

12 January 2023

Directives (EU) 2022/2555 on Measures for a High Common Level of Cybersecurity and (EU) 2022/2557 on the Resilience of Critical Entities

As detailed within the Authority's circular published on 4 January 2023 titled [Regulation \(EU\) 2022/2554 and Amending Directive \(EU\) 2022/2556 on Digital Operational Resilience for the Financial Sector published on the EU Official Journal](#), Directives [\(EU\) 2022/2555](#) on measures for a high common level of cybersecurity (NIS 2) and [\(EU\) 2022/2557](#) (CER) on the resilience of critical entities were published on the EU Official Journal on **27 December 2022** entering into force on **16 January 2023**. These scope of these Directives cover, inter alia, two (2) financial services sectors, specifically Banking and Financial Market Infrastructures, and interact with [Regulation \(EU\) 2022/2554](#) (DORA).

NIS 2 repeals Directive [\(EU\) 2016/1148](#), as transposed nationally by [L.N. 216 of 2018](#), and it establishes a criterion for the identification of essential and important entities by Member States within, *inter alia*, the sectors of Banking and Financial Market Infrastructures. Essential and important entities will be subject to cybersecurity-related requirements, *inter alia*, in the areas of incident reporting and response, and cybersecurity risk-management. Article 4 of NIS 2 states that "*Where sector-specific Union legal acts require essential or important entities to adopt **cybersecurity risk-management measures** or to **notify significant incidents** and where those requirements are at least equivalent in effect to the obligations laid down in this Directive, the relevant provisions of this Directive, including the provisions on supervision and enforcement laid down in Chapter VII, shall not apply to such entities*". In turn, DORA states that "*In relation to financial entities identified as essential or important entities pursuant to national rules transposing Article 3 of Directive (EU) 2022/2555, this Regulation shall be considered **a sector-specific Union legal act** for the purposes of Article 4 of that Directive*" (Article 1, 2.).

CER repeals Directive [2008/114/EC](#) as transposed nationally by [L.N. 434 of 2011](#), and it establishes a criterion for the identification of **critical entities** by Member States within, *inter alia*, the sectors of Banking and Financial Market Infrastructures. Critical entities will be required to adopt general measures towards enhancing their overall resilience by, *inter alia*, having adequate risk reduction measures, physical protection, incident handling and recovery, employee security risk management and awareness. Article 8 of CER states that "*Member States shall ensure that **Article 11 and Chapters III, IV and VI do not apply to critical entities** that they have identified in the sectors set out in points 3 [Banking], 4 [Financial Market Infrastructures] and 8 of the table in the Annex. Member States **may** adopt or maintain provisions of national law to achieve a higher level of resilience for those critical entities, provided that those provisions are **consistent with applicable Union law.***"

The **Malta Critical Infrastructure Protection Directorate (CIPD)** is expected to be the designated Competent Authority for the NIS 2 and CER Directives as cooperation with the MFSA will continue to grow in view of the nature of the work and the Member State's obligations under DORA, NIS 2 and CER. The Authority will continue providing further information and updates as necessary.

Authorized persons are encouraged to continue to follow further developments and may request further information to the Authority on sirc@mfsa.mt and/or CIPD on maltacip@gov.mt.