



## Obligations under the EMIR Regulation

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From February 12, 2014, selected market participants covered by the EMIR Regulation (Regulation (EU) No. 648/2012 of the European Parliament and of the Council of July 4, 2012 on OTC derivatives, central counterparties and trade repositories) are obliged to submit daily reports of concluded transactions to the so-called trade repositories. Pursuant to the Regulation, natural persons concluding transactions not related to their business activity are exempt from the reporting obligation, however, all other entities conducting business activity may be covered by the provisions of the EMIR Regulation, regardless of the investment firm in which they have an account of financial instruments.

At the same time, we are pleased to inform you that due to the fact that the provisions of EMIR enable the delegation of the obligation to report transactions to the counterparty of these transactions, which is XTB, we offer this service for our clients. The service is free of charge.

To be able to report transactions on your behalf, you must obtain and submit an LEI (Legal Entity Identifier) to XTB and complete the EMIR Statement, available below, and send a scanned copy of it in PDF format. LEI codes can be issued by various institutions, and one of them is, for example, [KDPW SA \(KDPW\)](#). In order to delegate the obligation to report transactions to XTB, the required Information, along with the LEI code, should be sent to XTB without undue delay. Please note that if you have not yet applied for an LEI, it may take up to 14 days to obtain an LEI, depending on the issuing institution.

In the **XTB Terms and Conditions of delegated transaction reporting service for the Client being Financial Counterparty or Non-financial counterparty "plus"**, available on XTB's website, you will find detailed documentation regarding the service.

At the same time, the EMIR Regulation imposes an obligation on legal entities to determine whether each of the counterparties in a derivative transaction is:

1. Financial contractor
2. A non-financial counterparty that has exceeded the clearing threshold ("NFC plus")
3. A non-financial counterparty that has not exceeded the clearing threshold ("NFC minus")

For this purpose, the below EMIR Statement, contains an explanation of the above terms and which please use it to submit an appropriate statement to XTB.

In addition, we would like to remind you that it is the responsibility of each contractor to update the contractor's details and regularly renew the LEI code (related to the payment of the applicable annual fee).



## EMIR - STATEMENT

|                                                                                                                                   |  |
|-----------------------------------------------------------------------------------------------------------------------------------|--|
| Full legal name of the Client not being a physical person :                                                                       |  |
| No. in the registry of commerce:                                                                                                  |  |
| Valid LEI Code:                                                                                                                   |  |
| Names and surnames of the people authorised to represent the Client independently:                                                |  |
| Positions of the person authorised to represent the Client (please fill in in case of legal entities or organizational entities): |  |

I hereby state that in accordance with Regulation EMIR as the Client of XTB I am (please mark either point 1 or point 2):

**1. Financial Counterparty (please mark one of the following):**

- ☐ F. an investment firm authorised in accordance with Directive 2014/65/EU;
- ☐ C. a credit institution authorised in accordance with Directive 2013/36/EU;
- ☐ A. an assurance undertaking authorised in accordance with Directive 2009/138/EC;
- ☐ U. a UCITS and, where relevant, its management company, authorised in accordance with Directive 2009/65/EC, unless that UCITS is set up exclusively for the purpose of serving one or more employee share purchase plans;
- ☐ O. an institution for occupational retirement provision (IORP), as defined in point (1) of Article 6 of Directive (EU) 2016/2341;
- ☐ L. alternative investment fund managed by AIFMs authorised or registered in accordance with Directive 2011/61/EU;
- ☐ R. reinsurance undertaking authorised in accordance with Directive 2009/138/EC;
- ☐ I. insurance undertaking authorised in accordance with Directive 2009/138/EC.

**2. Non-financial counterparty (please mark a business sector in 2.1. and only (a) or (b) in 2.2. and only (a) or (b) in 2.3.):**

If you are not a financial counterparty, please select **one** sector that predominates your business.

