

21 December 2023

## Circular on Regulation N° 648/2012 – The European Market Infrastructure Regulation ('EMIR'/the 'Regulation')

- *European Supervisory Authorities ('ESAs') propose extending the EMIR equity option exemption*

### Introduction

This Circular is being addressed to all market participants, particularly entities who enter into derivative contracts and which fall within scope of EMIR, namely financial counterparties and non-financial counterparties as defined under EMIR.

This Circular should be read in conjunction with the Regulation, its Delegated Regulations and previous Circulars issued by the Authority, as the case may be.

### Overview

The Authority would like to inform market participants that on 20 December 2023, the three ESAs, i.e., the European Banking Authority, European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority have published the [joint draft regulatory technical standards](#) ('RTS') under EMIR where they are proposing a two-year extension to the equity option exemption from bilateral margining, as well as issue a no-action [opinion](#).

### Purpose

The draft RTS seeks to provide clarity to market participants on how to handle equity options as from 4 January 2024, the date on which the current temporary exemption is set to expire. More specifically, the ESAs are proposing to extend the temporary exemption and are issuing a no-action Opinion which includes clarifications on the supervisory expectations.

This interim solution comes in the context of the still ongoing EMIR Review negotiations, which should provide a decision regarding the treatment of equity options with respect to bilateral margining, and follows [the letter sent by the ESAs on 13 June 2023 to the European](#)

[Commission and the co-legislators](#), highlighting the need to have a clear decision as part of the ongoing EMIR Review.

The ESAs take note of the amendments to EMIR agreed by the European Parliament's Committee on Economic and Monetary Affairs on 28 November 2023 and at Coreper on 6 December 2023. These texts introduce specific provisions on equity options, including a permanent exemption.

## **Contacts**

Should you have any queries on the above, please do not hesitate to contact the Authority's EMIR team on [EMIR@mfsa.mt](mailto:EMIR@mfsa.mt) for any further clarifications.