

**Organised Trading Facility**  
**CIMD OTF**

**Circular 2**

**PARTICIPANTS IN CIMD OTF:  
CHARACTERISTICS, RIGHTS AND  
OBLIGATIONS**



## **PARTICIPANTS: CHARACTERISTICS, RIGHTS AND OBLIGATIONS**

The Board of Directors of CIMD, SV, SA (hereinafter, the CIMDBD), in an agreement adopted at its meeting held on February the 27<sup>th</sup>, 2019, approved this Circular.

## **PARTICIPANTS: INCORPORATION AND WITHDRAWAL**

### **1. Participants in the OTF**

Title V of the CIMD OTF Regulations establishes that only entities that are clients of CIMD, SV, SA may be Participants in the OTF.

In any event, the Participants shall be entities that belong to one of the categories established in section I of Annex II of MiFID II, unless they have requested non-professional treatment.

For derivative segments, US legal persons / entities may not become the status of Participant unless they have the consideration of ECP (Eligible Contract Participant) under the criteria in the CEA (Commodity Exchange Act).

### **2. General requirements for acceptance of a Participant**

Participants must fulfil the requirements established in Heading V of the CIMD OTF Regulations, and they must also:

- 1) Written request access as an OTF Participant, indicating which trading segments they wish to access. For this purpose, applicants shall submit the form included in Annex 1, duly completed.
- 2) In the event of requesting access to the “Commodity Derivatives” segment and entering their own orders in the “electronic system”, along with the “Participant Incorporation Standard-form”, applicants must submit the request for technical resources to be managed by the OTF Manager, included as Annex 2.
- 3) They must have an adequate organisation and sufficient human resources in accordance with their operating capacity:
  - Participants must use the form included in Annex 3 to the Participant Incorporation Standard-Form to appoint any operators they wish to empower to have access to the OTF.
  - These operators will have a username and password provided by the Supervision Area and must be conversant with the applicable OTF Rulebook and, in the event, the use of trading terminals.
  - CIMD OTF shall notify the Participants of any changes in its Rulebook and in the Terminal Handbook, this information also being accessible via the OTF website.

- Participants must notify CIMD OTF of changes in authorised operators so that the Supervision Area may remove and add the relevant usernames and passwords. It is the Participants' responsibility to properly use these usernames and passwords to prevent operators that have not been authorised by CIMD OTF's Supervision Area from gaining access to the system.
- 4) The Board of Directors of CIMD SV, SA, as the most senior body in charge of managing the OTF, using non-discriminatory techniques and the provisions contained in the OTF Rulebook and the Circulars, may refuse to accept an entity, providing the grounds for said refusal.

### **3. Acceptance procedure**

- 1) Send to CIMD OTF the Participant Incorporation Standard-Form, signed by the applicant's legal representative, requesting status of OTF Participant.
- 2) Send the document evidencing the powers of attorney of the parties signing the Participant Incorporation Standard-Form to act on behalf of the Participant.
- 3) Applicants must indicate the documentation attached to the Participant Incorporation Standard-Form in accordance with the provisions of the Regulations and the Circulars.
- 4) The Board of Directors of CIMD, SV, SA shall examine the application and make a decision, generally within 30 days of receiving the Participant Incorporation Standard-Form and the above indicated documentation duly completed; the decision will then be notified to the applicant, along with the date on which the accepted entity may start trading in the Facility. In case of the acceptance of the application, the Participant Incorporation Standard-Form along with the notification by the OTF Manager will constitute the documents proving this condition, subjecting the parties to comply with the obligations established in the OTF Rulebook and making use of the rights recognized in said Rulebook.

### **4. Participants' withdrawal**

#### **4.1. Due to the entity own decision**

If the Participant decides unilaterally to relinquish participation in the OTF, it must notify the OTF Manager in writing at least fifteen (15) days prior to the effective date of withdrawal. In any event, until effective compliance, the reciprocal obligations of the parties deriving from actions prior to the resolution shall remain in force.

#### **4.2. Due to changes in the Rules of the OTF**

The Participant may oppose any modification to the OTF Rulebook, expressly notifying this opposition in writing to the OTF Manager ten (10) days prior to entry into force of the new Rules. In this case, it shall be understood to be denouncing the Participant Incorporation Standard-Form signed with CIMD OTF with the resulting loss of Participant status effective on the date the modification enters into force.

