

4 December 2020

Circular on Regulation N^o 648/2012 – The European Markets Infrastructure Regulation ('EMIR'/the 'Regulation') -

Derivatives Reporting following the end of UK Transition Period on 31 December 2020

This Circular is being addressed to all market participants, particularly entities who enter into derivative contracts and which fall within the scope of EMIR, namely, financial ('FC') and non-financial counterparties ('NFC') as defined under EMIR (jointly hereinafter referred to as 'Counterparties').

Specifically, this Circular is addressed to those Counterparties which use the services of a UK Trade Repository for the purposes of reporting their derivative transactions under EMIR; and to Counterparties which trade with UK counterparties.

This circular should be read in conjunction with [EMIR](#), its Delegated Regulations and previous circulars issued by the Authority as the case may be.

Withdrawal of UK from the EU

This circular refers to the United Kingdom's ('UK') notification to the European Council, relating to its intention to withdraw from the European Union ('EU'), a process known as Brexit. The UK formally left the EU on 31 January 2020, when the withdrawal agreement entered into force. The withdrawal agreement marked the start of a transition period due to last until 31 December 2020 (the 'cut-off date'), whereby the UK will no longer be an EU member state but will continue to apply EU law.

In terms of EMIR, counterparties are required to report their derivative transactions to a registered Trade Repository ('TR'). As a result of Brexit, TRs located in the UK have been migrating their services to other EU member states in order to ascertain continuity following the end of the transition period.

Next Steps

Counterparties should ensure the continuous reporting of derivatives to a registered or recognised TR in the EU to comply with their reporting obligations under Article 9 of EMIR. Accordingly, Counterparties which fall under the obligations of EMIR, and which currently make use of a UK trade repository for the reporting of their derivative transactions, shall ensure that they have finalized onboarding with an [ESMA-Registered Trade Repository](#) by not later than 31 December 2020.

Furthermore, following the end of the transition period, UK financial counterparties are no longer responsible for the reporting of OTC derivatives subject to mandatory allocation of responsibility for

reporting under Articles 9(1a) to 9(1d) of EMIR. From 1 January 2021, the EU counterparties become responsible for the reporting of those derivatives. EU NFC are required to do so unless the conditions relating to equivalence in the last sub-paragraph of Article 9(1a) of EMIR with regards to the UK counterparty becomes applicable.

ESMA Public Statement

On 10 November 2020, ESMA has updated the statement published on 1 February 2019 in order to *inter alia* provide certain clarifications relating to the derivatives reported under Article 9 of EMIR after the end of the Transition Period on 31 December 2020.

A copy of the updated public statement relating to issues affecting EMIR reporting following the end of the UK transition period on 31 December 2020, can be accessed through this [Link](#).

Contacts

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