

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

Circular to the financial services industry on the European Markets Infrastructure Regulation (‘EMIR’)

On the 15th March 2013, the EMIR technical standards came into force. Details of these technical standards have been included in our circular of the 8th March, 2013. This is available on the MFSA web-page. The purpose of this circular is that of providing the industry with more details on EMIR.

ESMA’s Q&A on EMIR

On the 20th March, 2013, the European Securities and Markets Authority (‘ESMA’) published a set of questions and answers on EMIR. The Q&A provides responses to questions raised by the general public, market participants and competent authorities in relation to the practical implementation of the requirements in EMIR.

A copy of this Q&A may be accessed through the following [link](#).

Notification of Non-Financial Counterparties which Exceed the Clearing Thresholds in Accordance with Article 10(1) of EMIR

The MFSA is in the process of issuing guidance notes on the various aspects of EMIR. In the meantime, the MFSA would like to guide non-financial counterparties to their reporting obligations in terms of EMIR.

A non-financial counterparty is a counterparty to a derivative contract that is an entity which does not provide the services of:

- a credit institution;
- an investment firm;
- an insurance undertaking;
- an assurance undertaking;
- a reinsurance undertaking;
- a UCITS;
- a UCITS management company;
- an institution for occupational retirement provision;
- an alternative investment fund managed by an alternative investment fund manager;
- a central counterparty;
- a trade repository;

- a trading venue.

When a non-financial counterparty takes a position in OTC derivative contracts and such positions exceed the clearing threshold as defined in article 11 of the Commission Delegated Regulation (EU) N° 149/2013 of 19 December 2012 ([link](#)), the non-financial counterparty is required to make a notification to ESMA and the MFSA.

The Authority has uploaded the OTC derivative notification form on the MFSA website. This may be downloaded through the following [link](#). The MFSA website also contains a separate form which should be completed and submitted by a non-financial counterparty where it no longer exceeds the clearing threshold. This is available through the following [link](#).

Notification forms should be submitted to emir@mfsa.com.mt and EMIR-notifications@esma.europa.eu

Financial counterparties and non-financial counterparties are required to implement the requirements in EMIR. Relevant information on the Regulation is available on dedicated sections of the MFSA web-page: <http://www.mfsa.com.mt/pages/viewcontent.aspx?id=336#EMIR> and the ESMA web-page: <http://www.esma.europa.eu/page/European-Market-Infrastructure-Regulation-EMIR>

Contacts

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