#### **4.3. Due to changes in the rates**

The Participant may oppose any modification to CIMD OTF's rates, expressly notifying this circumstance in writing to the OTF Manager ten (10) days prior to entry into force of the new rates. In this case, it shall be understood to be denouncing the Participant Incorporation Standard-Form signed with CIMD OTF with the resulting loss of Participant status effective on the date the new rates enter into force.

## **RIGHTS AND OBLIGATIONS**

### **5. Participants' Rights**

In addition to those established in Title V of the CIMD OTF Rulebook, Participants shall be entitled to:

#### **5.1. General**

- 1) Relinquish their Participant status in the terms and periods established in the OTF Rulebook.
- 2) Oppose any changes to the OTF Rulebook in the terms and periods established therein.
- 3) Oppose changes in rates in the terms and periods established in the OTF Rulebook.

#### **5.2. In relation to the negotiation**

- 1) Obtain a global overview of the market, of those segments in which they may participate, with marginal prices and cumulative volume for each reference.
- 2) Receive comprehensive information on all their operations.
- 3) Receive information on all OTF operations without the identification of Participants.

### **6. Participants' Obligations**

In addition to those established in Title V of the CIMD OTF Rulebook, Participants shall have the following obligations:

- 1) Immediately report any incident to the OTF's Supervision Area.
- 2) Cooperate with the OTF Manager to install and maintain the equipment and applications that, in the event, may be necessary to access the OTF.
- 3) Refrain from manipulating, without the authorisation of the OTF Manager, the elements and equipment placed at their disposal in their capacity as a Participant of the OTF and to previously carry out the appropriate tests.
- 4) Abide by the decisions which, in relation to incidents arising during the trading, are made by the Supervision Area, and/or the Managing Director.
- 5) Be conversant with rules applicable to CIMD OTF at each given time.
- 6) Immediately report to the OTF Manager any change in the operators authorised to access the System.
- 7) Provide the OTF Manager with such information as is necessary for the OTF to comply with disclosure obligations pursuant to applicable regulations.

## **7. Entry into force**

This Circular shall be delivered to all Participants and shall enter into force on January 3, 2018.

## Annex 1

### Participant Incorporation Standard-Form of CIMD OTF

**(Identification of the Applicant: Name, address, LEI, Tax code or NCA registration number)** (hereinafter, the Participant), represented by **(Identification of the Representative(s))** duly authorised pursuant to the provisions of this document, addressing the Board of Directors of CIMD, SV, SA, as the most senior governing body of the CIMD OTF organised trading facility (hereinafter, CIMD OTF or the OTF),

HEREBY REQUESTS

To be granted status as Participant in CIMD OTF, managed by CIMD, SV, SA (hereinafter also the OTF Manager), a pre-requisite to enable the Participant to trade in the OTF either directly or through the OTF Manager.

The applicant wishes to exercise said status as Participant, with the ensuing rights and obligations, in the following segments (check one, several or all):

- Fixed income segment.
- Commodity derivatives segment.
- Other derivatives segment.

In this connection, the representative(s) state(s):

1. That the Participant has read and understood the CIMD OTF Regulations and the OTF Circulars applicable at the time of application to the aforementioned segment, expressly and entirely undertaking to abide thereby, and undertake to uphold the provisions and rules established therein, as well as the regulations governing the operation of securities markets.
2. That the express undertaking referred to in the previous paragraph shall be understood to include any future modification in the aforementioned standards and regulations pursuant to agreements or resolutions adopted by the appropriate bodies.
3. That is an indispensable requirement to become a Participant in CIMD OTF that clients of CIMD, SV, SA expressly accept the standards, rules and conditions of use of the OTF.
4. That the Participant guarantees the OTF Manager that it meets all legal and regulatory requirements to trade financial instruments in the OTF, authorising the OTF Manager to notify the competent bodies of the Participant's incorporation of the OTF, and, in any case, to reserve the right to make incorporation conditional upon confirmation by competent bodies.
5. That the Participant acknowledges and accepts that the Participant status in CIMD OTF is personal and non-transferable, and undertakes not to assign its position, rights or obligations pursuant to this application to any third party and not to extend to any third party the rights conferred to it by membership.

