EMIR and non cleared trades

State of affairs consequences pension provision

European Parliament
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State of affairs EMIR, position of Pension funds

- Pension Funds are not opposed to EMIR on principle

- Carve out pension funds based on special role pension funds

  EMIR Art 26 "……..Such a technical solution should take into account the special role of pension scheme arrangements and avoid materially adverse effects on pensioners. During a transitional period, OTC derivative contracts entered into with a view to decreasing investment risks directly relating to the financial solvency of pension scheme arrangements should be subject not only to the reporting obligation, but also to bilateral collateralisation requirements...."

- Need for non cash collateral as argument for carve out

  European Commission prepares a report for the European Parliament for end of 2014. Now setting the terms for tendering.

- Period for carve out already started August 2012
  - While mandatory clearing to start in 2014 at the earliest
  - Making exemption less effective

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Experiences in market

Negotiating with CCP's and Investment Banks opting for a role as CM's we discover the following issues:

1. Impact on liquidity (additional collateral)
2. Assets posted as collateral are insufficiently protected
3. No guarantee that bonds posted will be returned
4. Non cash variation margin is not yet possible

What is the impact of capital requirements for banks?
What will happen in a stress scenario?

The new situation increases risks instead of diminishing them!

Consequences and solutions

Unintended consequences

1. More costs (fees) and less return = impact on pension income (as opposed to Art. 26)
2. Hedging vs market risks = more risks left unhedged (opposite to what EMIR intends)
3. Liquidity squeeze: more liquid assets needed for collateral: negative impact on long term assets (green paper LTI)

Possible solutions

- Recognition of low risk characteristics of providers of Pension Scheme Arrangements via:
  - Access to ECB
  - Direct access to CCP
  - Segregated accounts
  - Solution for non cash collateral

What needs to be done?

1. Need for extension of temporary carve out and political attention to address unintended consequences in architecture of current EMIR regulation
   - To give industry time to build infrastructure where Central Clearing actually reduces risks for pension funds

2. Coordination with rules for uncleared trades. This should be in line with approaches of EMIR and CRD IV.
   - One clear definition of pension funds and recognition of their specific role in the financial landscape
   - Total set of new regulations should be coherent and consistent in stimulating savings for retirement