

CIRCULAR ON REGULATION (EU) N° 648/2012 - THE EUROPEAN MARKET INFRASTRUCTURE REGULATION ('EMIR')

Clarification on the Reporting and Handling of Derivatives Data in case of No-Deal Brexit

This circular is being addressed to all market participants, particularly entities which fall within the scope of EMIR, mainly financial and non-financial as defined in Article 2 of EMIR. This circular shall be read in conjunction with [EMIR](#), its Delegated Regulations and previous circulars issued by the Authority.

Background

The Authority would like to inform market participants that the European Securities and Markets Authority ('ESMA') has on the 1 February 2019 issued a [public statement](#) on how derivatives data reported under Article 9 of EMIR ('EMIR Data') should be handled in the event of the United Kingdom ('UK') leaving the European Union ('EU') without a withdrawal agreement, the no-deal Brexit Scenario.

Public Statement on issues affecting reporting, recordkeeping, reconciliation, data access, portability and aggregation of derivatives under Article 9 EMIR in the case of UK withdrawal from the EU without a transitional agreement

EMIR mandates the reporting of all derivatives to ESMA supervised Trade Repositories ('TRs'), who centrally collect and maintain the records of all derivatives contracts. EMIR stipulates that both counterparties to a derivative contract shall report its details to TRs.

In the event of a No-deal Brexit, UK counterparties would not be mandated to report under EMIR to EU27¹ TRs. Consequently, the statement highlights multiple aspects of reporting scenarios, namely where both counterparties are from the EU27, both from the UK, and where one is from the UK and the other is from the EU27.

The statement clarifies:

- Reporting by CCPs and counterparties;
- Reconciliation and recordkeeping by TRs;

¹ Currently 28 Member States. Following Brexit, 27 Member States.

- Access by EU27 authorities; and
- Portability and aggregation by TRs.

The statement also sets out the timeline for completion of the relevant adjustments by the EU27 TRs.

Contacts

Should you have any queries on the above, please do not hesitate to contact Mr Nathan Fenech, Senior Manager, Securities and Markets Supervision (NFenech@mfsa.com.mt) or Mr Luca Caruana, Analyst, Securities and Markets Supervision (LCaruana@mfsa.com.mt) for any further clarifications.

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