**2.1. In addition, I conduct business activity in the following sector:<sup>1</sup>**

- ☐ 1. Agriculture, forestry and fishing;
- ☐ 2. Mining and quarrying;



- ☐ 3. Manufacturing;
- ☐ 4. Electricity, gas, steam and air conditioning supply;
- ☐ 5. Water supply, sewerage, waste management and remediation activities;
- ☐ 6. Construction;
- ☐ 7. Wholesale and retail trade, repair of motor vehicles and motorcycles;
- ☐ 8. Transportation and storage;
- ☐ 9. Accommodation and food service activities;
- ☐ 10. Information and communication;
- ☐ 11. Financial and insurance activities;
- ☐ 12. Real estate activities;
- ☐ 13. Professional, scientific and technical activities;
- ☐ 14. Administrative and support service activities;
- ☐ 15. Public administration and defence; compulsory social security;
- ☐ 16. Education;
- ☐ 17. Human health and social work activities;
- ☐ 18. Arts, entertainment and recreation;
- ☐ 19. Other service activities;
- ☐ 20. Activities of households as employers; undifferentiated goods — and services — producing activities of households for own use;
- ☐ 21. Activities of extraterritorial organisations and bodies.

**2.2. After indicating the sector or sectors of business activity, please indicate whether you are a non-financial counterparty "plus" or a non-financial counterparty "minus".**

You are a non-financial counterparty “plus” if your aggregate month-end average position for the previous 12 months exceeds any of the thresholds below and a non-financial counterparty “minus”, if it is below the thresholds.

| Asset class                               | Clearing threshold |
|-------------------------------------------|--------------------|
| Credit derivative contracts               | €1 billion         |
| Equity derivative contracts               | €1 billion         |
| Interest rate derivative contracts        | €3 billion         |
| Foreign exchange derivative contracts     | €3 billion         |
| Commodity derivative contracts and others | €3 billion         |

- ☐ (a) I am non-financial counterparty “plus”
- ☐ (b) I am non-financial counterparty “minus”

**2.3. Next, please indicate whether you use OTC derivative contracts in order to cover yourself against commercial risks directly linked to your commercial or treasury financing activities.**

- ☐ (a) yes
- ☐ (b) no



### 3. Declaration regarding the fulfillment of the obligation to report data to the trade repository by a non- financial counterparty “minus” itself

If you want to fulfill the obligation to report data to the trade repository yourself, please check the box below.

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**As non-financial counterparty “minus” we will fulfill the obligation to report data to the trade repository ourselves in accordance with Article 9 of the EMIR**

If the non-financial counterparty complies with the obligation to report data to the trade repository in accordance with Article 9 of the EMIR, the non-financial counterparty shall be responsible, and legally liable, for reporting detailed information about its OTC derivative contracts concluded with financial contractors and ensuring their correctness.

<sup>1</sup> Pursuant to Statistical classification of economic activities in the European Community (NACE) as defined in Regulation (EC) No 1893/2006 of the European Parliament and of the Council.

**I hereby declare that I am aware that in case of any change in the data provided above I am obliged to immediately update them by resubmitting this statement.**

\_\_\_\_\_  
date

\_\_\_\_\_  
signature, seal

### 4. Application form

If you are **financial counterparty** or **non-financial counterparty “plus”** you can empower XTB Limited (‘XTB’) to report the transactions in derivative financial instruments on behalf of the Client. By filling in this point you enter into agreement in meaning of the XTB Terms and Conditions of delegated transaction reporting service for the Client being Financial Counterparty or Non-financial counterparty “plus”.

By accepting and submitting herein Application Form, I hereby empower XTB to report on behalf of the Client the transactions in derivative financial instruments that the Client concluded or intends to conclude with XTB in accordance with the conditions laid down in the **XTB Terms and Conditions of delegated transaction reporting service for the Client being Financial Counterparty or Non-financial counterparty “plus”**, as published on XTB’s website. By accepting and submitting herein Application Form, and by checking the box below,

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**I hereby declare that I have acquainted and accept the abovementioned Terms and Conditions.**

**I hereby declare that if I do want XTB to further report the transactions on behalf of the Client, I will inform XTB by resubmitting this Application Form. I accept that point 11.2 of the abovementioned Terms and Conditions is used for the period of termination of the agreement.**

\_\_\_\_\_  
date

\_\_\_\_\_  
signature, seal