6. That, having been granted the status of Participant, it undertakes to abide by the decisions that, in relation to potential incidents arising in trading through CIMD OTF, might be issued by the Supervision Area and/or the OTF's Arbitration Committee.
7. That it acknowledges and expressly accepts the limits and exclusions of the OTF Manager's liability contained, in the event, in the Circulars applicable at each given time, assuming that CIMD, SV, SA shall not be liable for damages incurred by the Participant as a result of any event not involving gross negligence or wilful misconduct on the part of CIMD, SV, SA. CIMD, SV, SA's liability is confined to direct damages, including lost profits, incurred by the Participant.

In particular, the Participant acknowledges and accepts that CIMD, SV, SA does not accept any liability in relation to equipments or applications made available to the Participant by CIMD, SV, SA or that have been manipulated, relocated or used improperly by the Participant, or in relation to the information on CIMD OTF received by the Participant through such equipments or applications. Neither does CIMD, SV, SA accept liability in relation to third parties and, in particular, for damages due to mechanical, electronic, telephonic or electricity grid faults originating in the improper working and/or transmission of data from the Participant's equipment or any other cause beyond CIMD, SV, SA's control.

8. That the Participant is aware that CIMD, SV, SA shall not pass on any costs to the Participant in return for conferring said status or for trading orders in the OTF.
9. (This applies solely to those entities requesting incorporation of the "Fixed Income Segment")

I hereby authorise / do not authorise (cross out as applicable) CIMD, SV, SA to deal on its own account without risk in execution of the orders of the entity I represent.

10. (This applies solely to those entities requesting incorporation of the "Commodity Derivative Segment")

The Participant undertakes to disclose, at the start of each session, the positions it holds in each of the commodities financial instruments traded in the "Commodity Derivatives Segment" of CIMD OTF.

The Participant expressly authorises the OTF Manager to supervise and access information on its positions in commodity derivatives, and acknowledges and allows the OTF Manager, in application of the limits established by the competent supervisory authority, to require it to reduce or unwind said positions, and to require it to restore the liquidity to the market to mitigate the effects of a sizeable or dominant position.

Only Participants authorised to provide investment services may offer their clients "direct market access" (DMA) in the modality of "direct electronic access" (DEA).

All Participants undertake not to facilitate "sponsored access" for clients.

In witness whereof, and for all relevant purposes, I/we sign this application

Name of person(s) signing:

Date and place of signature:

## Annex 2

### **Application for technical resources**

(Solely for the Commodity Derivatives Segment)

**(Identification of the Applicant: Name, address, Tax code or NCA registration number)** (hereinafter, the Participant), represented by **(Identification of the Representative (s))** duly authorised pursuant to the provisions of this document, addressing the Board of Directors of CIMD, SV, SA, as the most senior governing body of the CIMD OTF organised trading facility (hereinafter, CIMD OTF or the OTF),

HEREBY REQUESTS

To be granted access to the systems activated by the OTF Manager for the electronic processing of orders on financial instruments in respect of gas and/or electricity in the Commodity Derivatives Segment of the OTF.

Also, to receive from the OTF Manager the username and password along with the link to download the connection software.

In witness whereof, and for all relevant purposes, I/we sign this application

Name of person(s) signing:

Date and place of signature:

## Annex 3

**Nota sobre datos de carácter personal:** Los datos de carácter personal facilitados por el cliente en esta ficha serán incorporados a un fichero cuyo responsable es CIMD, SV, SA y cuya única finalidad es su tratamiento para cubrir las exigencias establecidas por la normativa que regula nuestra actuación en los mercados de valores. CIMD, SV, SA garantiza que el tratamiento de los mismos se hará, como mínimo, con los estándares de seguridad exigidos por la normativa que regula el tratamiento de datos personales vigente en cada momento.

**Note on personal data:** The personal data provided by the client in this file will be incorporated into a file whose responsibility is CIMD, SV, SA and whose sole purpose is to address the requirements established by the regulations governing our performance in the securities markets. CIMD, SV, SA guarantees that the treatment of the same will be done, at least, with the security standards required by the regulations governing the processing of personal data in force at any time.

Tipo de Identificación - ID Type	Identificación - ID	Nacionalidad - Nationality	Nombre - First Name	Apellido 1 - Surname	Apellido 2 - Surname	Fecha de Nacimiento - Birthdate