

# Instructions for notifications of intragroup exemptions

February 2016

The CNMV has incorporated a new service into its on-line Virtual Office to enable entities to give notice of exemption from clearing as granted under article 4.2 of EMIR in connection with OTC derivatives that are intragroup transactions as provided in Article 3 of EMIR.

Notice may be given by:

- Financial counterparties resident in Spain.
- Non-financial counterparties resident in Spain which exceed the clearing threshold.

To make an application for exemption, notification by one of the counterparties will suffice.

Such counterparties must send such notice or application for authorisation to the CNMV using the standard form for this purpose that is available on the CNMV's website.

## REQUIREMENTS FOR USING THE SERVICE

Only registered users may use this new service. Users may register to file notices and process applications for exemption via a [registration form](#) available in the CNMV's Virtual Office.

How to register to give notice and process applications:

- The notifying entity must complete the form in full, following the instructions and obtaining any necessary validations.
- The form requires information about the group, the notifying entity and the natural person within the entity who takes responsibility for notifications. An e-mail address must be given, which will be used for any communications in connection with the application.
- After the form has been completed, the user must complete a CAPTCHA type security check before submitting it via the CNMV's Virtual Office.
- If all the data in the form are correct, the notifying entity will receive an e-mail message with a "validation code" that must be entered in the subsequent form.
- After entering the validation code, the notifying entity will receive another e-mail to the effect that they have been registered in the system and giving them a user name and password for use in notifications and applications for intragroup exemptions.

## RECEIPT OF APPLICATIONS BY THE CNMV VIA THE VIRTUAL OFFICE

To file notices, a [second form](#) must be used which is accessible via the private area in the CNMV's Virtual Office using the user name and password received by e-mail as described above.

The notifying entity's particulars will be pre-filled. Choose the option "Modify" to attach documentation accrediting that the natural person who is responsible (identified in the first form) has the necessary authority to give notice on behalf of the entities in question. Once the documents have been attached, choose "Save".

The user is then given the option of configuring the Group, i.e. adding, modifying or removing group member entities. In order to file a new notification of exemption, the group entities involved must already be configured as group members.

To add an entity, its identity code is required. The LEI should be used for this purpose; if not available, the BIC may be used. The entity applying for exemption must be identified with its LEI; an entity registered only by means of its BIC is not allowed to give notice.

To access to application form, once the group of entities has been duly registered, it is necessary to click "Back to home" and, on the next screen, choose "New application for exemption".

The form allows a notifying entity in a group to give the CNMV notice of an intragroup exemption via the following steps:

1. Define the "applicant entity" which is requesting exemption (which must belong to the group and be identified with its LEI). It can be the "notifying entity".
2. Define the "counterparties" (there must be at least one).
3. Complete the six data sections in the application.
4. Attach any additional detailed documentation (one or more files) in the form of a single ZIP file. Such detailed documentation must include a document in which the applicant/notifying entity certifies that it believes that the requirements established in EMIR, in accordance with this [form](#), are fulfilled.
5. Finally, if the basic validations are satisfactory, the user reaches a screen summarising the application, from which it can be submitted the application to the CNMV.
6. Once the application has been submitted, the CNMV assigns an Entry Register number, which is displayed on the form, and the notifying entity receives a confirmation e-mail.

## PROCESSING OF APPLICATIONS BY THE CNMV

Once the CNMV receives an application, it validates the contents and accepts or rejects the application; acceptance or rejection will be notified to the notifying entity by e-mail. An application that is rejected due to errors in its content will be classified as if it had never been sent, and the notifying entity has the opportunity to remedy the errors and file it again.

In the case of entities whose prudential supervision is entrusted to the Bank of Spain or Spain's Directorate-General of Insurance and Pension Funds, once the notification has been accepted, the CNMV will immediately ask the supervisor in question for a report.

Where intragroup contracts involve counterparties established in other EU jurisdictions, the information will be sent to the appropriate competent authority.

The decision will be notified to the notifying entity and, as appropriate, to the ESMA and the authority entrusted with prudential supervision of each counterparty.