross notional value for OTC interest rate derivative contracts;
- EUR 3 billion in outstanding gross notional value for OTC foreign exchange derivative contracts; or
- EUR 3 billion in outstanding gross notional value for OTC commodity derivative contracts and any other OTC derivative contracts not described above.

Please note that if you undertake this calculation, EMIR mandatory clearing obligations will only apply to in-scope transactions within the asset classes in which you have exceeded the relevant threshold.

Also, note that you should classify yourself as a Non-Financial Counterparty Plus if you decide not to calculate whether your OTC positions exceed the above thresholds. In this case, EMIR mandatory clearing obligations will apply to in-scope transactions within all of the asset classes listed above.

Non-Financial Counterparty

You will be a **Non-Financial Counterparty** if you are not a Financial Counterparty or a Non-Financial Counterparty Plus.

Taxonomy of Economic Activities for NFC

If you are operating through a trust, family investment vehicle or other similar structure, category 11 - financial and insurance activities – is the appropriate classification. If you are an operating company, please choose the classification that most accurately reflects your corporate sector. Further details can be found in Regulation (EC) No 1893/2006.

Directly Linked to Commercial Activity or Treasury Financing

If you (or we on your behalf) will enter into Reportable Derivatives predominantly for hedging purposes, the response to this field should be “yes”.

Reportable Derivative

“**Reportable Derivative**” means certain derivative contracts in relation to which GSI or GSCo is either your counterparty or your clearing broker in relation to the contract and in respect of which either you or GSI is required to report certain details to a trade repository under the trade reporting obligation in Article 9 of EMIR.

THIS SUMMARY IS FOR GENERAL INFORMATION ONLY. GOLDMAN SACHS DOES NOT PROVIDE YOU WITH LEGAL ADVICE AND THIS DOCUMENT IS NOT INTENDED TO PROVIDE SUCH ADVICE. YOU SHOULD CONTACT YOUR LEGAL ADVISER FOR FURTHER INFORMATION OR ADVICE REGARDING HOW YOU MAY BE CATEGORISED UNDER EMIR AND HOW EMIR MAY IMPACT YOUR INVESTMENT ACTIVITIES.