

(FISMA)

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**From:** [REDACTED] (MARKT)  
**Sent:** 03 December 2013 18:49  
**To:** MARKT LIST G3  
**Cc:** PEARSON Patrick (MARKT) [REDACTED] (MARKT) [REDACTED]  
(MARKT)  
**Subject:** For info: Meeting with CME re MIFID (transparency) & EMIR (third country issues)

On 2/12/13 Maite Fabregas, [REDACTED] and [REDACTED] met with [REDACTED] and [REDACTED] of CME to discuss third country issues under EMIR and transparency under MIFID/R.

OTC derivatives and equivalence regime

For CME the situation of fragmented third country regimes in the EU has not been an issue pre-EMIR. However, with the definition of OTC contracts under EMIR it has become one (i.e. this definition considers exchange traded derivatives executed in third countries as OTC, unless those third countries are listed as equivalent pursuant to MIFID 19.6, and no such list has been produced by the Commission).

For CME's "non-financial+" customers (e.g. large energy companies with a financial arm) this is not a real problem but for its non-financial customers it is. Although this will be resolved in MIFID II, CME considers this to be an urgent problem in the interim period, which must be addressed; one possible way forward being to amend EMIR in MIFID II.

Pre-transparency in derivatives

CME mentioned that, from what they heard, CFTC might issue new draft rules on pre-trade transparency and block trades (large in scale) for swaps on 10 December. The rules for SEFS were published in June and this regime should apply to DCMs. They suggested that the block sizes would be raised to increase transparency and so CME sees a large risk of regulatory arbitrage if G-20 commitment implementation is not aligned both in substance and time-wise in the US and the EU. This is a real risk if the CFTC follows the expected approach and if the current positions of the EU co-legislators will prevail.

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