

## List of pension scheme arrangements exempted from the clearing obligation

The European Market Infrastructure Regulation (EMIR)<sup>1</sup> provides for the obligation of counterparties to clear OTC derivative contracts that have been declared subject to the clearing obligation. Some pension scheme arrangements benefit from a temporary exemption from the clearing obligation for their OTC derivative contracts that are objectively measurable as reducing investment risks directly related to their financial solvency.

Pursuant to Article 89(2) of EMIR, ESMA publishes below a list of types of pension scheme entities and arrangements which have been granted an exemption from the clearing obligation. These entities and arrangements have been assessed as complying with Article 2(10)(c) or (d) of EMIR, and encounter difficulties in meeting the variation margin requirements. The list does not include pension scheme arrangements under Article 2(10)(a) and (b) of EMIR, which automatically qualify for the clearing exemption.

**Table 1: List of pension scheme arrangements which benefit from a temporary exemption from the clearing obligation<sup>2</sup>**

id	Type of pension scheme arrangements	Country	EMIR Article 2(10)(c) or (d) of EMIR <sup>3</sup>	Identification in the EIOPA database <sup>4</sup>	Date on which the exemption was granted
1	A pension scheme arrangement which is the occupational retirement provision business of a life insurance undertaking covered by Directive 2002/83/EC, where all assets and liabilities corresponding to the business are ring-fenced, managed and organised separately from the other activities of the insurance undertaking, without any possibility of transfer, within the meaning of Article 2(10)(c) of EMIR	United <sup>5</sup> Kingdom	(c)	UK1	15 February 2016
2	A retirement income pension scheme arrangement which is the occupational retirement provision business of a life insurance undertaking covered by Directive 2002/83/EC, where all assets and liabilities corresponding to the business are ring-fenced, managed and organised separately from the other activities of the insurance undertaking, without any possibility of transfer, within the meaning of Article 2(10)(c) of EMIR	United Kingdom	(c)	UK1	15 February 2016

<sup>1</sup> Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories, OJ L 201, 27.7.2012, p.1.

<sup>2</sup> Pursuant to Article 89(1) of EMIR

<sup>3</sup> Indicates whether the type of pension scheme arrangements meets the definition of Article 2(10)(c) or the definition of Article 2(10)(d) of EMIR

<sup>4</sup> The EIOPA database of pension plans and products in EEA is available at:

<https://eiopa.europa.eu/regulation-supervision/pensions/database-of-pension-plans-and-products-in-the-eea>

<sup>5</sup> Pension Scheme Arrangements in the United Kingdom ceased being exempted from the clearing obligation on Brexit day (i.e. the date on which the Treaties ceased to apply to and in the United Kingdom pursuant to Article 50(3) of the Treaty on European Union). The transition period ended on 31 December 2020.

3	A buyout pension scheme which is the occupational retirement provision business of a life insurance undertaking covered by Directive 2002/83/EC, where all assets and liabilities corresponding to the business are ring-fenced, managed and organised separately from the other activities of the insurance undertaking, without any possibility of transfer, within the meaning of Article 2(10)(c) of EMIR	United Kingdom	(c)	UK1	15 February 2016
4	A life insurance arrangement covered by Directive 2002/83/EC, the primary purpose of which is to provide retirement benefits by management of customers' long-term investments, which does not fall within Article 2(10)(c) of EMIR and which meets the requirements set out in Article 2(10)(d) of EMIR	United Kingdom	(d)	UK1	15 February 2016
5	A life insurance entity covered by Directive 2002/83/EC, the primary purpose of which is to provide retirement benefits by management of customers' long-term investments, which does not fall within Article 2(10)(c) of EMIR and which meets the requirements set out in Article 2(10)(d) of EMIR	United Kingdom	(d)	UK1	15 February 2016
6	A retirement income life insurance arrangement covered by Directive 2002/83/EC, the primary purpose of which is to provide retirement benefits by payment of income to customers, which does not fall within Article 2(10)(c) of EMIR and which meets the requirements set out in Article 2(10)(d) of EMIR	United Kingdom	(d)	UK1	15 February 2016
7	A retirement income life insurance entity covered by Directive 2002/83/EC, the primary purpose of which is to provide retirement benefits by payment of income to customers, which does not fall within Article 2(10)(c) of EMIR and which meets the requirements set out in Article 2(10)(d) of EMIR	United Kingdom	(d)	UK1	15 February 2016
8	A buyout life insurance arrangement covered by Directive 2002/83/EC, the primary purpose of which is to provide retirement benefits by payment of income to customers, which does not fall within Article 2(10)(c) of EMIR and which meets the requirements set out in Article 2(10)(d) of EMIR	United Kingdom	(d)	UK1	15 February 2016
9	A buyout life insurance entity covered by Directive 2002/83/EC, the primary purpose of which is to provide retirement benefits by payment of income to customers, which does not fall within Article 2(10)(c) of EMIR and which meets the requirements set out in Article 2(10)(d) of EMIR	United Kingdom	(d)	UK1	15 February 2016

