

19 November 2020

Transaction reporting by Non-Financial Counterparties under the Securities Financing Transactions Regulation (EU) N° 2015/2365 ('SFTR')

Reference is made to the [Circular](#) dated 19 October 2020 ('the Circular'), addressed to counterparties which fall within the definition of 'non-financial counterparty' ('NFC') in terms of SFTR. This Circular is being issued as a follow-up and to provide further clarification to the industry.

According to the SFTR, 'non-financial counterparty' means an undertaking established in the European Union or in a third country other than the entities which classify as financial counterparties.¹

Through the abovementioned Circular, the Authority had requested information relating to NFCs, specifically with respect to their use of Securities Financing Transactions ('SFTs'), by filling in and returning Annex I to the MFSA's Circular ('Annex I').

As stipulated in the Circular dated 19 October 2020, the reporting obligation for non-financial counterparties is applicable from 11 January 2021.

In reaching non-financial counterparties, the Authority kindly requests license holders to reach out to those entities with whom they have a business relationship and which could possibly fall within the definition of non-financial counterparties under the SFTR, and bring to their attention the

¹ In terms of Article 3 of the SFTR, 'financial counterparty' means: (a) an investment firm authorised in accordance with Directive 2014/65/EU of the European Parliament and of the Council (1); (b) a credit institution authorised in accordance with Directive 2013/36/EU of the European Parliament and of the Council (2) or with Regulation (EU) No 1024/2013; (c) an insurance undertaking or a reinsurance undertaking authorised in accordance with Directive 2009/138/EC of the European Parliament and of the Council (3); (d) a UCITS and, where relevant, its management company, authorised in accordance with Directive 2009/65/EC; (e) an AIF managed by AIFMs authorised or registered in accordance with Directive 2011/61/EU; (f) an institution for occupational retirement provision authorised or registered in accordance with Directive 2003/41/EC of the European Parliament and of the Council (4); (g) a central counterparty authorised in accordance with Regulation (EU) No 648/2012; (h) a central securities depository authorised in accordance with Regulation (EU) No 909/2014 of the European Parliament and of the Council (1); (i) a third-country entity which would require authorisation or registration in accordance with the legislative acts referred to in points (a) to (h) if it were established in the Union;

contents of the MFSA's Circular. Additionally, financial counterparties are kindly requested to reach out to their non-financial counterparts and inform them about the upcoming reporting obligation.

The Authority would like to clarify that, Annex I should ideally and where possible, be submitted by the non-financial counterparties themselves, in the eventuality that the NFC enters or has an intention of entering into SFTs. Having said that, the Authority finds no objection should an entity choose to submit replies on behalf of a non-financial counterparty.

The Authority recommends that non-financial counterparties who do not currently enter into SFTs, carry out an assessment of their businesses to determine whether there is a possibility of entering into SFTs in the future.

Information on SFTR is available on the MFSA website through this [Link](#).

Annex 1 should preferably be submitted by not later than 30 November 2020.

Should you have any queries in relation to the above, please do not hesitate to contact the Authority on SFTR@mfsa.mt.