10	An authorised pooled fund, established in the UK as a sub-fund without distinct legal personality, designed for pooling assets related to the provision of retirement benefits (i.e. the assets of pension scheme arrangements within Article 2(10) EMIR), where all investors are pension schemes; which is not within Article 2(10)(a) of EMIR and which meets the requirements set out in Article 2(10)(d) of EMIR	United Kingdom	(d)	UK1	15 February 2016
11	An authorised pooled fund, established in the UK as a separate legal entity, designed for pooling assets related to the provision of retirement benefits (i.e. the assets of pension scheme arrangements within Article 2(10) EMIR), where all investors are pension schemes; which is not within Article 2(10)(a) of EMIR and which meets the requirements set out in Article 2(10)(d) of EMIR	United Kingdom	(d)	UK1	15 February 2016
12	A contractually based pooled fund established in the UK, designed for pooling assets related to the provision of retirement benefits (i.e. the assets of pension scheme arrangements within Article 2(10) EMIR) or sub-fund of such a fund, where all investors are pension schemes; which in either case is not within Article 2(10)(a) of EMIR and which meets the requirements set out in Article 2(10)(d) of EMIR	United Kingdom	(d)	UK1	15 February 2016
13	An employer, or industry-wide, provided or sponsored or arranged pension scheme arrangement, which is not within Article 2(10)(a) of EMIR and which meets the requirements set out in Article 2(10)(d) of EMIR	United Kingdom	(d)	UK1	15 February 2016
14	An employer, or industry-wide, provided or sponsored or arranged pension scheme entity, which is not within Article 2(10)(a) of EMIR and which meets the requirements set out in Article 2(10)(d) of EMIR	United Kingdom	(d)	UK1	15 February 2016
15	An arrangement providing individual pension scheme arrangements, which is established and authorised in the UK, and which meets the requirements set out in Article 2(10)(d) of EMIR	United Kingdom	(d)	UK3	15 February 2016
16	An entity providing individual pension scheme arrangements, which is established and authorised in the UK, and which meets the requirements set out in Article 2(10)(d) of EMIR	United Kingdom	(d)	UK3	15 February 2016

17	Life insurer occupational schemes	Denmark	(d)	DK2	14 April 2016
18	Labour market related life insurer	Denmark	(d)	DK3	14 April 2016
19	Multi employer pension fund	Denmark	(d)	DK4	14 April 2016
20	Life insurer personal schemes	Denmark	(d)	DK2	7 July 2016
21	A participating life insurance company (limited by shares)	Sweden	(c)	SE1	15 July 2016
22	Arbejdsmarkedets Tillægspension	Denmark	(d)	DK5	11 August 2016
23	A participating life insurance company (limited by shares)	Sweden	(d)	SE1	13 January 2017

24	Fondos de Pensiones Personales	Spain	(d)	ES2	26 January 2016
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